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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

**JUSTIN BODRERO and KOLBY CHRIS-
TIANSEN,**

Plaintiffs,

vs.

HYDE PARK CITY,

Defendant.

Civil No. 1:19-cv-00103-BSJ

**COMPLAINT
WITH JURY DEMAND**

Honorable Judge: Bruce S. Jenkins

Plaintiffs, by and through counsel of record, hereby complain and allege against Defendants as follows:

PRELIMINARY STATEMENT

For over a decade, Mike Grunig (“Grunig”) has worked as Hyde Park City’s (the “City”) Director of Public Works. His son-in-law and two close friends are on the Hyde Park City Council (the “Council”). He is well-connected and everyone knows it. For the past two years,

Plaintiffs Christiansen and Bodrero worked under Grunig. On November 14th, 2018 Grunig pulled his handgun from his pocket, turned on the green laser sight, and pointed it at each of his subordinates, including Plaintiffs. Each of the subordinates were shocked; nobody laughed. Plaintiffs did not report the incident immediately because they feared the City would do nothing, and/or that Grunig and the Council would retaliate against them.

On or about January 24th, 2019, the Plaintiffs learned Grunig again brandished his gun with a different female employee in her office, and filed their grievances. Their grievances indicated that all three no longer felt safe working with him and feared retaliation. The mayor asked the then interim police chief to investigate, and he substantiated the event. Shortly thereafter, on or about February 12, 2019, the Mayor sanctioned Grunig with a demotion, reduction in pay and suspension. On February 14th, Grunig sent Councilman Randall, his friend, accusations against the Plaintiffs. Councilman Randall immediately began a campaign to have Plaintiffs investigated. Grunig then appealed the disciplinary actions taken by the mayor to the City council.

On March 4th, the Council heard Grunig's appeal. Neither of Grunig's friends, including Councilman Randall, nor his son-in-law recused themselves from the decision and Plaintiffs were not asked to attend. The Council disregarded Chief Milne's report, overruled their Mayor, adopted Grunig's version of facts, and found that the pointing of the gun was not a safety issue, but instead an "error of judgment" and "offensive". The Council fully reinstated Grunig with a six day suspension—as already served—and granted him back pay. The City

made no further effort to address the Plaintiffs' grievances and required them to return to work under Grunig immediately.

Plaintiffs Bodrero and Christiansen were compelled to quit, rather than return to work under Grunig without any further assurances or protections. The third employee who Grunig pointed his gun at, Mark Johnson, did return to work because his role did not require as frequent contact with Grunig, having different responsibilities than the other Public Works Department employees.

In sum, Grunig's appeal ended the Plaintiffs' grievances. Making matters worse, as soon as February 2019, Grunig and members of the City Council began their efforts in retaliation - searching for and concocting past incidents and allegations of criminal activity by Plaintiffs in an effort to discourage litigation or otherwise use to publicly discredit Plaintiffs if this lawsuit was filed. Mr. Grunig's actions, and the Council's protection of him, and the City's refusal to properly and adequately address the Plaintiffs' grievances caused this lawsuit.

PARTIES

1. Plaintiff Kolby Christiansen (hereinafter referred to as "Christiansen" or collectively "Plaintiffs") has been a resident of Cache County, Utah during all relevant times and worked for Hyde Park City's Public Works Department.

2. Plaintiff Justin Bodrero (hereinafter referred to as "Bodrero" or collectively "Plaintiffs") is and has been a resident of Cache County, Utah during all relevant times and worked for Hyde Park City's Public Works Department.

3. Hyde Park City is a town incorporated in the State of Utah with a population of approximately 4,300 people.

4. Defendant Michael “Mike” Grunig (hereinafter referred to as “Grunig”) is Hyde Park City’s Public Works Director and has been a resident of Cache County, Utah during all relevant times.

5. Defendant Mark Hurd, (hereinafter “Councilman Hurd”) is a member of the Hyde Park City Council, is Grunig’s son-in-law, and has been a resident of Cache County, Utah during all relevant times.

6. Defendant Bret Randall (“hereinafter referred to as “Councilman Randall”) is a member of the Hyde Park City Council and has been a resident of Cache County, Utah during all relevant times.¹

JURISDICTION & VENUE

7. This Court has subject matter jurisdiction under 28 U.S.C. §1331 because this matter encompasses matters of federal question, including but not limited to deprivation of procedural due process.

8. Utah has jurisdiction over the Defendants as all Defendants are residents of the State of Utah.

9. Venue is proper in the District Court of Utah because all events, acts, and/or omissions giving rise to the claim(s) occurred in Utah.

¹ Councilmen Hurd and Randall subsequently lost their re-election primary bids and will no longer serve as councilmen when their current terms expire at the end of this year.

FACTS

Plaintiffs Were Subordinates to Grunig, The City Public Works Director

10. Grunig currently serves as Hyde Park City's Public Works Director and has been employed by the City for many years

11. The Public Works Director is a position which is normally exempted from protections afforded to non-supervisor employees, including appeals of discipline, pursuant Utah Municipal Code §§10-3-1105, 1106.

12. Upon information and belief, Grunig used his relationships with friends and family in Hyde Park City elected positions to avoid prior disciplinary action and to ensure his position remained in a protected governmental employee status, as opposed to "at will".

13. Plaintiffs worked under Grunig's supervision for the Public Works Department during 2018, serving as 2 of the 3 total employees under Grunig.

14. Mark Johnson (hereafter "Johnson"), is the third employee that worked in the Public Works Department, with Johnson's assignments requiring much less contact with Grunig than the contact between Grunig and the Plaintiffs.

Grunig Had a Known History Of Discipline Against Him & Retaliation Against Subordinates,

15. Upon information and belief, years prior, Grunig temporarily lost his job as Public Works Director due to serious dereliction of duty, including misappropriation of City property and other more serious behavior. His was restored days later after the mayor then serving re-considered and decided to give Grunig a second chance.

16. Upon information and belief, various current Council members and City employees were aware of reasons for prior discipline of Grunig.

Grunig Used Family & Friendship Relationships to Protect Himself & Deter Complaints

17. Hyde Park City has a policy of destroying all adverse actions in an employee's file after three years; it is unclear whether this applies to supervisors, such as the Director of Public Works. Upon information and belief, former Mayor Bob Christensen allowed Grunig to purge his file at some point.

18. It is generally known among current and former employees who worked under Grunig that Grunig would mistreat against anyone he did not like or felt he could not control and would retaliate for actions he felt were disloyal or against his interests.

19. According to several former and current employees of the Hyde Park Public Works Department, Grunig let it be known that his friends and family member on the City Council would protect him from any employee complaints.

20. While purportedly very friendly to those in authority, Grunig has a history of hostility toward those he supervises.

21. Upon information and belief, in the past three years, Grunig "pushed out" two persons Grunig imagined might aspire to take over as Public Works Director, by harassing them.

22. Grunig relied upon his known friendships and relationships with former mayor Bob Christensen, Councilman Hurd, Councilman Wheeler, and Councilman Randall to deter complaints and grievances against him.

Hyde Park City Did Not Maintain A Safe Working Environment

23. During relevant times, it was common for employees to bring firearms to work at Hyde Park City.

24. Despite knowledge that employees were carrying firearms, the City did not have any policies addressing firearm safety, did not post any safety instructions, and chose not to enforce basic firearm safety.

25. Accordingly, individuals were relying upon their own experience and training with firearms to handle, carry, and store firearms.

26. The care given to firearm safety was so lacking, that in this case, the Council deemed the pointing of a firearm at subordinates as safe, albeit “offensive”, conduct.

Employees of The Pubic Works Department Were Familiar With Guns & Gun Safety

27. Grunig had grown up around guns, professed to be experienced with them, and to have a thorough understanding of firearm safety.

28. The basics of firearm safety include: “Treat all firearms as if they are loaded”, “Always keep your finger off of the trigger until your sights are on the target and you have made the decision to fire”, “Never point a firearm at anything you are not willing to destroy”, “Safely secure all handguns in a holster”.² Plaintiffs themselves are experienced with guns and gun safety; they have hunted with one another and Grunig.

29. All of them, including Grunig, know that the pointing of a firearm at another person should only be done when confronted with an imminent threat of lethal force or in protection of another person confronted with an imminent threat of lethal force.

² <https://www.hunter-ed.com/gun-safety/>

Grunig Pointed A Gun At Other Humans, Disregarding The Unjustifiable Risk Of Harm & Grossly Deviating From The Standard Of Care Expected Of A Supervisor Holding A Gun

30. On November 14th, 2018, Grunig, Johnson, Christiansen, and Bodrero were gathered in the Hyde Park Public Works shop at their traditional end of day meeting, with Bodrero seated behind Grunig's desk working, while the other three sat on the other side of the desk.

31. Grunig then stated out loud, "Don't you think Justin [Bodrero] would look better with a green dot on [him]?" Christiansen asked, "What do you mean?"

32. Grunig then pulled an unholstered 9mm equipped with green laser sight, out of his pocket, activated the laser sight, palmed it into firing position, opened the slide, and pointed it directly at Bodrero's chest.

33. Bodrero, pushed his rolling chair back from the desk and put his hands in the air, holding still and shocked.

34. Nobody laughed. Nobody said anything.

35. Grunig then pointed the gun barrel toward Bodrero's crotch, the laser showing his aim; Bodrero remained frozen.

36. Grunig admitted his intent, stating "I have a friend who does this to me and I hate it."

37. Grunig then pointed the gun at Mark Johnson. Johnson didn't move.

38. Grunig then swung the gun over to Christiansen, painting his chest with the laser.

39. Grunig then placed the gun in back into his pocket and walked out.

40. All three were deeply disturbed and scared by what happened, not knowing how to handle it.

Plaintiffs Hesitated To Report Grunig, For Fear His Connections Would Save Him, And He Would Retaliate

41. Despite both Plaintiff's being employed by the City for over two years, neither had received the full personnel policy manual setting forth the grievance procedure. Instead, they only received the summary of policies.

42. Christiansen explained to the Interim Police Chief during his investigation, "we should have reported this immediately but over the course of my 3 years working here I have noticed Mike will lie and talk his way out of anything. With his personal relationships with council and the mayor I felt that he would get a slap on the hand and then we would catch hell from him until he fired us or we quit (Exactly what he did to Dave Hancey)." Likewise Bodrero hesitated to report it because "we did not think anything would be done to correct this problem because of all the friends he has on the council and the friendship he has with the mayor he has gotten away with some big lies and things in the past."

43. Grunig hunted with Plaintiffs before the event; but afterward they stopped inviting him but continued to show up uninvited to Plaintiffs' hunting outings, and Plaintiffs were unable to "disinvite" their boss and felt distressed at having him there.

44. Approximately seven weeks later, the three employees decided to complain about the incident after hearing that Grunig had pulled a gun out of his pocket and placed it on Susan Balls's desk in the City offices, making her uncomfortable.

Plaintiffs Filed A Grievance With the City Expressing Fear Of A Hostile Work Environment and A Desire Not to Work With Grunig

45. All three of the men whom Grunig flagged with the firearm felt scared and expressed their fear of working with Grunig again. Christiansen said “I no longer feel safe around him and will just find another job if he returns. I also worry about him showing up at my house. I DO NOT believe he is mentally stable...”; Bodrero said, “I do not feel comfortable working with Mike anymore and do not want any contact with him after this.”

46. Plaintiffs filed their grievances with the mayor on January 24, 2019, and participated in the resulting investigation by North Park Police Department.

47. Plaintiffs expressed they no longer could longer under with Grunig, for fear for their safety and of retaliation.

Plaintiffs Provided Credible and Consistent Statements To Chief Milne Resulting In Mayor Flint Disciplining Grunig

48. The Plaintiffs and Johnson each gave statements to the mayor’s investigator, then-acting North Park Interim Police Chief Milne, that corroborated one another’s accounts of what happened.

49. On or about February 12, 2019, Mayor Flint took action in response to the grievances: issuing two written reprimands, demotion, and salary reduction to discipline Grunig.

Grunig Appealed His Discipline As A Protected Employee of the City

50. Grunig promptly hired counsel and appealed the Mayor’s disciplinary action per the existing City policies.

Council Members With Known Conflicts Of Interest In Favor Of Grunig Refuse to Recuse Themselves

51. On March 4th Grunig’s appeal was heard in a special, closed session of the City Council—the Council replaced Mayor Flint as the direct supervising actor reviewing Grunig’s conduct.

52. Upon information and belief, the Council chose not to keep minutes of this closed session, and therefore did not preserve such record of public action for Plaintiffs or the public.

53. Plaintiffs were not formally invited to attend or otherwise provide input.

54. Upon information and belief, three council members announced they were conflicted in favor of Grunig;

55. Councilman Hurd is Grunig’s son-in-law, notwithstanding;

A. Upon information and belief Hurd broke state law requiring a public written disclosure of the conflict of supervising and making decisions regarding his father-in-law’s appeal of Mayor Flint’s disciplinary action. UCA §52-3-1(2)(c)(ii);

B. Hurd’s conflict was unwaivable, because a councilman is a public officer under state law, and a public officer “may not evaluate the job performance of or recommend salary increases for the relative or household member.” (UCA §52-3-1(2)(c)(ii), *See also* “A public officer [Hurd] may not [...] vote for or recommend the appointment of an appointee when the appointee will be directly supervised by a relative or household member.” UCA §52-3-1(2)(c)(ii)).

C. Mr. Hurd decided not to recuse himself, knowing he was conflicted in favor of Grunig, and in violation of the law, wherein such violation is punishable by a class B misdemeanor. *See* UCA §52-3-3.

53. Hyde Park City was informed of this potential criminal violation of the law in March of 2019.

54. Upon information and belief, Hyde Park City did not turn the matter over to investigation by impartial law enforcement, nor any other authority, as to whether Mr. Hurd violated the law.

55. Councilman Randall is a known close, longstanding friend of Grunig.

56. Emails obtained through GRAMA show that as soon as February 14th, 2019—three weeks before the City Council heard Grunig’s appeal, Councilman Randall (who himself works as a senior police officer for Logan City), was communicating with Grunig to formulate negative information about Plaintiffs so that the City might push back on Plaintiffs/grievants or to defame Plaintiffs if the matter went public or came to suit.

57. Upon information and belief, Councilman Randall verbally announced his potential conflict at the arch 4, 2019 closed Council session, but not his efforts at “opposition research” before sitting in on Grunig’s appeal.

58. Notwithstanding the conflict, Councilman Randall did not recuse himself from the appeal proceedings regarding Grunig’s discipline.

59. Councilman Wheeler is a known and longstanding friend of Grunig, and upon information and belief, verbally announced his potential conflict before sitting in on Grunig’s appeal.

60. Notwithstanding the acknowledged conflict, councilman Wheeler did not recuse himself from the appeal of Grunig’s discipline proceeding.

The Council Ignored Evidence to Overturn Their Mayor

61. The council did not ask for evidence or commentary from any of the three complainants or from Susan Balls.

56. Grunig's account of what happened contradicted the accounts of Plaintiffs and Johnson.

57. Despite the contradiction, the Council disregarded the weight of the three witness statements, and moved forward based solely upon Grunig's testimony.

58. The conflicting evidence was material to the deliberate nature of Grunig's conduct, the intention to harass others, the inherent danger in pointing firearms at people, and how it endangered other employees of the City.

59. Upon information and belief, Grunig denied saying "Justin would look better with a green dot on [his forehead].", and "I have a friend who does this to me and I hate it."

60. Upon information and belief, Grunig denied pointing the firearm at Christiansen and Johnson.

61. Grunig denied pointing the firearm at Bodrero's chest.

62. Grunig denied other relevant facts, seeking to minimize the seriousness of his conduct and the impact it had on his subordinates, suggesting he was pointing it all over the room and just briefly at Justin Bodrero's groin.

63. The differences in the statements indicated either all three Plaintiffs were lying to the investigator and mayor, or Grunig was lying to the Mayor and City Council.

64. Lying to the City regarding the reported occurrence, is in and of itself, a violation of the City personnel policy prohibiting insubordination. *See* 2018 Hyde Park City Personnel Manual at page 35, Article XIV, §I(B)(2).

65. To ignore the material contradictions between Grunig and the three witnesses, the Council discounted the differences as “conflicting evidence” without any further inquiry into truth: As feared by Plaintiffs/grievants, the conflicted Council reversed Mayor Flint, finding “there was insufficient evidence of deliberate or careless conduct while on the job that would endanger the safety of other employees.”

66. The Council found Grunig’s conduct as safe and merely offensive, despite uncontested evidence that, at a minimum, Grunig pointed the handgun at Bodrero’s groin.

67. The Council decision also means the Council found the corroborated and consistent testimony of the three public works employees to be insufficient evidence of Grunig deliberately pointing a firearm at each of his his subordinates while taunting them.

68. The City Council reversed nearly all sanctions imposed by Mayor Flint: restoring Grunig’s wages, providing back pay, dropping one of the formal reprimands, and without any further hesitation or consideration, fully reinstating Grunig as department head over Plaintiffs and Johnson.

The Council’s Decision Became the *De Facto* Final Decision for Plaintiffs’ Grievances

69. Plaintiffs were instructed to return to work under Grunig immediately.

70. The grievances of Plaintiff and Johnson requested separation from Grunig and to not be under his supervision, but when Grunig returned to work, neither the Mayor nor the Council provided any further forum for Plaintiffs to address concerns about working with him.

71. The Council did not consider nor act toward addressing Plaintiffs' requests to no longer work with Grunig, and fear of harm or retaliation from Grunig.

72. Plaintiffs were not given any instructions regarding their own rights to appeal, were not provided any written notices of any such rights, and were subsequently told they had no rights to appeal since it was Grunig's hearing and not theirs.

73. No provisions were made by the Council to address the hostile environment, safety issues, or retaliation resulting in a total failure to address any of Plaintiffs' grievances.

74. One of the very reasons Plaintiffs were initially too intimidated to file a grievance—suspicion that Grunig's friends and family on the City Council that would unfairly protect him,—was realized.

Plaintiffs Bodrero and Christiansen Are Constructively Terminated

73. Plaintiffs had witnessed how Grunig treated and retaliated against his prior subordinates.

74. The City required Plaintiffs Christiansen and Bodrero to return to work in a hostile work environment, directly reporting to Grunig, despite incidents with Grunig involving firearms.

75. Plaintiffs Christiansen and Bodrero found themselves with no choice, and were forced to announce they could not return to work if Grunig was there.

76. Johnson's responsibility for city Parks meant that he was not required to work side by side with Grunig on a daily basis.

77. Johnson then successfully worked with Mayor Flint to ensure Grunig would not supervise him, and he need not have any undesired contact with Grunig.

78. The City asked Plaintiffs Bodrero and Christiansen to return to work in late March 2019, but refused to make any accommodation to protect them from working under Grunig.

79. To place pressure on Plaintiffs to return to work without accommodations, Plaintiffs were informed that the City was investigating certain conduct of theirs while employed by the City implying that if they returned to work, said investigation would halt.

80. When Plaintiffs Bodrero and Christiansen repeatedly requested information regarding the next step of their grievance, the City refused to take any action on the grievances and no written notice was provided to Plaintiffs regarding the disposition of their grievances per (Employee Manual, Article XV, §2(A)).

The City Retaliates Against Plaintiffs By Concocting a Smear Campaign Against Them

81. Through GRAMA requests, email communications as early as February 14th, 2019 show Councilman Randall relied solely upon Grunig to present negative stories about Plaintiffs/grievants so Randall could instigate an investigation that might cast Plaintiffs in a negative light.

82. Grunig first suggested that two years ago Christiansen used a city backhoe to fix a flood/broken pipe at his home. Grunig's second suggestion accused Christiansen and Johnson

of taking “many, many loads of crushed asphalt ‘without permission’” in the summer of 2018.

83. Mayor Flint was and is Mike Grunig’s immediate supervisor, but upon information and belief Grunig bypassed Mayor Flint and directly worked with Councilman Randall to develop allegations against Plaintiffs,

84. Approximately three weeks later, Councilman Randall took his seat for the appeal of Grunig’s discipline for pulling a gun on those same Plaintiffs/greivants.

85. On March 4th, 2019 the City Council overruled Mayor Flint, fully reinstating Grunig in his supervisory position.

86. After the Council’s decision, Councilman Randall seized upon Grunig’s story to pressure Mayor Flint into submitting the accusation of theft by Bodrero and Christiansen to police for a criminal investigation.

87. This includes a text message from Randall to Mayor Flint on March 28th, 2019, “I am formally asking you as the mayor to call the north park police department and begin the theft investigation of several thousand pounds of crushed asphalt missing form Hyde park city.”

88. Apparently, Councilman Randall then discussed the same matter in a lunch with Mayor Flint, wherein she stated she would look into it. Councilman Randall insisently followed up on May 7th: “As per our conversation at lunch, did you call NPPD and get the started no the theft of the crushed asphalt? You said you would”.

89. When Mayor Flint replied later that night, she stated she intended to speak with Plaintiff Johnson about what happened and suggest he pay for it, Randall responded at 8:41pm and demanded she take action immediately, “[T]hat conversation has to happen asap. We must be prepared to have a statement [alleging that Plaintiffs stole gravel] ready when they sue us. That statement must include this information. We certainly can tell the police we do not want charges filed. You also indicated you wanted to talk to Kolby [Plaintiff Christiansen] and just [Plaintiff Bodrero] about all of the negative info we discovered as part of the whole mess. Did you talk to them yet?”

90. Randall’s emails clearly show the City had begun a campaign to develop irrelevant (and untrue) negative information against the Plaintiffs with the hope to deter any litigation, and to smear them in public if they filed a lawsuit.

The Smear Campaign’s Allegations Are False, and Constitute Retaliation and Defamation

91. Once Mayor Flint spoke with Plaintiff Johnson about the missing crushed asphalt, he explained that he had permission to take the tailings—from Mike Grunig.

92. If the City had taken the time to ask, it would have learned that Plaintiffs Bodrero and Christiansen both were present when Mike Grunig told them that they “needed to get rid of” some of the crushed asphalt and asked them if they or anyone they knew could use it.

93. When Christiansen indicated somebody probably could, Grunig suggested that they use the city truck, but power wash the city logo off of it so he [Grunig] wouldn’t get into trouble.

94. Had the City asked, it would have quickly learned that Plaintiff Johnson was present days later when Grunig was with Christiansen and asked Christiansen how much of the asphalt had been taken, and accepted Christiansen's explanation.

95. Grunig first reported the missing asphalt until February 14th of 2019—immediately after reach Mayor reprimanded him over the the grievances against him by Plaintiffs.

96. Utah Law prohibits retaliation against an employee for filing a complaint, testifying, assisting, or participating in any manner in any investigation, proceeding, or hearing associated with a complaint.

97. More specifically the Hyde Park Personnel policy forbids “retaliation or reprisals [] against any employee who opposes a forbidden practice, has filed a charge, testified, assisted or participated in any manner in an investigative proceeding or hearing under this policy.”

Hyde Park City's Are Retaliatory Where It Has Refused To Investigate Allegations Against Other Employees

98. Hyde Park City chose to initiate an investigation against Plaintiffs in reaction to Plaintiff's threat of litigation.

99. Upon information and belief, Hyde Park has chose to investigate Plaintiffs while deliberately avoiding any evidence or claims that might lead to a reprimand of Grunig relating to authorizing, or in the least, failing to report misuse of City resources by members of the Public Works Department.

100. Upon information and belief the City chose not to pursue investigations into Grunig and its own councilmen.

101. Utah Code Annotated §10-3-1304 prohibits Grunig as Public Works Director from:

1. “use or attempt[s] to use the [Public Works Director position] to further substantially the [Public Works Director’s] personal economic interest; OR

2. Knowingly receive, accept, take, seek, or solicit, directly or indirectly, for the [Public Works Director] a gift of substantial value or a substantial economic benefit tantamount to a gift that would tend improperly to influence a reasonable person in the person’s position to depart from the faithful and impartial discharge of the person’s public duties; “

102. When asked about the power poles (after Plaintiffs’ council raised the issue), Grunig produced a handwritten note dated June 20th, 2019 from Grunig’s friend who works at Rocky Mountain Power; although not on RMP’s letterhead, the note purports that RMP gifted the power poles to Grunig,

103. Hyde Park turned a blind eye as to whether or not the note was legitimately authorized by Rocky Mountain Power or if such “gifts” violated Rocky Mountain Power’s and the City’s policies regarding gifts to City Officials.

104. Upon information and belief, Hyde Park City has chosen not to follow up or investigate information that Grunig has used the City shop to conduct repairs on his own, one or more City Councilmens’, the former Mayor’s, or friends’ and family’s vehicles, lawnmowers, and/or recreational vehicles.

105. Although notified of the issue as early as April of 2019, Hyde Park City has chosen not to investigate itself, Grunig, or through an outside independent agency, whether City Councilman Hurd violated the anti-nepotism statute (UCA §52-3-1) when he did not recuse himself from deciding to reinstate his father-in-law's employment and pay.

First Cause of Action
(Assault—Mike Grunig)

106. Plaintiffs hereby incorporate and reallege allegations contained through ¶¶ 1-105 herein;

107. A handgun is an inherently deadly instrument which exists only to be pointed at those things the handler intends to destroy;

108. Mike Grunig pointed a handgun, sighted with a green laser at Justin Bodrero's chest and groin;

109. Mike Grunig pointed a handgun, sighted with a green laser at the body of Kolby Christiansen;

110. Mike Grunig pointed a handgun, sighted with a green laser, at the body of Mike Johnson;

111. Grunig made it known that he intended the pointing of the gun to place Bodrero, Christiansen and Johnson in the apprehension of immediate physical harm or death;

112. Bodrero, Christiansen and Johnson were each placed in apprehension of immediate physical harm and/or death.

113. Bodrero, Christiansen and Johnson suffered damages as a result of the assault, the amounts of which is to be determined at trial, but no less than \$10,000 each.

Second Cause of Action
(Gross Negligence— Grunig)

114. Plaintiffs hereby incorporate and reallege allegations contained through ¶¶ 1-113 herein;

115. Mike Grunig chose to carry a concealed firearm on his person while at work—a handgun;

116. Mike Grunig owed Plaintiffs and the general public a duty to take reasonable care while carrying and handling that firearm;

117. A firearm is an inherently dangerous instrument, requiring an increased duty of care;

118. Grunig breached that duty of care, pointing the firearm at each of the Plaintiffs;

119. As a consequence of that breach, Plaintiffs suffered damages in an amount no less than \$10,000 each to be determined at trial.

Third Cause of Action
(Defamation— Grunig)

120. Plaintiffs hereby incorporate and reallege allegations contained through ¶¶ 1-119 herein;

121. Mike Grunig published statements about Plaintiffs Christiansen, Johnson and Bodrero claiming they committed or otherwise participated in theft of crushed asphalt from Hyde Park City;

122. Grunig knew those statements were false, because Grunig himself had suggested and authorized they take the asphalt tailings;

123. The statements are defamatory *per se*, and imputed with malicious intent because they falsely accuse Plaintiffs of criminal conduct.

124. The statements were maliciously fabricated to defame and discredit Plaintiffs among their colleagues, neighbors and prospective employers in order to deter litigation or otherwise undermine them during it;

125. The statements cause damages to Plaintiffs in an amount to be determined at trial, but no less than \$10,000 each.

Fourth Cause of Action

(Conspiracy to Defame—Brett Randall & Grunig)

126. Plaintiffs hereby incorporate and re-allege ¶¶ 1-125 as if pled herein.

127. Grunig and Councilman Randall agreed to develop negative stories about Plaintiffs on or before February 14th, 2019.

128. Grunig and Randall intended to use these negative stories to unlawfully deter Plaintiffs from exercising their rights, specifically to intimidate Plaintiffs with an investigation or threat to their reputation from filing this lawsuit, and/or to discredit them with the public if a lawsuit was filed.

129. Grunig knew the stories were false;

130. Randall was reckless as to the veracity of the stories, failing to take any effort to verify them.

131. Plaintiffs seek injunctive relief as well as damages for these acts, for an amount to be determine at trial.

Fifth Cause of action

(Intentional Infliction of Emotional Distress—Grunig)

132. Plaintiffs hereby incorporate and reallege allegations contained through ¶¶ 1-131 herein;

133. Hyde Park City is incorporated as a City and Mike Grunig is employed as the City's Public Works Director;

134. Mike Grunig committed assault against Plaintiffs while supervising them, while working within the scope of his employment;

135. Mike Grunig intentionally acted to cause each of the Plaintiffs emotional distress;

136. Plaintiffs Bodrero and Christiansen suffered emotional distress, anxiety, chronic sleep loss and other stresses relating to continued work with Grunig and job security.

137. Plaintiffs suffered damages as a result of the assault in an amount to be determined at trial, but no less than \$10,000 each.

Sixth Cause of Action

(Hyde Park City Constructive Termination of Bodrero, Christiansen)

138. Plaintiffs hereby incorporate and reallege allegations contained through ¶¶ 1-137 herein;

139. Hyde Park City received grievances from all three of Mike Grunig's subordinates indicating they worked in a hostile work environment;

140. The grievances cited Mr. Grunig's pointing a firearm at them, and also implicated Hyde Park's lack of any firearm safety guidelines for employees;

141. The grievances cited a fear of retaliation by the City Council and Mike Grunig as a result of the grievances;

142. The City Council reinstated Grunig without addressing *any* of the grievants' complaints;

143. The reinstatement of Grunig without any protective measures continued and exacerbated the intimidating, dangerous hostile working environment;

144. Bodrero and Christiansen were required to have daily contact with Grunig, which created an environment that a reasonable employee in their position would feel compelled to resign;

145. The City knew, by virtue of the grievances themselves that the working conditions were intolerable;

146. Plaintiffs Bodrero and Christiansen suffered damages as a result of the assault in an amount to be determined at trial, but no less than \$25,000 each.

Seventh Cause of action

(Hyde Park City Denial of Procedural Due Process under §1983)

147. Plaintiffs hereby incorporate and reallege allegations contained through ¶¶ 1-146 herein;

148. Hyde Park City is incorporated as a City and is a government entity;

149. Employment is a property right pursuant to the Fourteenth Amendment of the United States Constitution;

150. The Fourteenth Amendment guarantees due process to employees to protect their interest in maintaining employment; which is reflected in the Utah State Code and Hyde Park City's own Personnel Policy at XV(I)(A) and (C);

151. Plaintiffs properly filed their grievances with the City;

152. The City Council overturned Mayor Flint in Grunig's appeal, and thereafter

1. failed to notify Plaintiffs of their right to pursue their grievances, and
2. to otherwise provide any recourse to Plaintiffs/grievants, depriving them of their right to have their grievances heard by the City Council in violation of Hyde Park City's Personnel Policy XV(II)(A).

3. Without further hearing or input, the City reinstated Grunig as grievants supervisor.

153. Consequently, grievants were denied their right to due process.

154. Plaintiffs suffered lost wages, compensatory damages, emotional distress. to be determined at trial, but not less than \$25,000 each.

Eighth Cause of Action

(Conspiracy to Deprive Defendant of His Due Process-Hyde Park City)

155. Plaintiffs hereby incorporate and reallege allegations contained through ¶¶ 1-161 herein;

156. Employees of the City Conspired to create negative stories of theft about Plaintiffs in an attempt to deter them from pursuing their rights.

157. The stories were untrue, known to be untrue and pursued for unlawful purpose.

158. The stories were conveyed to third parties, damaging Plaintiffs in an amount to be determined at trial.

159. The attempt to intimidate Plaintiffs from this litigation itself is a violation of §1983.

160. Plaintiffs seek injunctive relief to order the City to retract all statements and refrain from any further untrue statements regarding theft.

Ninth Cause of Action

(Hyde Park City-Harassment and Hostile Working Environment)

161. Plaintiffs hereby incorporate and re-allege allegations contained through ¶¶ 1-160 herein;

162. Hyde Park City is incorporated as a City and Mike Grunig is employed as the City's Public Works Director;

163. Utah state law and Hyde Park City prohibit harassment and such policies must include prohibition of workplace assault as harassment and hostility;

164. Mike Grunig assaulted Plaintiffs while acting as agent for the City;

165. Grunig's behavior was unsafe, threatening and a form of intimidation constituting a hostile workplace environment;

166. Plaintiffs suffered damages as a result of the hostile environment in an amount to be determined at trial, but no less than \$10,000 each.

Tenthth Cause of Action

(Wrongful Termination in Violation of Public Policy of Bodrero and Christiansen)

167. Plaintiffs hereby incorporate and re-allege allegations contained through ¶¶ 1-166 herein;

168. Hyde Park City employed Plaintiffs;

169. Plaintiffs complained of serious ongoing dangers posed by a supervisor pointing a weapon at them, failing to carry his handgun in a holster, and brandishing it with other employees, and not abiding by basic firearm safety;

170. Plaintiffs complaint verified that Hyde Park City had no policy regarding firearm safety in the workplace;

171. Firearm safety is a clear and substantial policy concern;

172. Plaintiffs cannot be expected to work in an environment where their supervisor had pointed a firearm at each of them, and the City had no policy to prevent it;

173. The City returned the supervisor to his station over Plaintiffs, without taking any measures to protect Plaintiffs from the actions of their still-armed supervisor;

174. The City returned the supervisor to his station over Plaintiffs without taking any measures to address their ongoing fears of his unsafe practice with a weapon and retaliation for filing the grievance;

175. No reasonable person in Plaintiffs Bodrero and Christiansen's situation could have been expected to return to work under such circumstances;

176. The City's actions forced the constructive termination of Christiansen and Bodrero;
ro;

177. Christiansen and Bodrero suffered economic losses as a result of the constructive termination in an amount to be determined at trial, but no less than \$40,000 each.

Eleventh Cause of Action
(Retaliation Hyde Park City—Bodrero and Christiansen)

178. Plaintiffs hereby incorporate and reallege allegations contained through ¶¶ 1-177 herein;

179. Plaintiffs participated in a protected activity when they filed their grievances;

180. Grunig and Randall participated in a campaign to “unearth” untrue allegations of theft against Plaintiffs in order to convince them not to litigate their claims;

181. Grunig and Randall planned to publicize the theft allegation once Plaintiffs filed their lawsuit, in an attempt to smear them;

182. The investigation of Plaintiffs, the communication of theft allegations, and the attempt to smear Plaintiffs was all part of a retaliatory scheme;

183. Retaliation for participating in protected activities is prohibited;

184. Plaintiffs suffered damages in an amount to be determined at trial, but no less than \$20,000 each.

Claims Twelve, Thirteen, Fouteen, Sixteen, Seventeen & Eighteen
(Violation of the Utah Protection of Public Employees Act—Hyde Park City)

185. Plaintiffs hereby incorporate and reallege allegations contained through ¶¶ 1-184 herein;

186. The parties entered into employment Agreements, the terms of which are outlined in the Hyde Park City Personnel manual and Utah State Municipal Code;

187. Hyde Park City is a municipality subject to the Utah Protection of Public Employees Act.

188. The Utah Protection of Public Employees Act serves to ensure enforcement of:

1. Due Process through the grievance procedure;
2. Protection from adverse action and retaliation;

189. **Claim Number Twelve:** The City violated the statute by failing to provide a meaningful grievance process that ensured due process.

190. **Claim Number Thirteen** The City violated the statute by failing to provide protection for Plaintiffs from retaliation after Plaintiffs reported gross mismanagement, abuse of authority and unethical conduct.

191. T **Claim Number Fourteen:** The City violated the statute by knowingly conducting a biased decision in favor of Grunig, which acted as a *de facto* termination of Plaintiffs' grievances without further process.

192. **Claim Number Fifteen:** The City violated the statute by *de facto* ending the grievances with a biased decision making body in Grunig's appeal; knowingly allowing Councilman Randall to sit on the Council decision in favor of Grunig; when it was known that Randall had already began collecting "dirt" against Plaintiffs in anticipation of a smear campaign;

193. **Claim Number Sixteen:** The City violated the statute by *de facto* ending the grievances with a biased decision making body in Grunig's appeal; knowingly allowing Grunig's son-in-law, Councilman Hurd, to vote on the appeal.

194. **Claim Number Seventeen:** The City violated the statute by soliciting lies from Grunig in order to plan a smear campaign against Plaintiffs, in order to deter litigation or otherwise use those lies against Plaintiffs if a lawsuit was filed.

195. Each of the City's violations of this statute cumulatively resulted in damages to each plaintiff of an amount no less than \$25,000 each.

PRAYER FOR RELIEF

WHJEREFOR, Plaintiffs pray for relief from this court for the following:

1. For a verdict in favor of Plaintiffs on all claims pled;
2. For an award of damages as laid out in the Plaintiffs' claims, for a cumulative amount no less than \$300,000 among all Plaintiffs
3. For injunctive relief requiring the City to instill proper gun safety protocols;
4. For injunctive relief requiring the City to follow proper grievance procedures in accord with Utah State Law;
5. For injunctive relief requiring the City to train its employees and elected officials on nepotism, conflicts of interest and retaliation;
6. For costs and attorney's fees to the prevailing party as authorized by 42 U.S. CODE §1988(b), UT. CODE. ANN. §67-21-5 or as otherwise authorized by contract, statute or law.

BYINGTON & GOBLE, PLLC

/s/ Sam Goble

Samuel A. Goble, *Attorney*