

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 17 – CI –  
DIVISION \_\_\_\_\_

SCOTT BROWN,	)
	)
PLAINTIFF,	)
V.	)
	)
KENTUCKY ADMINSTRATIVE OFFICE OF THE COURTS	)
	)
DEFENDANT.	)
	)
<b>SERVE:</b> LAURIE K. DUDGEON	)
Administrative Office of the Courts	)
1001 Vandalay Drive	)
Frankfort, Kentucky 40601	)

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**VERIFIED COMPLAINT**

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Comes the Plaintiff, SCOTT BROWN, by and through undersigned counsel, and for his Verified Complaint against Defendant KENTUCKY ADMINISTRATIVE OFFICE OF THE COURTS, states as follows:

**INTRODUCTION**

1) This is a civil action by the Plaintiff, Scott Brown, pursuant to KRS 61.101, *et. seq.*, which provides, generally, protection from reprisal and/or retaliation to public employees who disclose or report “information relative to an actual or suspected violation of any law, statute, executive order, administrative regulation, mandate, rule, or ordinance of the United States, the Commonwealth of Kentucky, or any of its political subdivisions, or any facts or information relative to actual or suspected mismanagement, waste, fraud, abuse of authority, or a substantial and specific danger to public health or safety.”

2) The Plaintiff, Scott Brown (hereinafter "Brown"), is and was at all relevant times hereto, a resident of the Commonwealth of Kentucky and an employee of the Kentucky Administrative Office of the Courts, as that term is defined in KRS 61.101(1).

3) The Defendant, the Kentucky Administrative Office of the Courts (hereinafter "AOC"), is the Plaintiff's employer as that term is defined in KRS 61.101(2).

### FACTS

4) Between July 1, 1999 and continuing to the present, Brown has been employed with the Administrative Office of the Courts in Frankfort, Kentucky. Brown was serving as the Executive Officer of Administrative Services which includes the Departments of Facilities, Auditing and Investigative Services, Court Security, along with multiple sub divisions.

5) Prior to Brown's disclosures or reports of information relative to "actual or suspected violation of any law, statute, executive order, administrative regulation, mandate, rule, or ordinance of the United States, the Commonwealth of Kentucky, or any of its political subdivisions, or any facts or information relative to actual or suspected mismanagement, waste, fraud, abuse of authority," as a "whistleblower" he had never received a written reprimand or a disciplinary action.

6) Beginning in or about February 14, 2014 and May 12, 2014, Brown informed his direct supervisor, the Deputy Director of AOC, of multiple concerns which he discovered regarding conduct of an employee/manager of the Department of Facilities. The major concern was the discovery of possible illegal activity involving HVAC contracts where competitive bids were not obtained and preferential awarding of those contracts went to one particular HVAC company.

7) Additionally, during this period, Brown informed the Deputy Director this

employee/manager had improperly used a state-owned vehicle which had been assigned to this employee/manager.

8) Brown was advised by this employee/manager of the employee/manager's decision to resign from his position at AOC effective May 12, 2014, because of improper conduct.

9) Brown learned that between in or about May of 2014 and May of 2016, AOC's Auditing department continued to identify unauthorized HVAC repairs in counties across the state, many of the repairs which were performed by a specific HVAC company, and in some instances other companies. Brown continued to provide this information of suspected wrongdoing to the Deputy Director.

10) Upon information and belief, between January of 2014 and continuing through December 2016, it was discovered that approximately \$3.1 million dollars in unauthorized HVAC repairs and \$2.2 million dollars in non-preapproved repairs occurred across the state.

11) Upon information and belief, approximately half of the unauthorized repairs were performed by the company which had been first identified and reported to the Deputy Director.

12) In addition to the previously reported information, Brown also discovered multiple other issues within the Facilities Department, issues which were reported to the Deputy Director.

13) Among the issues that Brown discovered and reported to the Deputy Director included no formal lease agreements in approximately 60% of lease space occupied by Court of Justice programs; a long history of noncompetitive bidding polices for all Judicial Center facility reimbursements statewide; and the absence of any policies and procedures for any departmental functions.

14) Brown also discovered and reported to the Deputy Director double payments of several facilities expenses and janitorial contracts being awarded to a company where the employer/manager mentioned above had a personal relationship with the owner of the company.

15) Throughout the dates set forth above, Brown continued and regularly reported this information regarding potential wrongdoing to both the Director's Office at AOC, and the General Counsel's office at AOC, via multiple emails and verbal conversations.

16) Upon information and belief, AOC's Director, became less interested with each issue which was reported and told Brown on several occasions that she could not "deal with all this," referring to the reports of wrongdoing which Brown had discovered.

17) Upon information and belief, between on or about March 25, 2015 and continuing until on or about April 9, 2015, AOC's auditing department received confirmation from a county treasurer that one of AOC's Facility audits had been altered and HVAC expenses that Brown had previously denied had been reinstated and the county had been reimbursed for the repairs.

18) Upon information and belief, AOC's auditors obtained copies of the correspondence from the county and copies of AOC's files and reported this information of potential wrongdoing to the Deputy Director on or about March 29, 2015.

19) Upon information and belief, because of AOC's audit it was discovered, and reported to the Deputy Director, that other counties had been reimbursed for HVAC repair expenses which Brown had previously denied. Brown learned and reported to the Deputy Director that the previously unapproved expenses had been subsequently paid by AOC's Budget Department.

20) In or about April 4, 2014, Brown, and AOC's Auditing Services Manager, were contacted by a Circuit judge from Northern Kentucky expressing concerns regarding payments

for Guardian ad Litem (hereinafter "GAL") fees.

21) In or about April 7, 2014, Brown conducted a quick review of data and responded to the judge that it appeared there were valid concerns regarding GAL payments.

22) Upon information and belief, beginning in or about April of 2014 and continuing until in or about July of 2014, the complaining judge and Brown each submitted an open records request to the Kentucky Finance Cabinet for GAL payments for the years 2012 and 2013.

23) Upon information and belief, upon receiving the data, AOC's auditors conducted a county by county audit of the amounts of GAL payments, information which was then submitted to AOC's Director's Office.

24) On or about July 28, 2014, Brown received a copy of an email which was from the complaining judge to a Courier Journal reporter who was investigating GAL payments; the email stated in part that "I (name of judge) did not have the authority to request an audit." The judge also stated in the email that "I (name of judge) do not have a copy of any audit or report as one was not completed. I have not received any verbal information regarding the KCOJ AOC actions to my request."

25) Upon information and belief, from in or about July of 2014 and continuing until on or about December 15, 2014, Brown learned of several more emails and conversations between a Courier Journal reporter, AOC's Public Information Officer, AOC's Chief of Staff, AOC's Director, and the Deputy Director regarding the GAL payments.

26) Upon information and belief, after the matter regarding GAL payments appeared to have been resolved, Brown learned of an email from another family court judge from Northern Kentucky which provided information to AOC that the family court judge explained how the GAL system could be manipulated.

27) Upon information and belief, on or about December 11, 2014, Brown learned that AOC's Public Information Officer sent an email to the family court judges in the Northern Kentucky county where the issue of GAL payments had first been raised and advised the judges that "AOC has decided to take a careful look at the GALS process statewide and in Northern Kentucky to determine if the system merits improvement by way of recommendation to the Supreme Court."

28) In or about January of 2015, Brown submitted another open records request to Kentucky's Finance Cabinet for all statewide GAL payments for the years 2012, 2013 and 2014.

29) Upon information and belief, after the data was received, AOC's auditors did an updated county by county audit regarding the amounts of GAL payments.

30) Upon information and belief, AOC's audit revealed higher than average GAL reimbursements in the Northern Kentucky county which was the subject of the initial complaint.

31) Upon information and belief, and as an example, over a three (3) year period payments to several attorneys in the Northern Kentucky county ranged in amounts from a high of \$467,468.50 to \$230,050.00. AOC's audit revealed that the payments were approved by family court judges and were reimbursed directly from Kentucky's Finance Cabinet. AOC's audit revealed that GAL payments in this single Northern Kentucky county received approximately \$3,631,310.82 in the three year period, or nearly 10.61% of the statewide payments during the audit period.

32) On or about February 6, 2015, out of a concern that the GAL payments were improper, Brown sent electronic and paper copies of the recently completed AOC audit of GAL payments to AOC's Director, AOC's Deputy Director, AOC's General Counsel, AOC's Public Information Officer and AOC's Chief of Staff.

33) On or about the same date, Brown received an email from AOC's Director which referenced an email from a Northern Kentucky family judge in which the judge asked when AOC would be coming to look at the issue of the GAL payments. AOC's Director replied to the judge and stated that she had explained to the judge that there must have been a misunderstanding because AOC did not have any statutory authority to audit the GAL payments.

34) In or about February or March of 2015, Brown was on a trip with AOC's Director, Deputy Director, and others, when AOC's Director brought up the issue of the GAL audit. AOC's Director was very upset with Brown for having been involved in the GAL audit and made it clear to Brown that AOC did not need to be involved in the matter, notwithstanding that the audit revealed possible fraud.

35) In or about February or March of 2015, the Deputy Director returned the hard copy of AOC's GAL audit and was told that AOC's Director's Office did not want the audit.

36) On or about June 4, 2015, Brown received an email from one of AOC's auditors who had been contacted by a Northern Kentucky family court judge who had filed a complaint with AOC's Director about the GAL payments. The judge was irritated that AOC had not replied to the complaint. Because of the complaint, Brown advised the AOC auditor to reply to the judge that AOC had compiled data on the GAL payments.

37) Brown advised that after the aforementioned reply to the judge, the matter regarding the GAL payments never came up again at AOC.

38) In or about May of 2015, special agents of the Federal Bureau of Investigation (hereinafter "FBI"), came to Brown's residence and requested an opportunity to discuss matters regarding the previously mentioned employee/manager and another employee in AOC's budget office regarding the HVAC contracts and the overall operation of AOC's budget expenditures for

facilities.

39) Brown provided the special agents of the FBI with information about his concerns with the HVAC contracts and other information and overall history of AOC's Facilities Department.

40) Brown continued to provide the special agents of the FBI with information of potential wrongdoing, information which Brown had also reported to the Deputy Director, AOC's Director, and AOC's legal office, until in or about June of 2016.

41) In or about August 2016, Brown was informed by AOC's General Counsel that AOC had received a federal grand jury subpoena which requested all documentation that was available regarding the former employee/manager, and the specific HVAC company which had been identified as the company for performing unauthorized repairs.

42) Upon information and belief, the federal grand jury subpoena requested documents regarding two other companies that had performed work on previous capital construction projects for AOC.

43) Upon information and belief, the federal grand jury subpoena also requested a copy of a previously unreleased accounts receivable audit which had been conducted by Harris and Harris, a certified public accountant firm.

44) AOC's General Counsel instructed Brown to gather the requested documents and provide the documents to the General Counsel for review and delivery to the federal grand jury.

45) Brown was also asked if he had possession of and could provide AOC's General Counsel with the computer hard drive from the previously mentioned employee/manager which was also requested pursuant to the federal grand jury subpoena.

46) In or about November of 2015, the AOC Facilities Department was tasked with



finding private sector lease space in Letcher County for newly elected Kentucky Supreme Court justice.

47) Upon information and belief, AOC published an advertisement and the only response to the advertisement was a home/office building owned by the newly elected Kentucky Supreme Court justice.

48) Brown reported his concerns regarding renting space for the newly elected Kentucky Supreme Court justice to AOC's Director's Office. Additionally, AOC's Operation Manager, reported the same concerns to AOC's General Counsel.

49) On or about November 16, 2016, Brown and AOC's Operation Manager received an email response from AOC's General Counsel which advised that AOC's Director had called a meeting regarding the office space owned by the newly elected Kentucky Supreme Court justice which stated that "he owns the building that we want to rent in Letcher County and we need to make sure he follows the rules. He said he's willing to sell to his dad but we need to meet on this and make a recommendation."

50) Upon information and belief, the newly elected Kentucky Supreme Court justice subsequently sold his building to SWP Properties, LLC which is a company owned by the newly elected Kentucky Supreme Court justice's son.

51) Upon information and belief, as part of the lease of the office space owned by the newly elected Kentucky Supreme Court justice, space which was believed to have been transferred to the justice's son, the lease payments incorporated thousands of dollars of renovation costs. In addition, AOC directly paid for the installation of a security system and furniture for the leased space.

52) Upon information and belief, the AOC agreed to lease this newly renovated office

space from the newly elected Kentucky Supreme Court justice's son effective April 1, 2016.

53) Upon information and belief, beginning in or about August 2015 and continuing until on or about April of 2017, AOC's audit investigator has conducted and continues to conduct an internal audit of AOC's Accounting/Purchasing Department.

54) Upon information and belief, and during this time, AOC's audit investigator has discovered many areas of concerns, concerns about the expenditure of AOC's appropriated funds without any formal budget process, concerns which Brown and AOC's audit investigator reported to the Deputy Director.

55) Upon information and belief, the audit uncovered a recurring monthly expenditure to a justice of the Kentucky Supreme Court in the amount of \$1,200 which was submitted by the justice for travel reimbursement.

56) Upon information and belief, AOC's audit investigator learned from AOC's manager of Accounting/Purchasing, that although the expenditure is listed as reimbursement for travel, the travel reimbursement was actually a monthly payment to the justice for the rental of a condominium in Frankfort, Franklin County, Kentucky.

57) Upon information and belief, AOC's audit investigator was advised that the payments which were listed as "other" on the travel voucher had been paid to the justice for years.

58) In or about December of 2015, Brown and AOC's audit investigator provided the aforementioned information to AOC's Director's Office.

59) Upon information and belief, beginning in or about March of 2016 and continuing until Brown's suspension without pay on April 26, 2017, Brown's and AOC's Operations Manager relationship with AOC's Director deteriorated.

60) Throughout this period, Brown and AOC's Operations Manager had to continually explain and defend decisions made regarding AOC's Facilities procedures which Brown and AOC's Operations Manager established in an effort to ensure the proper expenditure of appropriated funds.

61) Upon information and belief, as a direct result of Brown's continued reports of actual or suspected violations of laws, and/or facts relative to actual or suspected mismanagement, waste, fraud, and abuse of authority, Brown's relationship with his supervisors continued to deteriorate.

62) On or about April 26, 2016, Brown and AOC's Operations Manager received an email from the Deputy Director which stated, "[y]ou have great documentation and I totally understand your frustration with what, I know, feels like a constant need to defend yourselves against criticism from people who are not being fully truthful."

63) Upon information and belief, from in or about April of 2016, the relationship with the AOC's Director's Office continued to deteriorate until it reached a breaking point in or about February of 2017, when the Deputy Director relieved AOC's Operations Manager of her duties with any of AOC's Facilities related matters.

64) Upon information and belief, beginning in or about early April of 2017, Brown was the target of anonymous complaints which were sent to the Kentucky Attorney General's Office, the Lexington Herald Leader and WLEX-TV.

65) Brown was never given an opportunity to meet with any of AOC's supervisory staff to discuss the nature of the complaints. Instead, Brown was tasked with gathering information of past employee vehicle sales which had been conducted by AOC.

66) Brown had to reconstruct the documentation from multiple locations at AOC. As

Brown attempted to reconstruct the data, Brown noticed several errors which occurred during these sales; the information was provided to AOC's General Counsel, and AOC's Public Information Officer. Brown advised AOC's General Counsel and AOC's Information Officer that he was not comfortable giving out information which was not supported by documentation.

67) Upon information and belief, Brown was off work for the next week and an internal investigation continued with the assistance of AOC's manager of Auditing Services and AOC's audit investigator.

68) Upon information and belief, Brown learned that the investigation by AOC's manager of Auditing Services and AOC's audit investigator uncovered many of the same errors which Brown had discovered.

69) On or about April 11, 2017, Brown was interrogated by investigators from the Kentucky Attorney General's Office regarding vehicles which Brown had purchased. During the interrogation, Brown was referred to as a "liar" and was threatened with comments such as "how much financial trouble are you in, is that why you did this" referring to his purchases of surplus AOC vehicles.

70) Upon information and belief, Brown believed that the interrogation and accusations of criminal conduct on his part was in retaliation and was directly related to his reports to AOC's supervisory staff of continued reports of actual or suspected violations of laws, and/or facts relative to actual or suspected mismanagement, waste, fraud, and abuse of authority; and likely related to his cooperation with the Federal Bureau of Investigation regarding possible federal criminal violations of fraud at AOC.

71) Upon information and belief, and because of his suspicion that he had been targeted for retaliation for his continued reports of actual or suspected violations of laws, and/or

facts relative to actual or suspected mismanagement, waste, fraud, and abuse of authority, Brown notified the Deputy Director and AOC's General Counsel that he had been interviewed and had cooperated with the FBI regarding the conduct of a former employee/manager and with a current employee in AOC's Budget Office.

72) Upon information and belief, on or about April 12, 2017 at 5:30 p.m., Brown received a call on his personal cellular phone from AOC's Director and Deputy Director and was notified that he was being placed on paid leave for a period of 5 days to see "what the AG's office was going to do with him after the investigation was completed."

73) On or about April 18, 2017, Brown received a text message on his personal cellular phone from AOC's Human Resources Director requesting that he agree to meet with AOC's Human Resources Director at an offsite location to turn in his AOC issued laptops. AOC's Human Resources Director advised Brown that he would also like to talk about the current situation.

74) On or about the same date, Brown met with AOC's Human Resources Director in a parking lot of a McDonalds in Lawrenceburg, Kentucky. During the meeting, AOC's Human Resources Director advised Brown that individuals at AOC were scared \_\_\_\_\_ about the adverse public relations regarding AOC's policy of selling surplus vehicles to employees.

75) During the meeting, Brown was advised by AOC's Human Resources Director that Brown needed to consider his options, retire, and do something else. Brown was also notified that he was being placed on an additional 5 days of paid investigative leave. Brown asked AOC's Human Resources Director why he was being targeted when he really wasn't involved in any wrongdoing.

76) On or about April 25, 2017, Brown received another text message from AOC's

Human Resources Director and was again asked to meet with AOC's Human Resources Director at an offsite location the next day, April 26, 2017.

77) As requested, Brown met with AOC's Human Resources Director at the Lawrenceburg McDonalds at approximately 11:00 a.m. where Brown was advised that he was being placed on indefinite unpaid leave from his position with AOC.

78) During the meeting, Brown was also advised by AOC's Human Resources Director that AOC wants his decision to either retire, or resign by May 15, 2017 or Brown would be removed from his position.

79) During the meeting, Brown requested AOC's Human Resources Director to advise him the reason AOC would use to terminate him and was told that AOC was not going to provide a reason. AOC's Human Resources Director provided Brown with a completed state retirement form and was encouraged to retire instead of being terminated.

80) During the meeting, AOC's Human Resources Director provided Brown with incorrect information regarding Brown's eligibility for retirement. Brown contacted the Kentucky Retirement System and determined that AOC's Human Resources Director's information about his eligibility was incorrect and that Brown was not eligible for retirement until he reached the age of 55.

81) On or about April 26, 2017 at 3:04 p.m., Brown received another text message from AOC's Human Resources Director and was asked if he would like to meet with AOC's Director and Deputy Director to discuss the reasons behind his release. AOC's Human Resources Director advised Brown that AOC's Director and Deputy Director would be able to answer any questions he might have regarding the reasons for his termination.

82) On or about April 28, 2017, Brown met with AOC's Director and Deputy Director at AOC. During the meeting, the Deputy Director cried and told Brown and kept saying, "This was so wrong (apparently referring to Brown's termination)."

83) During the meeting, Brown was told by AOC's Director that the reason for his termination had nothing to do with the employee sales of surplus vehicles. Instead, Dudgeon told Brown that it was about the cars that he had purchased and that he was facing charges and conviction. As a result, AOC's Director told Brown that his reputation had been questioned, and he could no longer effectively manage the department.

84) Brown was told that AOC's Director had told the Chief Justice that she would resign from her position. AOC's Director told Brown that the Chief Justice told her that she needed to stay to lead AOC through the ongoing investigation (possibly referring to not only the sale of surplus vehicles, but also, the federal criminal investigation).

85) Brown asked AOC's Director if she knew who was behind the anonymous complaints and who she thought was involved. AOC's Director stated to Brown that, "I don't want you to think that they have won, but we have to be careful with them because of potential lawsuits." Brown advised AOC's Director that if the false charges filed against him were intended to embarrass him, it had failed to which AOC's Director seemed surprised and AOC's Director responded "really, you are not embarrassed by all this?"

86) On or about May 1<sup>st</sup>, 2017, Brown received another text message from AOC's Human Resources Director and was requested to meet with AOC's Human Resources Director to coordinate a day/time to come pick up [Brown's] things. Brown was also advised that this would be a good time to provide AOC's Human Resources Director with combinations to AOC's safes, and it would also be a good time for Brown to turn in any AOC handguns or equipment

which he had been issued.

87) On or about May 9, 2017, Brown received another text message from AOC's Human Resources Director which again requested him to meet and pick up his personal property.

**COUNT I**  
**VIOLATION OF KRS 61.101, et. seq.**

88) The Plaintiff incorporates each and every allegation set forth in Paragraphs 1 through 87 above, as if fully stated herein.

89) The Kentucky Administrative Office of Courts actions against Brown resulted in injuries pursuant to KRS 61.101, *et. seq.*, which provides, generally, protection from reprisal and/retaliation to public employees who disclose or report "information relative to an actual or suspected violation of any law, statute, executive order, administrative regulation, mandate, rule, or ordinance of the United States, the Commonwealth of Kentucky, or any of its political subdivisions, or any facts or information relative to actual or suspected mismanagement, waste, fraud, abuse of authority, or a substantial and specific danger to public health or safety." This statute is known as the "whistleblower" statute.

90) Brown was at all times relevant hereto an "employee" within the scope of the definition of the term "employee" as set forth in KRS 61.101(1).

91) The Kentucky Administrative Office of the Courts was and/is and "employer" within the scope of the definition of the term "employer" set forth in KRS 61.101(2).

92) During Brown's employment with the Kentucky Administrative Office of Courts, Brown reported and disclosed, to his supervisors in good faith, facts, and information relative to suspected violations of law and actual or suspected mismanagement, waste, fraud, abuse of authority, violations of the law as set forth more fully above.



93) Because of Brown's disclosures to his supervisors at the Kentucky Administrative Office of Courts and to special agents of the FBI, he was subjected to retaliation and reprisal, which culminated in Brown's being placed on unpaid leave with a demand that he either resign or retire before May 15, 2017, or he would be fired.

94) Brown made the above-stated disclosures to the appropriate authorities as set forth in KRS 61.102 and as explained in *Workforce Dev. Cabinet v. Gaines*, 276 S.W.3d 789 (Ky. 2008).

95) The aforementioned conduct was committed in violation of KRS 61.101, *et. seq.*

96) As a direct and proximate result of the aforementioned conduct, Brown has suffered great emotional distress and/or embarrassment and/or humiliation and/or mental anguish and/or wage loss and/or medical expense, all of which exceed the jurisdictional amount of this Court.

WHEREFORE, the Plaintiff, Scott Brown, demands the following:

1. That he be awarded general and compensatory damages, including prejudgment interest, in an amount according to proof at trial;
2. That he be awarded punitive damages in an amount according to proof at trial;
3. For his costs herein incurred, including reasonable attorney's fees.
4. For a trial by jury on all issues so triable; and

5. For such other relief as he may appear entitled.

Respectfully submitted,

/s/ Thomas E. Clay  
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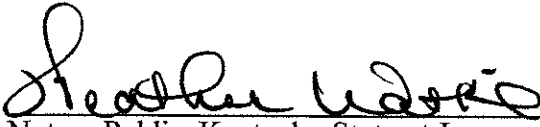
**VERIFICATION STATEMENT**

I, SCOTT BROWN, after being duly sworn, state that I have read the foregoing Complaint and that the allegations contained therein are true and correct to the best of my knowledge and belief, and that this Complaint is being brought pursuant to my direction.

  
SCOTT BROWN

Subscribed and sworn to before me by SCOTT BROWN, on this 21<sup>st</sup> day of May 2017.

My Commission Expires:

  
Notary Public, Kentucky State-at-Large

My Commission expires: 7-27-2017

Presiding Judge: HON. THOMAS DAWSON WINGATE (648243)

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