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VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF LOUDOUN

CIRCUIT COURT
CLERK'S OFFICE
LOUDOUN COUNTY, VA

TESTE: MR J.C.

MARK F. MCCAFFREY,

Plaintiff,

v.

MICHAEL L. CHAPMAN, in his personal
capacity and in his official capacity as Sheriff
of Loudoun County,

SERVE: Michael L. Chapman
Sheriff of Loudoun County
803 Sycolin Road, S.E.,
Leesburg, Virginia 20175;

the BOARD OF SUPERVISORS OF
LOUDOUN COUNTY, VIRGINIA, in their
official capacities,

SERVE: Leo Rogers
County Attorney
Loudoun County
1 Harrison Street, S.E.,
Leesburg, Virginia 20175

and

LOUDOUN COUNTY, VIRGINIA,

SERVE: Leo Rogers
County Attorney
Loudoun County
1 Harrison Street, S.E.,
Leesburg, Virginia 20175

Defendants.

Civil Action No. 109589

COMPLAINT FOR VIOLATION OF
CIVIL RIGHTS

Jury Trial Demanded

THE NATURE OF THE CASE

1. This case seeks to vindicate an elementary principle of our law: the men and women who go into law enforcement – or governmental service of any kind – do not surrender

their constitutional rights when they put on a uniform, or when they get a badge or government I.D.

2. This case is about Defendant Michael L. Chapman's malicious and callous abuse of his status and authority, and his breach of the public trust placed in him, as Sheriff of Loudoun County, a "constitutional officer" under Virginia law, as well as the complicity of Defendants Loudoun County and its Board of Supervisors in the actions taken against the Plaintiff, Mark McCaffrey, in December 2015. Defendant Chapman's conduct is animated by a single-minded passion to advance his own interests, magnify his own stature and self-importance, and diminish subordinates, which conduct violated Mr. McCaffrey's constitutional rights.

3. Defendants Loudoun County and its Board of Supervisors had the authority and power to constrain Defendant Chapman's conduct and prevent the violation of Mr. McCaffrey's constitutional rights, but they did not do so.

4. Defendant Chapman manages the Loudoun County Sheriff's Office ("LCSO") by a dynamic of intimidation generated by rudeness, lies, and insulting behavior towards his colleagues, punctuated by screaming and fits of rage, capped by campaigns of unrelenting retaliation, by any means, against the perpetrators of every perceived slight or difference of opinion. As Defendant Chapman put it to one of his Senior Commanders, "People challenge me. I'm going to crush them. They'll never work in law enforcement. I'm going to ruin their career." It is hardly surprising that his Senior Commanders privately concluded that Defendant Chapman is a "malignant narcissist," even as they continued to do his bidding.

5. This case is also about how Mr. McCaffrey could have been protected from the gross violation of this fundamental constitutional rights by Defendant Chapman's "malignant narcissism" had Defendants Loudoun County and its Board of Supervisors fulfilled the

responsibilities and exercised the powers they had voluntarily assumed to protect the rights of LCSO employees.

6. In December, 2015, Defendant Chapman, in concert with Loudoun County officials, refused to re-appoint Mr. McCaffrey to his position in the LCSO for Defendant Chapman's new term, notwithstanding the fact that it is a long-standing, general practice in the LCSO that the approximately 600 deputies of the LCSO are automatically re-appointed at the beginning of each term. Mr. McCaffrey, then a highly successful major crimes detective with 30 years of service as a law enforcement professional, had committed a single offense in the eyes of Defendant Chapman to justify severing him from the LCSO in this way. He had supported Defendant Chapman's opponent for the Republican nomination for Sheriff, retired LCSO Major Eric Noble, during Defendant Chapman's campaign for a second term in 2015. Defendant Chapman has expressly conceded that Mr. McCaffrey's work performance was not an issue, and that he could trust Mr. McCaffrey's investigative work. Moreover, Mr. McCaffrey's support for Maj. Noble was expressed in complete compliance with all rules and orders of the LCSO and Loudoun County.

7. Defendant Chapman, in consultation with the Loudoun County Human Resources Department, did not re-appoint Mr. McCaffrey solely in retaliation for his "disloyalty" to Defendant Chapman manifested simply by Mr. McCaffrey lawfully exercising his constitutionally protected right to participate in political expression. Such retaliation violated the Federal and Virginia Constitutions, the public policy of Virginia, and the express terms of an agreement between the LCSO and Defendants Loudoun County and its Board of Supervisors. None of the Defendants was justified in taking the actions or failing to prevent the actions that resulted in Mr. McCaffrey's termination by any concern about potential or actual disruption of the LCSO. To the contrary, each of the Defendants was aware or should have been aware that

Mr. McCaffrey's termination would cause serious disruption in the LCSO. Because Defendants Loudoun County and its Board of Supervisors failed to act when they had the responsibility to do so, Defendant Chapman was able to "crush" Mr. McCaffrey simply because he properly exercised his constitutional rights.

8. It is axiomatic that an individual officer who occupies an office created by a constitution does not have the authority to violate rights expressly protected by that constitution and that he is sworn to defend. There is nothing about the fact that Defendant Chapman's position as Sheriff was created by the Virginia Constitution instead of an act of the General Assembly that excuses him from obedience to the fundamental protections of rights guaranteed by the Federal and Virginia Constitutions. Indeed, in his oath of office, every sheriff swears to support the Federal and Virginia Constitutions.

9. This action seeks compensatory damages for this violation of Mr. McCaffrey's rights, for which all the Defendants are jointly and severally liable. This action also seeks punitive damages for which Defendant Chapman is liable.

THE PARTIES

10. Mark F. McCaffrey is the Plaintiff in this action. Mr. McCaffrey resides with his wife and three children in Purcellville, Virginia.

11. Mr. McCaffrey came to the LCSO in 2005 after serving two years in the New York City Police Department and 18 years as a police officer, sergeant, and then lieutenant in the Greenburgh Police Department in Westchester County, New York. Mr. McCaffrey served as a deputy in the LCSO from 2005 to 2008, and as a major crimes detective from 2008 until the end of 2015 when he was not re-appointed by Defendant Chapman.

12. In the LCSO, Mr. McCaffrey served as the lead detective in complex, high-profile cases, including rape, robbery, and homicide investigations. In that capacity, Mr. McCaffrey

significantly exceeded the national closure rate of 48.1% for violent crimes. In 2015, he was recognized for achieving a closure rate for his cases of 72%. Mr. McCaffrey received the Loudoun County Investigator of the Month Award three times and was part of the Team of the Month three times. In 2014, Mr. McCaffrey also received the Victim Services Award from the Loudoun County Commonwealth Attorney's Office. During his time in the LCSO, Mr. McCaffrey has consistently received outstanding performance evaluations.

13. As a detective in the Criminal Investigations Division, Mr. McCaffrey was not a policymaker for the LCSO nor did he in any way act as a counselor to the Sheriff on policy matters.

14. As a detective in the Criminal Investigations Division, Mr. McCaffrey was not a spokesperson for the LCSO nor did he in any way represent the Sheriff to the public or speak on the Sheriff's behalf.

15. Michael L. Chapman is a Defendant in this action. Defendant Chapman has served as Sheriff of Loudoun County, Virginia since January 2012.

16. The Board of Supervisors of Loudoun County, Virginia is the governing body of Loudoun County and a Defendant in this action.

17. Loudoun County, Virginia is a Defendant in this action. The Loudoun County Department of Human Resources is a component of the government of Defendant Loudoun County.

JURISDICTION AND VENUE

18. This Court has jurisdiction over this action under VA. CODE § 17.1-513.

19. Venue is proper in this Court because the conduct and events giving rise to the Plaintiff's claims occurred in Loudoun County, Virginia.

GENERAL ALLEGATIONS

A. THE GOVERNING LAW, POLICY AND AGREEMENTS.

i. The Constitutional and Statutory Protection of Political Activity

20. The First Amendment to the United States Constitution provides that “Congress shall make no law ... abridging the freedom of speech; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” U.S. CONST. amend. I.

21. The Fourteenth Amendment to the United States Constitution provides that “[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law.” U.S. CONST. amend. XIV §1. The First Amendment is incorporated in the Fourteenth Amendment.

22. Article I, section 12, of the Bill of Rights of the Virginia Constitution provides that “the freedoms of speech and of the press are among the great bulwarks of liberty, and can never be restrained except by despotic governments; that any citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; that the General Assembly shall not pass any law abridging the freedom of speech or of the press, nor the right of the people peaceably to assemble, and to petition the government for the redress of grievances.” VA. CONST. art I, §12. This free speech guarantee of the Virginia Constitution is co-extensive with that of the Federal Constitution. *Willis v. City of Virginia Beach*, 90 F.Supp. 3d 597, 607 (E.D.Va. 2015); *Elliott v. Commonwealth*, 267 Va. 464, 473-74, 593 S.E.2d 263, 269 (2004).

23. In VA. CODE § 15.2-1512.2, the General Assembly explicitly codified the Commonwealth’s policy to vigorously protect every citizen’s freedom to participate in political activity as guaranteed by the Virginia Constitution. Section 15.2-1512.2(B) provides:

Notwithstanding any contrary provision of law, general or special, no locality shall prohibit an employee of the locality, including firefighters, emergency medical services personnel, or law-enforcement officers within its employment, or deputies, appointees, and employees of local constitutional officers as defined in § 15.2-1600, from participating in political activities while these employees are off duty, out of uniform and not on the premises of their employment with the locality.

24. The General Assembly went on to detail the range of “political activity” it is the policy of the Commonwealth to protect. Section 15.2-1512.2(C) in pertinent part provides:

the term “political activities” includes, but is not limited to, voting; registering to vote; soliciting votes or endorsements on behalf of a political candidate or political campaign; expressing opinions, privately or publicly, on political subjects and candidates; displaying a political picture, sign, sticker, badge, or button; participating in the activities of, or contributing financially to, a political party, candidate, or campaign or an organization that supports a political candidate or campaign; attending or participating in a political convention, caucus, rally, or other political gathering;

25. Moreover, the General Assembly underscored that the term “[l]aw-enforcement officer” means any person who is employed within the police department, bureau, or force of any locality, including the sheriff’s department of any city or county, and who is authorized by law to make arrests.” VA. CODE § 15.2-1512.2(A).

26. “[P]olitical belief and association constitute the core of those activities protected by the First Amendment.” *Rutan v. Republican Party of Illinois*, 497 U.S. 62, 69 (1990) (quoting *Elrod v. Burns*, 427 U.S. 347, 356 (1976)). “Not only does the First Amendment protect freedom of speech, it also protects the right to be free from retaliation by a public official for the exercise of that right.” *Bland v. Roberts*, 730 F.3d 368, 373 (4th Cir. 2013) (internal quotations omitted). Accordingly, “[w]ith a few exceptions, the Constitution prohibits a government employer from discharging or demoting an employee because the employee supports a particular political candidate.” *Heffernan v. City of Paterson, N.J.*, 136 S.Ct. 1412, 1417 (2016).

27. So rigorous are the constitutional protections for protected political activity that a government employer may be held liable even when it discharges an employee on the mistaken

belief that an employee had engaged in protected activity when in fact that employee had not. *Id.* at 1418-19. It is the government employer's motive to punish the constitutionally protected activity of one employee that causes the constitutional harm of inhibiting the protected belief and association of that employee and his fellow employees. *Id.* at 1419.

28. The narrow exception to the constitutional ban on patronage dismissals arises solely in the particular context of "public employees occupying policymaking positions." *Bland*, 730 F.3d at 374. In that specific context, patronage dismissals are tolerated only when it can be shown in a "particularized inquiry" that there is a "rational connection" between party affiliation or political allegiance and job performance. *Grutzmacher v. Howard County*, 851 F.3d 332, 348 (4th Cir. 2017); *Stott v. Haworth*, 916 F.2d 134, 142 (4th Cir. 1990).

29. To create an effective federal remedy for those in the posture of Mr. McCaffrey, Congress enacted 42 U.S.C. § 1983, which "creates a species of liability in favor of persons deprived of their federal civil rights by those wielding state authority." *Felder v. Casey*, 487 U.S. 131, 139 (1988). This statute "provides a uniquely federal remedy against incursions ... upon rights secured by the Constitution and laws of the Nation." *Id.* (internal quotations omitted). This liability extends to local governments. *See Collins v. City of Harker Heights*, 503 U.S. 115 (1992); *Liverman v. City of Petersburg*, 844 F.3d 400, 413 (4th Cir. 2016). Thus § 1983 "was designed to expose state and local officials to a new form of liability." *City of Newport v. Fact Concerts*, 453 U.S. 247, 259 (1981). Under § 1983, punitive damages may be imposed on local government officials, which are not subject to Virginia's cap on punitive damages. *See Smith v. Wade*, 461 U.S. 30 (1983), *Felder v. Casey*, 487 U.S. 121 (1988); J. Beermann, *Why Do Plaintiffs Sue Private Parties Under Section 1983?*, 26 *Cardozo L. Rev.* 9, 17 (2004).

30. A county may be liable for damages under § 1983 under several distinct theories, under which a county can be said to be a distinct wrongdoer in inflicting a constitutional

violation. See *Collins v. City of Harker Heights, Tex.*, 503 U.S. 115, 122 (1992); *The Albemarle County Land Use Handbook*, at 31-4 (July 2015) (“*Albemarle Handbook*”). Thus a county may be liable under § 1983 when a practice, custom, or usage of the county was a “moving force” behind a constitutional violation. See *Monell v. New York Dept. of Social Services*, 436 U.S. 658 (1978); *Albemarle Handbook*, at 31-4. Another avenue to § 1983 liability for a county occurs when a constitutional violation is inflicted by “the county’s failure to do something.” *Id.* A common example of this theory is a county’s failure to control or supervise a county employee. See *id.* See also *Brown v. Mitchell*, 308 F.Supp.2d 682, 701 (E.D.Va. 2004) (city’s inaction to relieve overcrowding in jail supported § 1983 liability).

31. Virginia provides a remedy for those in the posture of Mr. McCaffrey by recognizing that the provisions of Virginia’s Bill of Rights are self-executing and constitute a waiver of sovereign immunity. *Gray v. Virginia Secretary of Transportation*, 276 Va. 93, 105, 662 S.E.2d 66, 72 (2008). Accordingly, an action may be brought against a local government or its officials directly under the Virginia Constitution for a violation of the rights guaranteed by Article I, section 12.

32. Because the rights guaranteed by Article I, section 12 of the Virginia Constitution are co-extensive with those protected by the First Amendment, a county may be liable for damages for violating these rights on the same basis as it may be liable under § 1983.

ii. The Status of a Sheriff as a “Constitutional Officer.”

33. A sheriff, along with a county’s treasurer, clerk of the court of record, commissioner of revenue, and Commonwealth’s Attorney, is called a “constitutional officer” because his office is created directly by the Virginia Constitution rather than by legislative enactment. See VA. CONST. art 7, § 4; *Roop v. Whitt*, 289 Va. 274, 280, 768 S.E.2d 692, 695 (2015); *Doud v. Commonwealth*, 282 Va. 317, 321-22, 717 S.E.2d 124, 126 (2011). As a result,

though a sheriff is elected by the voters of a county, a sheriff is not an employee or agent of county or municipal government and is independent of them. *See Roop*, 289 Va. at 280, 758 S.E.2d at 695-96; *Caraway v. Hill*, 265 Va. 20, 24, 574 S.E.2d 274, 276 (2003).

34. The duties and compensation of constitutional officers, however, are prescribed by the General Assembly. *See* VA. CONST. art 7, § 4; VA. CODE § 15.2-1600(A). Constitutional officers may consent to perform duties for localities not prescribed by the General Assembly. *See* VA. CODE § 15.2-1600(B). Constitutional officers also have “the power to organize their offices and to appoint such deputies, assistants and other individuals as are authorized by law upon the terms and conditions specified by such officers.” VA. CODE § 15.2-1600(B). *See also* VA. CODE § 15.2-1603 (a “deputy may be removed from office by his principal [constitutional officer]”). Those appointments technically expire at the end of a sheriff’s four-year term, even if the sheriff is re-elected. It is a longstanding, general practice that the approximately 600 deputies of the LCSO are automatically reappointed, or “re-sworn,” at the beginning of each term to avoid the chaos of having to fully re-staff the LCSO every four years.

35. A constitutional officer is not superior to either the Federal or Virginia Constitutions. A constitutional officer must exercise his powers and authority in compliance with the Bills of Rights of the Federal and Virginia Constitutions. Moreover, a constitutional officer may not discharge an employee in violation of “the policy underlying existing laws designed to protect the property rights, personal freedoms, health, safety, or welfare of the people in general.” *Willis*, 90 F.Supp.3d at 606 (quoting *Miller v. SEVAMP*, 234 Va. 462, 468, 362 S.E.2d 915, 918 (1987)). Specifically, a sheriff may not make employment decisions “in retaliation for constitutionally protected political expression.” *Harris v. Wood*, 888 F.Supp. 747, 751 (W.D.Va. 1995), *aff’d*, 89 F.3d 828 (4th Cir. 1996).

iii. The Terms and Conditions of Mr. McCaffrey's Employment.

36. Mr. McCaffrey's employment as a deputy in the LCSO was initiated by a letter dated August 22, 2005 from then-Chief Deputy Ronald J. Gibson offering him the job. This letter legally constituted the offer of an employment contract, the terms of which were set out in the letter. Right above the line for Mr. McCaffrey's signature at the end of the letter was this statement: "I accept this appointment and the terms and conditions outlined in this letter." Mr. McCaffrey signed the letter on August 25, 2005. With Mr. McCaffrey's acceptance of the LCSO's offer, a contract of employment came into existence between the LCSO and Mr. McCaffrey.

37. This letter-contract included this provision: "Your terms and conditions of employment will be governed by the provisions of the County's Human Resources Handbook and the Sheriff's General Orders in effect at the time of your employment."

38. The Handbook expressly contemplates that its policies and regulations may be applied to employees of constitutional officers such as the Sheriff. Section 1.3(B) of the Handbook provides:

Employees not under the Board of Supervisors' control and supervision, including officers and employees of Constitutional Officers, are not covered by this policy and these regulations except by agreement between the department/agency director, supervisor, or Constitutional Officer and the Board of Supervisors.

39. Defendant Chapman and Defendant Board of Supervisors have entered such a Cooperative Agreement relevant to this action signed by Defendant Chapman and, pursuant to the approval of the Defendant Board of Supervisors, by the Chair of the Board of Supervisors and the County Administrator in May, 2012.

40. The Cooperative Agreement, Article I – Scope of Agreement (emphases added) states its purpose clearly:

This Agreement extends coverage of the County Personnel Policies and Regulations to all deputies and employees of the Sheriff. This Agreement recognizes that employees of the Sheriff serve all residents of Loudoun County. This Agreement, therefore, seeks to establish a uniform personnel system *so that the employees of the Sheriff will have the same rights and benefits and will be subject to the same procedures and regulations as County employees*, except as otherwise provided herein.

It is the intent of the parties to this Agreement that the *employees and deputies of the Sheriff will be subject to all County personnel policies and regulations*, except that deputies shall have no access to the County grievance procedure.

41. Consistent with that intent, under the Cooperative Agreement the Sheriff can take personnel actions, like any County Department Head, only in compliance with the County's "personnel policies and regulations." *Id. See also Handbook § 1.0.02, Department Head Authority* ("Department Heads implement and enforce these policies and regulations"); § 1.3, *Scope* ("Should these regulations become applicable to officers and employees of those agencies, the director or Constitutional Officer having appointing authority over such officers and employees is vested with the powers and *duties* delegated to Department Heads except as otherwise specifically provided.") (emphasis added).

42. Consistent with that intent, the Cooperative Agreement provides that the Sheriff shall "submit[] General Orders to County staff for review prior to their publication." Cooperative Agreement, Article I – Scope of Agreement. Similarly, the Cooperative Agreement provides that the Sheriff shall submit personnel actions to the County Human Resources Division (now the Human Resources Department) 30 days before they become effective. Cooperative Agreement, Article V – Personnel Actions, Records and Reports.

43. The Cooperative Agreement establishes the responsibility of Defendants Loudoun County and its Board of Supervisors to ensure Defendant Chapman's compliance with County personnel policies and regulations, and gives them an effective enforcement mechanism to fulfill that responsibility. In the Cooperative Agreement "[t]he parties acknowledge that one of the

express purposes for the execution of this Agreement is to continue supplementation of funds to the Office of the Sheriff by Loudoun County that are in excess of those funds provided by the Virginia Compensation Board.” Cooperative Agreement, Article I – Scope of Agreement. The critical importance of that “supplementation” from Defendant Loudoun County cannot be overstated, as it pays for approximately 75% of the budget of the LCSO.

44. If one party breaches the Cooperative Agreement, the non-breaching party can give notice of the breach and “suspend performance of any or all of its corresponding obligations under this Agreement.” Cooperative Agreement, Article IV – Termination. Thus Defendant Board of Supervisors could halt the “supplementation of funds” it provides to Defendant Chapman’s Office if he breaches the Cooperative Agreement by failing to give his employees “the same rights and benefits ... as County employees” or violates “County personnel policies and regulations.”

45. The Handbook, Chapter 1, *General Principles and Governing Policies*, begins with a statement of purpose: “These Loudoun County policies and regulations *ensure* a system of personnel management based on merit principles These policies and regulations are intended to be in compliance with all applicable Federal and State laws and regulations.” (Emphasis added.)

46. Section 1.4 of the Handbook sets out the six merit principles that govern employment by Loudoun County, and, by agreement of Defendant Chapman, the employment of Mr. McCaffrey. Merit Principle V states, in pertinent part: “Fair treatment of applicants and employees in all aspects of personnel management ... with proper regard for their privacy and constitutional rights as citizens will be assured.” Merit Principle VI states, in pertinent part: “Employees will be protected against coercion for partisan political purposes”

47. By agreement of Defendant Chapman, Section 1.4 of the Handbook applied to Mr. McCaffrey's employment by the LCSO.

48. Section 1.5 of the Handbook, entitled "Equal Employment Opportunity," provides in pertinent part: "The Board of Supervisors has also declared that the county does not discriminate against employees ... based on political affiliation."

49. By agreement of Defendant Chapman, Section 1.5 of the Handbook applied to Mr. McCaffrey's employment by the LCSO.

50. Section 3.5 of the Handbook provides:

Employees have every right to vote as they choose, to express their opinion, and to join political organizations. County employees have the right to not be forced to take a political position as a condition of employment due to particular job duties. Nothing contained in this policy shall be interpreted to apply to duly elected or appointed constitutional officers.

Participation in political activities is permitted unless:

1. Such activities take place during assigned working hours, or
2. Involvement adversely affects the employee's ability to do his/her job or adversely affects the employee's department.

51. By agreement of Defendant Chapman, Section 3.5 of the Handbook applied to Mr. McCaffrey's employment by the LCSO.

52. The Sheriff's General Order § 203, ¶ 16, "Political Activity" provides:

No employee shall use his or her position in the Sheriff's Office to endorse political candidates, nor shall he/she use such position to solicit, directly or indirectly, funds or other services in support of any political issue. No employee shall use his or her official capacity in any manner that might influence the outcome of any political issue. This order is not intended to prevent an employee of the Sheriff's Office from exercising his/her rights under the United States Constitution or the Code of Virginia.

53. Sheriff's General Order § 203, ¶ 16 thus mandates that neither the sheriff nor any other official of the LCSO will take action that has the effect of preventing employees of the LCSO from exercising their rights under the United States Constitution or Virginia law.

54. By agreement of Defendant Chapman, and by its own terms, Sheriff's General Order § 203, ¶ 16 applied to Mr. McCaffrey's employment by the LCSO.

B. The Structure of the Loudoun County Sheriff's Office and Its Relationship to Loudoun County.

55. The LCSO maintains a strict, paramilitary chain-of-command structure that is viewed as an essential foundation for the effective operation of a high performance law-enforcement organization.

56. At the top of the chain-of-command is the Sheriff. Immediately below him are two Chief Deputies who hold the rank of colonel. Below those Chief Duties are five majors, each of whom is in charge of one of the LCSO's five divisions -- Field Operations, Administrative and Technical Services, Criminal Investigations, Operational Support, and Corrections and Court Services. Those seven Senior Commanders are considered the Command Staff.

57. The Sheriff is the ultimate policymaker for the LCSO, and the Command Staff may support and advise him on policy matters. Employees in the chain-of-command below the sheriff and the Command Staff are not policymakers, nor do they advise the Sheriff and the Command Staff on matters of policy.

58. As Sheriff, Defendant Chapman sought exclusive control of the communications of the LCSO to the outside world. Defendant Chapman sought to be the only "voice" and "face" of the LCSO to the outside world, whether in dealings with the press, public service

communications, or in any other forum. Indeed, Defendant Chapman would become enraged if any other employee of the LCSO happened to be mentioned in the media.

59. The Loudoun County Department of Human Resources (previously known as the Human Resources Division), in conjunction with the Loudoun County Department of Financial Services, effectively serves as the human resources department of the LCSO. *See* Cooperative Agreement, Article V – Personnel Actions, Records and Reports (“The Loudoun County Human Resources Division shall maintain the official written records of all employment actions for employees of the Sheriff except that that those records pertaining solely to benefits and leave shall be maintained by the Department of Financial Services.”).

60. Laurie Hunter is a Senior Management Analyst in the Loudoun County Department of Human Resources. She has worked in that position for over 10 years. By her own description, she “[p]rovide[s] consultative services to Department Heads and Constitutional Officers.” In providing such services, again by her own description, she employs a “[t]horough knowledge of the theories, principles and practices of Human Resources management to include employee relations, HR policies, Virginia State Code and interpretation, Federal employment law such as FMLA, ADA, USERRA and EEO compliance.”

61. In providing “consultative services” to constitutional officers in her official capacity, Ms. Hunter customarily provided advice to Defendant Chapman on personnel matters and in that capacity represented to Defendant Chapman the official policy of Defendants Loudoun County and its Board of Supervisors. In so doing, Ms. Hunter acted as a delegee of the responsibilities assumed by Defendants Loudoun County and the Board of Supervisors in the Cooperative Agreement and purportedly in furtherance of those responsibilities.

62. In fact, Ms. Hunter was Defendant Chapman’s close confidante regarding personnel matters; she was his “go-to” person for any issue involving human resources. She was

involved in every hiring and firing decision made by Defendant Chapman. However, Ms. Hunter executed her responsibilities vis-à-vis the LCSO as a partisan of Defendant Chapman, acting to allow him to achieve whatever goal he wanted to achieve, irrespective of the requirements of Defendant Loudoun County's personnel regulations and policies and the interests of the employees of the LCSO.

63. Ms. Hunter reports to Geneva Douglas, a Human Resources Manager of the Loudoun County Department of Human Resources. Their superior, and the person responsible for the conduct of the Department of Human Resources, is Jeanette Green, the Department's Director. Ms. Green in turn reports to Tim Hemstreet, the County Administrator, who is ultimately responsible for their conduct in giving advice regarding, or in applying, Defendant Loudoun County's personnel policies. Mr. Hemstreet was one of the Loudoun County signatories to the Cooperative Agreement.

64. "The County Administrator implements and enforces these rules and regulations [of the Handbook] in adherence to the purpose and intent of the County's personnel policies." Handbook, § 1.1. *See also* Handbook, § 1.0.02. The Handbook's "regulations cover personnel management questions and actions for which the County Administrator is responsible and are interpreted accordingly by the County Administrator or his/her designee in keeping with the intent of these regulations." Handbook, § 1.2. In turn, "[t]he Chairman of the Board of Supervisors on behalf of the corporate board provides direction to the County Administrator and other employees who are assistants to the Board of Supervisors." *Id.*, § 1.0. The Chairman of the Board of Supervisors was the other Loudoun County signatory to the Cooperative Agreement.

C. The Conduct of Defendant Chapman That Lead Mr. McCaffrey to Support His Opponent for the Republican Nomination for Sheriff.

65. Mr. McCaffrey voted for Defendant Chapman in his first election to the office of Sheriff of Loudoun County. Defendant Chapman's conduct in the following years raised serious concerns in the mind of Mr. McCaffrey about the competence of Defendant Chapman and his fitness for the office of Sheriff, all of which are substantial public concerns. Accordingly, when an alternative candidate with whom Mr. McCaffrey had worked and whom he greatly respected -- now-retired Major Noble -- became a candidate for Sheriff, Mr. McCaffrey decided to support him.

66. Various aspects of Defendant Chapman's conduct moved Mr. McCaffrey to conclude that the public interest would best be served if former-Major Noble were elected Sheriff.

i. Defendant Chapman's Questionable Fund Raising, Official Expenditures and Hiring Practices.

67. Mr. McCaffrey became aware that Defendant Chapman had appeared to have done favors for campaign contributors, such as awarding County or LCSO contracts to them or hiring their family members. Examples of such conduct include:

a. Mr. Rick Bazaco made a total of \$6,000 of in-kind contributions to Defendant Chapman in late 2010 and early 2011. On July 20, 2012, Mr. Bazaco's company, eFederal Systems, was awarded a \$14,500 from Defendant Loudoun County to produce a "technology assessment for the Loudoun County Sheriff's Office." Not one recommendation made by the report produced by eFederal Systems was acted upon.

b. Mr. Dan Wright contributed a total of \$500 to Defendant Chapman in 2011 and 2012. In 2012, his company, DBA National Consulting & Investigative Services received \$2,500 from Defendant Loudoun County for a "comprehensive assessment, training, and executive

summary briefing in support of the LCSO recruiting and applicant investigations unit and applicant background investigation program.”

c. Mr. Chuck Manning made a total of \$4,250 of in-kind contributions to Defendant Chapman in 2011. Defendant Chapman subsequently appointed him to the LCSO as a Second Lieutenant even though he had no prior supervisory law enforcement experience.

d. Mr. Kevin Brock, a neighbor of Defendant Chapman’s, contributed a total of \$475 to Defendant Chapman in 2010 and 2013. In August, 2012, Mr. Brock lobbied the LCSO via email to hire his daughter. In October, 2012, Defendant Chapman pressured the LCSO staff in charge of recruitment and hiring to alter the hiring process to accommodate Mr. Brock’s daughter so she could submit an application. She was subsequently hired.

e. Mr. Martin Pracht contributed a total of \$350 to Defendant Chapman in 2010 and 2012. His son was hired by the LCSO, and after graduation from the Academy, abruptly resigned after only three days in the field training program. His performance suggests that he was an unqualified candidate.

f. Mr. Douglas Satterwhite contributed a total of \$3,500 to Defendant Chapman in 2011 and 2012. On July 3, 2013, Mr. Satterwhite was at fault in a car crash that caused property damage. Defendant Chapman exerted significant pressure to get Mr. Satterwhite cleared.

g. During his first election campaign, Defendant Chapman promised Deputy Chris Ahlmann, whose father was the pastor of a large Baptist church in Loudoun County, that if his father’s congregation supported him as Republican delegates to the nominating convention, or voted for him, Defendant Chapman would promote him from a traffic safety deputy to Captain. Ahlmann got the votes for Defendant Chapman and he was promoted.

h. Right after he was first elected Sheriff, Defendant Chapman ordered that all deputies should have new business cards, and could get them only from Design B, a company to which Defendant Chapman had just given a \$14,000 no-bid contract to print business cards. Design B was owned by his campaign manager, Brian Reynolds. Defendant Chapman also relies on Reynolds to execute his retaliation schemes, described below, such as making anonymous calls to smear targets of Defendant Chapman's ire.

68. Mr. McCaffrey became aware that Defendant Chapman regularly violated County policy by using his personal vehicle to go to out-of-the-area training meetings and conferences so he can make a vacation out of it with his family, and then charging the County for mileage. Examples of these violations include: going with his family to new sheriff training in Richmond, Virginia, submitting mileage charges of \$146.52; going with his family to the National Sheriffs Association Conference in Nashville, Tennessee, submitting mileage charges of \$708.18; and going with his family to the National Sheriffs Association Conference in Charlotte, North Carolina, submitting mileage charges of \$463.86. Ironically, shortly after the Charlotte conference (in October, 2013), Defendant Chapman announced, as a cost-cutting measure, that the LCSO would no longer support homecoming parades for Loudoun County high schools without charging the schools.

69. Mr. McCaffrey also observed that Defendant Chapman, who personally interviewed each deputy, assigned a disproportionate number of deputies who were members of minority groups to the Corrections and Court Services Division, which was generally considered a "punishment assignment." The deputies in field operations were disproportionately white. As a result, Mr. McCaffrey believed that Defendant Chapman was following a discriminatory practice in the assignments and professional opportunities of the LCSO's deputies.

ii. Defendant Chapman's Abusive and Malicious Treatment of Employees and Unprofessional Personal Comportment.

70. Mr. McCaffrey became aware that Defendant Chapman exhibited a pattern of verbally abusing employees of the LCSO. This behavior appeared to be triggered by anything Defendant Chapman perceived to be negative with respect to himself -- whether representing a different point of view, "stealing" the limelight, in some way slighting Defendant Chapman's stature, or failing to gratify some desire of Defendant Chapman. Defendant Chapman's maliciousness was evident in his subsequent retaliation against the employee involved, often extending to his schemes to torpedo the employee's efforts to secure a new job after leaving the LCSO. Indeed, Defendant Chapman even boasted to Liz Mills, at the time the Public Affairs Officer of the LCSO, of his ability to retaliate, telling her, "They know I can pick up the phone and they'll never work in law enforcement again."

71. Defendant Chapman's abusive behavior caused the LCSO to lose senior employees with years of experience, training, and knowledge who would not tolerate such treatment. This disruptive behavior by Defendant Chapman caused the morale of the remaining employees at the LCSO to plummet, sowing discord even among the senior employees. Senior employees, including Maj. Eric Noble, Maj. Ricky Frye, and Liz Mills, made complaints against Defendant Chapman to the Loudoun County Human Resources Department. On information and belief, other employees complained to the County Attorney and the County Administrator.

72. The dysfunction in the LCSO caused by Defendant Chapman's conduct is illustrated by the fact that even Senior Commanders who have done Defendant Chapman's bidding to stay in his good graces to preserve their careers loathe him. For example, Lt. Col. Robert Buckman, now the third-highest ranked official in the LCSO, has demonstrated contempt for Defendant Chapman. Buckman even sent around a picture of Defendant Chapman portrayed as Adolf Hitler. In late 2013 or early 2014 Mr. McCaffrey had drinks with then-Captain, now-Lieutenant Colonel, Mark Poland and Lt. Bobby Miller. Poland went on at length how much he

detested Defendant Chapman, recounting instances of Defendant Chapman treating LCSO employees terribly and behaving erratically and bizarrely in meetings. Poland called Defendant Chapman an arrogant, unstable guy, and complained that his blood pressure was elevated from the stress of dealing with him.

73. Yet this abusive behavior was bizarrely coupled with Defendant Chapman's inflated view of his leadership abilities. For example, Defendant Chapman repeatedly told the senior staff of the LCSO that he was "the best leader since Abraham Lincoln." Nevertheless, whenever a problem occurred due to Defendant Chapman's mismanagement of the LCSO he would deny knowledge of the underlying facts and try to shift blame to his subordinates.

74. Examples of this behavior of Defendant Chapman include:

a. Within weeks of his taking office, Defendant Chapman reduced a civilian property clerk to tears by screaming at her when a delivery of a pair of shoes did not arrive on time through no fault of hers.

b. In 2013, when Michelle Draper, a budget analyst for the LCSO who assisted Maj. Noble, raised questions in a meeting with Defendant Chapman about his use of his expense account, he blew up at her. Among other things, Defendant Chapman frequently sought reimbursement from Loudoun County for alcoholic beverages even though he had been repeatedly advised that the County does not reimburse for alcohol. Ms. Draper refused to be cowed by such intimidation and continued to politely but firmly press her concerns. Nothing concerning those expenses was resolved in that meeting. But afterwards, Defendant Chapman tried to get Maj. Noble to summarily fire Ms. Draper with no impartial investigation of the matter. When Maj. Noble refused, Defendant Chapman turned to Ms. Hunter, who wrote a letter of reprimand of Ms. Draper for Maj. Noble's signature. Maj. Noble protested to Ms. Hunter that the reprimand was baseless, but Ms. Hunter just shrugged, saying words to the effect, "You know

how Sheriff Chapman is.” Shortly thereafter, Ms. Draper left the LCSO. In another spiteful gesture of retaliation, Defendant Chapman had another baseless letter of reprimand placed in her file just days before she left.

c. Defendant Chapman often reacted violently, perhaps irrationally, when his subordinates offered divergent views, reported back factual developments that indicated one of his initiatives was not working, or simply tried to explain some event. For example, when Defendant Chapman and the Senior Commanders were considered a new schedule for shifts, three of the Commanders, including Maj. Noble, offered reasons why in the particular context of Loudoun County (covering over 560 square miles) the change Defendant Chapman was considering would not work. A couple of days later, out of the blue, Defendant Chapman called Maj. Noble into his office to berate him, saying “I think you’re lazy, dishonest, and I don’t trust you.”

d. Defendant Chapman excoriated Lt. Chris Athey, whose job was emergency management, when Defendant Chapman did not like a promotional video Lt. Athey had helped prepare. When Lt. Athey tried to explain that he was not in charge of the project, which was not part of his normal responsibilities, but was only assisting the Public Affairs Officer, Defendant Chapman did not listen, but repeatedly screamed at him, “I am the Sheriff. What part of that don’t you understand?” As a result of such treatment, Lt. Athey left the LCSO for a job in the private sector.

e. Early on in his first term, Defendant Chapman, in civilian clothes and off duty, pulled up to a traffic accident that a deputy was working. Though traffic accidents are within the jurisdiction of the Virginia State Police, the deputy had happened on the accident before any State Trooper had arrived. Following LCSO policy, the deputy stopped to see if there were any injuries and generally began working the accident until a State Trooper arrived. When the

deputy explained all this to Defendant Chapman, Defendant Chapman, who apparently was unfamiliar with the LCSO policy, started screaming at the deputy and poking the deputy in the chest with his finger. It is unclear whether Defendant Chapman thought the deputy should not have stopped, or should not turn over the accident to the State Police.

f. On September 9, 2014, after the 8:30 a.m. Command Staff meeting, Defendant Chapman disappeared. Later, when Lt. Col. Buckman and Maj. Brown were leaving for lunch, they bumped into Defendant Chapman coming off the elevator. He reeked of alcohol. Upon seeing them, Defendant Chapman turned away and went back down the elevator. Lt. Col. Buckman and Maj. Brown reported the incident to the Loudoun County Human Resources Department, but no action was taken.

g. Defendant Chapman from the outset failed to manage the LCSO budget properly, resulting, in 2013, in the LCSO running \$1.5 – \$2 million overbudget. This caused a major uproar in the County, stiff criticism from the Board of Supervisors, and negative media coverage. Defendant Chapman defended himself in part with a lie – that his staff had not kept him apprised of budget issues. In fact, Defendant Chapman and the Command Staff had a number of documented meetings on the budget and he was fully informed.

h. Defendant Chapman has no compunction in lying in order to inflate the appearance of his own professional abilities. Mr. McCaffrey was the lead investigator in the successful prosecution of Braulio Castillo for the brutal, first-degree murder of his wife, Michelle. Castillo arranged Michelle's body so her death would appear to have been a suicide. Mr. McCaffrey went to the scene, and then spoke briefly to Braulio Castillo. Mr. McCaffrey promptly requested more investigative support from his office; contacted the Commonwealth Attorney's Office to invite them to the scene; and requested that an investigator from the Medical Examiner's Office come to the scene. Each of these steps is not consistent with a belief that

Michelle committed suicide. Eighteen months later, Defendant Chapman told the prosecutors on the case that Mr. McCaffrey initially thought that Michelle had committed suicide, but that Defendant Chapman's observations of the scene immediately led him to think Michelle was murdered. This was a lie. Defendant Chapman was never at the scene of Michelle's murder.

i. Defendant Chapman cannot countenance his subordinates excelling in their professional endeavors when that excellence comes to the attention of the broader community. For example, when Defendant Chapman came into office, Deputy Dale Spurlock had been giving classes to the public on internet crimes against children for years, dating back to when he was a Leesburg police officer before joining the LCSO. The classes were very well received, and Deputy Spurlock had copyrighted some of his materials when he was still a Leesburg police officer. Deputy Spurlock had kept Lt. Col. Buckman – Defendant Chapman's second-in-command -- fully informed about these classes, including the fact that he had copyrighted some of his materials. When Defendant Chapman heard about Deputy Spurlock's classes, he started an internal investigation against Spurlock (who was well-regarded and highly decorated), claiming that he was "gaming the system," and trying to profit from his work as a deputy. Deputy Spurlock insisted that he had kept Buckman fully informed, but Buckman lied, denying he had any knowledge of Spurlock's classes. When Deputy Spurlock provided all the emails between him and Buckman that showed Buckman was lying, Defendant Chapman closed the investigation and did nothing to Buckman. Since that time, Defendant Chapman has tried to take credit for the internet crimes against children classes in the press and in posts on social media, going so far as to give Deputy Spurlock a plaque for this work. Deputy Spurlock has since left the LCSO. From Mr. McCaffrey's perspective, this was another example of Defendant Chapman's malignant narcissism jeopardizing a good deputy's career (and ultimately costing the LCSO the services of a good deputy) while maintaining his sleazy staff.

j. During the local election campaigns of 2015, the Board of the Loudoun Chapter of the Virginia Police Benevolent Association (the "PBA") screened candidates for various offices to determine whom they might endorse. Defendant Chapman was running for his second term. During his interview with the PBA, he was asked about his refusal to re-swear an assortment of 12 lieutenant colonels, majors, captains, and a detective at the beginning of his first term, and whether he intended to do something like that again if he were re-elected. Defendant Chapman was adamant that he would not, stressing that in his first term all the terminated employees were already going to retire. Both were lies. The individuals Defendant Chapman did not re-appoint in his first term were not going to retire, but were terminated as pay-backs on behalf of Defendant Chapman's political supporters and friends. And Defendant Chapman did not re-appoint five employees at the beginning of his second term, including Mr. McCaffrey.

k. Maj. Ricky Frye was the Commander of the Corrections and Court Services Division, who did not get along with Defendant Chapman, in part because, as a Senior Commander, Maj. Frye did not believe he was supposed to be a "yes-man" to the Sheriff, but was supposed to give him his best judgment on LCSO matters, which often produced a volatile and hostile reaction from Defendant Chapman. Not willing to put up with this friction with Defendant Chapman, Maj. Frye retired from the LCSO, becoming an employee of a contractor providing security-related services to the Fairfax County Courts. Maj. Frye's departure did not end the matter for Defendant Chapman, who sought to further retaliate by smearing Maj. Frye with Fairfax County so he would lose his job there. Lt. Col. Chris Harmisson and Public Affairs Officer Liz Mills both refused Defendant Chapman's requests for them to write anonymous letters to Fairfax County smearing Maj. Frye. So Defendant Chapman contacted Fairfax County and Maj. Frye's employer himself, threatening to contact the newspapers with negative stories if they did not fire Maj. Frye. Maj. Frye lost his job as a result.

1. After he retired from the LCSO after too many confrontations with Defendant Chapman, Maj. Noble became Chief of Police in Haymarket. As he did with Maj. Frye, Defendant Chapman had anonymous emails sent to the Mayor of Haymarket smearing Maj. Noble. The Mayor ignored them.

iii. Defendant Chapman's Mismanagement and Malfeasance in the Operations of the LCSO.

75. Mr. McCaffrey became aware that, when a deputy ticketed a friend or supporter of Defendant Chapman, he regularly called in the deputy's superiors to berate them and order them to get rid of the ticket. For example, Defendant Chapman called in Sergeant Lee Williams and Captain Marc Caminiti to excoriate them for a parking ticket given to the commercial van of one of Defendant Chapman's friends who ran a martial arts business. Defendant Chapman ordered Sgt. Williams to get rid of the ticket.

76. Defendant Chapman made unilateral, arbitrary, and peremptory changes to the structure, shifts, and staffing arrangements of the LCSO that have undermined the effectiveness of the LCSO's operations and the morale of its employees.

a. For example, Defendant Chapman dissolved the LCSO's gang intelligence unit even as gang violence, especially from extremely dangerous groups like MS13, was on the rise in Loudoun County. This move effectively blinded the LCSO in any effort to proactively address gang violence. As a result, the LCSO was caught flat-footed in September 2015 when 17-year-old Danny Centeno-Miranda was gunned down on his way to school. While Defendant Chapman initially represented to the media that the LCSO was uncertain whether the murder was gang-related, the LCSO knew at the outset that it was.

b. In response to an inquiry from Defendant Chapman shortly after he took office, a deputy who was also President of the local PBA advised Defendant Chapman that the deputies believed that the patrol shifts as they were currently structured were effective and

worked well. Six months later, with no further consultation or warning, Defendant Chapman abruptly made a wholesale change in the patrol shifts that had a variety of serious negative consequences.

i. On a personal level, for the many deputies who are working parents with small children, this abrupt change caused a major disruption in childcare arrangements, which left deputies frantically scrambling to make new arrangements. This maneuver was a serious blow to the morale of the LCSO.

ii. Operationally, Defendant Chapman's overhaul of the patrol shifts left shifts continually short-staffed. For the midnight shift, for example, only 10 to 12 deputies had to cover the more than 560 square miles of Loudoun County. Coverage at malls – an obvious target of potential terrorist activity – was reduced or effectively eliminated as deputies were sent to cover other incidents. In several instances, deputies had no backup for extended periods in dangerous circumstances, with catastrophic results. For example, two deputies responding to a complaint concerning a rowdy party were surrounded, assaulted, and injured with no backup anywhere nearby. Another deputy had to respond alone to a family dispute at 5 a.m. one morning and had to shoot and kill an emotionally disturbed person because there was no backup available who could have assisted in deploying a non-lethal alternative.

77. Defendant Chapman's failure to properly manage the LCSO budget, especially failing to properly account for the LCSO's overtime needs, resulted in the LCSO running seriously over budget and Defendant Chapman receiving much public criticism. He responded by erratic, extreme efforts to save money, including ill-considered denials of overtime that compromised the LCSO's ability to fulfill its law-enforcement mission.

a. Tasers are non-lethal weapons used to subdue belligerent or dangerous people without resort to lethal firearms. The Taser fires two dart-like electrodes which stay connected to the main unit by a conductive wire that delivers an electric current to disable the target by temporary neuromuscular incapacitation. Both the Taser's software and hardware require maintenance, which is recommended by the manufacturer and was specifically requested by the LCSO's training unit. Nevertheless, Defendant Chapman failed to have the LCSO's Tasers maintained or tested, mainly for cost-cutting reasons. The devastating consequences of this decision were manifest in 2014 at the Costco in Sterling when a disturbed woman brandished a knife at deputies who had been called to the scene. One of the deputies fired a Taser at the woman while the other deputy simultaneously approached to disarm her once she was incapacitated. However, the Taser's conductive wire disconnected from the darts before the electric charge could be delivered, leaving both deputies in unexpected close quarters with a woman charging them with a knife. In the melee that followed, the woman was fatally shot and one of the deputies was wounded by a ricochet.

b. In April 2013, the Fairfax County Police Department (the "Fairfax PD") arrested three people in Fair Oaks Mall with one pound of marijuana and a firearm. They learned that the supplier of these people was at an apartment in Leesburg with additional drugs. The Fairfax PD alerted the LCSO Narcotics Unit, which set up surveillance of the apartment. The suspected supplier, David Russell, left the apartment and drove off. When the LCSO stopped the vehicle, Russell ran, leaving an additional pound of marijuana and \$10,000 in cash. Another \$6,000 in cash was found in a satchel Russell discarded as he ran, before he was taken into custody. The LCSO Narcotics Detectives began writing a search warrant for the apartment from which Russell had left. Before the warrant could be completed, the LCSO Narcotics Units were ordered to clear the scene and secure it for the night because overtime was not authorized.

The LCSO detectives advised the Fairfax PD lieutenant on the scene that they were going to cut Russell loose and get search warrants at another time. Letting a dangerous criminal such as Russell loose had the predictable result. Several months later, he was arrested as the ringleader of a home invasion armed robbery in which the robbers bound the victims, held them at gunpoint, and threatened to cut their fingers off with a machete.

c. In 2015, LCSO detectives had information that a man from Maryland who was out on bond for attempted murder was selling stolen guns. The detectives wanted to pick him up on a warrant, but were told to wait until he went to his probation officer in Maryland. As a result, a possibly armed and dangerous suspect was allowed to freely roam Loudoun County for nearly two weeks.

d. In a 2014 investigation of an on-going criminal enterprise involving trafficking in stolen all-terrain vehicles, it was determined that several buildings in western Loudoun County would have to be searched and that the inhabitants of the buildings were possibly “preppers” – people preparing for an apocalyptic event by stocking food and assembling a cache of weapons for hunting and defense. Defendant Chapman called it off because he felt it was too “resource intensive” because it required overtime and was possibly dangerous. Then-Captain, now-Lieutenant Colonel, Mark Poland observed at the time that it was a crazy decision and that he had never seen anything like it. This decision by Defendant Chapman was consistent with what appears to be his drive to avoid bad publicity generated by any violent confrontation, irrespective of the demands of the LCSO’s law-enforcement mission.

78. The way in which Defendant Chapman conducted himself as Sheriff convinced Mr. McCaffrey that Defendant Chapman’s prime professional consideration was self-promotion rather than advancing the critical mission that the LCSO undertakes in law enforcement, and

rather than his stewardship of the men and women who serve and protect the Loudoun County community as employees of the LCSO.

a. Grandstanding with the media regularly trumps law enforcement concerns in Defendant Chapman's conduct as Sheriff. In the Costco shooting described above, for example, Defendant Chapman stayed out in the parking lot giving out supposed details of the event to the gathered press. However, the scene – through which Defendant Chapman did only a cursory walk – was still being processed and Defendant Chapman's public explanations concerning what had happened were incorrect. More fundamentally, Defendant Chapman never went to the hospital to check on his injured deputy, while he was able to devote plenty of time to appearing before TV cameras.

b. Defendant Chapman has diverted LCSO resources for his own personal purposes. For example, Defendant Chapman ordered the computer forensic unit to drop what they were doing – working on a high profile murder case and numerous child pornography cases – to investigate negative comments about him on social media and in the newspaper. In another example, Defendant Chapman has used the LCSO's Internal Affairs Unit to investigate political rivals, such as former candidate for sheriff Ron Speakman, to dig up embarrassing information on them.

c. The Loudoun Sheriff's Child Safety Day is a publicity event held on a Saturday in May. One person who was assigned a booth there was the father of a 14-year-old girl whose murder had never been solved in the dozen years since it had occurred. The father handed out flyers seeking information about possible suspects. In 2014, Detective Wayne Promisel, who had been assigned to work the cold case, identified a suspect, who shortly thereafter killed himself. Defendant Chapman told the detectives not to tell the father that the suspect had killed himself until after Child Safety Day because the father was an attraction for

the press, and he might not attend if he knew his daughter's case was resolved. When Det. Promisel, who was deeply offended by this plan to keep the father in the dark, refused to go along, Defendant Chapman changed course and the father was told. Defendant Chapman then approached the father to try to give him talking points to convey to the press how well he had been treated by the Sheriff and how much had been done for him. The father resented this blatant effort by Defendant Chapman to manipulate him.

d. Another example of Defendant Chapman's grandstanding trumping the most elementary practices of effective law enforcement occurred in 2014, when the body of a newborn baby was found in a drainage pond in Ashburn. Early in the investigation, Defendant Chapman gave far too much information to the press, including his speculation and preliminary opinions about the case. The Medical Examiner called to complain about releasing so much information and indulging in such speculation, in part because, with all the details known to the general public, it would be difficult for detectives to verify a suspect's confession. Even some defense attorneys ridiculed the LCSO for such excessive disclosures so early in an investigation.

D. Mr. McCaffrey's Exercise of His Constitutional Rights and Defendants' Unconstitutional Retaliation Against Him.

79. Defendant Chapman's conduct as Sheriff, as described above -- a matter of public concern and implicating the public's interest in effective and honest law enforcement by the LCSO -- motivated Mr. McCaffrey to support Defendant Chapman's opponent in the contest for the Republican nomination for Sheriff in the 2015 campaign, Eric Noble.

80. Mr. McCaffrey's support for Mr. Noble took the form of a sign in his yard supporting Mr. Noble and acting as a delegate to the Republican convention in which the Republican candidate for Sheriff was chosen. In so doing, Mr. McCaffrey was exercising his constitutional rights as a private citizen.

81. Mr. McCaffrey was also invited by the Board of Directors of the local PBA to participate as an outside advisor in the screening of local candidates for potential PBA endorsements, described above. The Board decided not to endorse any candidate for Sheriff in the 2015 general election.

82. Mr. McCaffrey's support for Mr. Noble fully complied with all statutes, rules, regulations, and orders of the Commonwealth, of Loudoun County, and of the LCSO. As a delegate to the Republican convention, Mr. McCaffrey simply voted for Mr. Noble. Mr. McCaffrey never spoke publicly about the election nor did he in any other way campaign for Mr. Noble. Mr. McCaffrey did not wear any election-related buttons, shirts, or display any other campaign paraphernalia.

83. Mr. McCaffrey did not use his position in the LCSO to endorse political candidates.

84. Mr. McCaffrey did not use his position in the LCSO to solicit, directly or indirectly, funds or other services in support of any political issue.

85. Mr. McCaffrey did not use his official capacity in any manner that might influence the outcome of any political issue.

86. Defendant Chapman tried to pressure Capt. Marc Caminitti, then-head of the Criminal Investigations Division to which Mr. McCaffrey was assigned, to "keep his shop" in line regarding deputies voting for Eric Noble. Capt. Caminitti advised Defendant Chapman that he did not believe it was his responsibility to tell people for whom to vote. Defendant Chapman was annoyed by this response, and told Capt. Caminitti that he did not see it that way. Capt. Caminitti was transferred out of the Criminal Investigations Division soon after.

87. The fact that the PBA did not endorse him and that Mr. McCaffrey was a delegate for Eric Noble infuriated Defendant Chapman. After the 2015 Loudoun County Republican

Convention, Defendant Chapman told Liz Mills, "Mark was there with Eric. I'm going to get him."

88. Maj. Richard Fiano, a Senior Commander and a former co-worker of Defendant Chapman at the DEA, told Mr. McCaffrey that he should not have become a delegate, warning him, "You live by the sword; you die by the sword."

89. Defendant Chapman made good on his threat to punish Mr. McCaffrey for exercising his constitutional rights to support Mr. Noble by not reappointing Mr. McCaffrey as a deputy for Defendant Chapman's second term. In undertaking this retaliation, Defendant Chapman consulted with Ms. Hunter, who gave him her approval for this scheme.

90. On December 10, 2015, Maj. Fiano delivered a letter (dated that same day) to Mr. McCaffrey simply advising him that his appointment as a deputy "ends at midnight on December 31, 2015." The letter was signed by Defendant Chapman, and advised Mr. McCaffrey to contact Ms. Hunter should he "have any questions regarding the details of this letter."

91. The letter gave no reasons why Mr. McCaffrey was not being reappointed. However, it is clear that no performance issues motivated or justified Mr. McCaffrey's termination. Mr. McCaffrey had received uniformly outstanding reviews during his service at the LCSO.

92. Indeed, Mr. McCaffrey's final performance review, completed after the December 10, 2015 letter had been delivered, was effusive in its praise of Mr. McCaffrey's work. Below are some of the comments his supervisors made in that review.

a. "Detective McCaffrey has established a strong reputation as a detective who will stop what he's doing, on-duty or off-duty, and respond to handle an investigation in a thorough and professional manner."

b. "Detective McCaffrey keeps his supervisor informed on developments in cases as they happen – typically updating within 24 hours of developments. He takes the initiative, and it is rarely necessary for supervisors to reach out to him for updates on the status of cases."

c. "Detective McCaffrey's closure rate of 71.4 percent greatly exceeds the target closure rate, and also significantly exceed the average closure rate for the same period for the Robbery-Homicide section (67.2 percent.)"

d. "Detective McCaffrey listens to the needs of citizens and works to meet those needs."

e. "Detective McCaffrey excels at making a strong personal connection with virtually anyone to facilitate favorable resolution of his assigned cases. He is highly consistent and truly leads by example in this area."

f. "Detective McCaffrey leads by example through a strong work ethic in working towards the fulfillment of agency goals."

g. "Detective McCaffrey draws on his extensive experience as a detective and law enforcement officer to make sound decisions and solve problems."

h. "Detective McCaffrey is very self-sufficient. He follows through on assigned tasks and can be counted on to handle the most mission critical tasks."

i. "Detective McCaffrey maintains a professional, positive attitude in working with others. His sense of humor frequently puts his coworkers at ease in otherwise stressful situations."

93. The "Performance Summary" at the end of this review, dated December 22, 2015, reads:

Detective McCaffrey has done excellent work on a wide range of cases at CID during this evaluation period. He takes a lot of pride in his role as a detective and always makes his work a priority – often coming in to work on his day off, or staying late to follow-up on cases. He keeps a positive attitude and always has

something to say to lighten the mood, even under the most stressful circumstances. Detectives and attorneys look forward to continuing to work with Detective McCaffrey on his remaining court cases, and are hopeful that a professional relationship continues as he moves on to his next job.

94. In a further mean-spirited gesture of retaliation, Defendant Chapman ordered Mr. McCaffrey's supervisors to lower the numerical score of his final evaluation so he would not get the performance bonus to which he was entitled. At the same time, Defendant Chapman did not force any changes to the substance of the evaluation. Indeed, in a subsequent meeting, Defendant Chapman told Assistant Commonwealth Attorneys ("ACAs") Nicole Whitman and Alex Rueda that the review of Mr. McCaffrey was "relatively reflective of performance."

95. In addition to the threats made by Defendant Chapman and his Senior Commanders before Mr. McCaffrey lost his job, the statements made by Defendant Chapman and his Senior Commanders after he was not reappointed made clear that Mr. McCaffrey's support for Eric Noble was the sole reason for that action.

96. For example, Maj. Fiano warned PBA Vice President Det. Jeff Cichocki that he should learn the lesson of Mr. McCaffrey's termination and "stay the f**k out of politics."

97. Similarly, the day after Mr. McCaffrey received notice that he was not being reappointed, Maj. Fiano told Liz Mills, "Tough about Mark McCaffrey, but you live by the sword, you die by the sword."

98. Defendant Chapman made his reason for not reinstating Mr. McCaffrey unmistakably clear in a January 20, 2016 meeting with ACAs Wittman and Rueda. ACAs Wittman and Rueda sought the meeting because Mr. McCaffrey was the lead investigator in their prosecution of Braulio Castillo for the murder of his wife, which was a very high-profile case in Loudoun County scheduled for trial in June, 2016. They were concerned that the defense would use Mr. McCaffrey's termination to create an issue over his work on the case. In addition, they realized that new job opportunities might require him to move out of Virginia, limiting his

availability to help in the Castillo trial. In the meeting, Defendant Chapman insisted that Mr. McCaffrey was a good detective, and that he would recommend him to anyone who was hiring.

99. Instead, Defendant Chapman did not reinstate Mr. McCaffrey because, according to Defendant Chapman, Mr. McCaffrey's support for Eric Noble undermined the agency as a whole. Defendant Chapman did not provide any information as to how this was true, nor had Defendant Chapman ever previously mentioned to Mr. McCaffrey any concern that Mr. McCaffrey's support for Mr. Noble was in some way undermining the LCSO. Defendant Chapman dodged the questions of ACA Wittman as to why Mr. McCaffrey's supposed undermining of the agency simply by voting for Eric Noble was not noted in his personnel file or recent evaluation. Indeed, Mr. McCaffrey's exercise of his right to support a candidate other than Defendant Chapman did not undermine the LCSO in any way, as his outstanding final evaluation indicates. Rather, Defendant Chapman did not reinstate Mr. McCaffrey as yet another manifestation of his malignant narcissism.

100. Indeed, the malice animating Defendant Chapman was evident several months after Mr. McCaffrey's dismissal. At that point, Purcellville Police Chief Cynthia McAlister had a possible position for a domestic-violence coordinator in her Department as part of a new program being supported by the Purcellville Police Department and the LCSO. When Defendant Chapman heard a rumor that Mr. McCaffrey might be considered for the position, Defendant Chapman had Lt. Col. Mark Poland call Chief McAlister to deliver the threat that the LCSO would withdraw its resources from the program if Mr. McCaffrey were given that position. The position was left unfilled. This demonstrated that Defendant Chapman's insistence to ACAs Wittman and Rueda that he would recommend Mr. McCaffrey to anyone who was hiring was a lie, and that malicious, continuing retaliation for Mr. McCaffrey's exercise of his constitutional rights was Defendant Chapman's scheme.

E. The Consequences of the Retaliation Against Mr. McCaffrey.

101. At the time of his termination, Mr. McCaffrey and his wife, Vicki, were the parents of three young girls, Emily (15 years old), Alyssa (13 years old), and Leah (7 years old). Mr. McCaffrey was the sole source of support for his family. Vicki was an elementary school teacher who had left teaching in 2001 to devote herself to her responsibilities as a mother.

102. Mr. McCaffrey got the news that he was going to lose his job as of December 31, 2015 on the day, December 10, that he and his family were going to leave for a Christmas-time trip to Williamsburg.

103. Mr. McCaffrey's loss of his job at the LCSO was a crushing blow economically, professionally, and emotionally.

104. The loss of the source of Mr. McCaffrey's income was the immediate economic consequence of the loss of his job at the LCSO. As discussed above, his termination also threatened to be a serious blow to the high-profile first-degree murder prosecution of Braulio Castillo, which was set to go to trial shortly. Because Mr. McCaffrey was the lead investigator for that case, and the prosecution could not afford to lose his services on the eve of trial, the Loudoun Commonwealth Attorney's Office hired Mr. McCaffrey temporarily as an investigator from February through June 2016 so he could continue to work on the case.

105. Once that temporary position ended, Mr. McCaffrey could not secure another position until March 2017, when he was hired as an investigator for the Public Defender's Office in Winchester, the position he currently holds.

106. In his current position, Mr. McCaffrey's salary is less than half of his base salary at the LCSO. The economic benefits Mr. McCaffrey has lost include cost-of-living adjustments to his salary, overtime, and bonuses over the reasonable remaining time span of his career at the LCSO. Mr. McCaffrey also lost his health insurance and retirement benefits from the LCSO.

Without health insurance from the LCSO; Mr. McCaffrey had to return to the health insurance benefits he still had available from his prior job in New York. By doing so, however, he lost the annual "buy-back" that the Greenburgh Police Department paid him to not use that source of insurance.

107. Professionally, the loss of his job at the LCSO was an overwhelming humiliation and embarrassment to Mr. McCaffrey. His firing made the local news. Even people who should have known better suspected that Mr. McCaffrey "must have done something wrong" to not be reappointed in an office in which reappointment for well-performing deputies was supposedly routine.

108. Emotionally, the economic pressure on him, his professional humiliation, and the impact of all this on his wife was the cause of severe mental anguish and anxiety for Mr. McCaffrey. Sleepless nights and hypertension became the norm for him. Vicki got a job as a long-term substitute teacher to try to break back into teaching, but she was so behind the new advances in technology that had occurred since she last worked as a teacher that she was overwhelmed, often coming home crying in frustration. Mr. McCaffrey's anxiety was made all the more acute by the emotional toll his dismissal took on his wife, who at one point had to be hospitalized for chest pains arising from her worry over their situation.

109. More broadly, the retaliation taken against Mr. McCaffrey for exercising his most basic constitutional rights caused the LCSO to lose one of its top deputies, in addition to immediately jeopardizing the Castillo prosecution.

CAUSES OF ACTION

COUNT I

*Violation of Plaintiff's Rights under the United States Constitution
by Defendant Chapman*

110. The allegations in the foregoing paragraphs of this Complaint are incorporated here by reference.

111. In placing a sign in his yard supporting Eric Noble as a Republican candidate for Sheriff of Loudoun County, and in voting for Eric Noble in the Republican State Convention to be the Republican candidate for Sheriff of Loudoun County in the 2015 election, Mr. McCaffrey was properly exercising his rights to political belief, association, and expression protected by the First Amendment to the United States Constitution.

112. In exercising his First Amendment rights to political expression, Mr. McCaffrey was expressing himself as a private citizen upon a matter of public concern, specifically, who should hold the important position of Sheriff of Loudoun County.

113. In exercising his First Amendment rights to political expression as he did, Mr. McCaffrey did not in any way jeopardize or diminish the providing of effective and efficient services by the LCSO to the public. To the contrary, as the examples of Defendant Chapman's conduct described above illustrate, Mr. McCaffrey supported the candidacy of Eric Noble because he believed that Defendant Chapman's conduct as Sheriff undermined and diminished the ability of the LCSO to provide effective and efficient law enforcement services to the public. Accordingly, Mr. McCaffrey's interest in expressing himself on this matter of public concern outweighed any governmental interest in providing effective and efficient services to the public.

114. Mr. McCaffrey was not reappointed to his position at the LCSO in 2016, and was the target of a broader campaign of retaliation thereafter, solely in retaliation for Mr. McCaffrey's political expression in support of Defendant Chapman's primary election opponent in 2015. This

retaliation was undertaken by Defendant Chapman with malice and callous disregard for Mr. McCaffrey's constitutional and contractual rights.

115. The failure to reappoint Mr. McCaffrey to the LCSO was action taken by Defendant Chapman under color of State law. Specifically, Defendant Chapman purportedly justified the termination of Mr. McCaffrey in retaliation for his political expression as within the discretion of the sheriff because he is a "constitutional officer" under Virginia law. In fact, such retaliation is impermissible under Virginia law, nor does the sheriff have absolute discretion, unconstrained by the most fundamental constitutional norms, over the hiring and firing of LCSO employees.

116. The termination of Mr. McCaffrey in retaliation for his political expression deprived him of his rights, privileges, and immunities secured by the First and Fourteenth Amendments of the United States Constitution. Specifically, this retaliation against Mr. McCaffrey deprived him of his constitutional rights to political expression.

117. The retaliation against Mr. McCaffrey was a scheme effected at the command of Defendant Chapman and allowed to occur by Defendants Loudoun County and the Board of Supervisors.

118. The Defendants are jointly and severally liable for this deprivation of Mr. McCaffrey's rights.

119. This deprivation of Mr. McCaffrey's rights was undertaken with malice and callous disregard of Mr. McCaffrey's federally protected rights.

120. As a direct, actual, and proximate result of the retaliation taken by Defendant Chapman against Mr. McCaffrey in violation of his federally protected rights, Mr. McCaffrey has suffered significant pecuniary and non-pecuniary damages, including loss of future pay and

benefits, loss of back pay and benefits, loss of promotion opportunities, loss of retirement benefits, as well as mental anguish, anxiety, pain, suffering, embarrassment, and humiliation.

121. Pursuant to 42 U.S.C. § 1983, Mr. McCaffrey is entitled to an award of compensatory damages, punitive damages, and the costs of this action against Defendant Chapman. Pursuant to 42 U.S.C. § 1988, Mr. McCaffrey is also entitled to an award in the amount of his attorney's fees incurred in prosecuting this action against Defendant Chapman.

COUNT II

Violation of Plaintiff's Rights under the United States Constitution by Defendants Loudoun County, and Its Board of Supervisors

122. The allegations in the foregoing paragraphs of this Complaint are incorporated here by reference.

123. Defendants Loudoun County and its Board of Supervisors are jointly and severally liable with Defendant Chapman for the violation of Mr. McCaffrey's constitutional rights because in the Cooperative Agreement they assumed the responsibility to ensure the protection of those rights of LCSO employees and to enforce a "uniform personnel system" governing the employees of the LCSO and Loudoun County. Yet Defendants Loudoun County and its Board of Supervisors followed (a) a practice of deliberate indifference to Defendant Chapman's abuse of his power and (b) failed to act to carry out their responsibility under the Cooperative Agreement to halt the retaliation against Mr. McCaffrey taken by Defendant Chapman because of Mr. McCaffrey's exercise of his rights to political expression, which was itself part of Defendant Chapman's campaign to intimidate LCSO employees and chill their exercise of their rights to political expression.

124. Indeed, Defendants Loudoun County and its Board of Supervisors had at their disposal a powerful enforcement measure to defeat Defendant Chapman's systemic abuse of his powers, of which the retaliation against Mr. McCaffrey was an egregious example -- the

suspension or termination of their performance of the Cooperative Agreement, thereby cutting off the money paying for 75% of the LCSO's budget. Yet Defendants Loudoun County and its Board of Supervisors have failed, and continue to fail, to act.

125. In contrast, during the administration of the prior sheriff, Steve Simpson, the Defendant Loudoun County, through its Human Resources Department, followed a policy and practice of aggressive enforcement of its personnel rules and regulations vis-à-vis the LCSO. Representatives of the Human Resources Department regularly reminded former Sheriff Simpson of the Defendant Board of Supervisors' power to withdraw Loudoun County's all-important funding under the terms of the Cooperative Agreement. As a result, personnel actions in the LCSO at that time were thoroughly vetted by officials of the Human Resources Department, culminating in meetings of officials of the LCSO and the Human Resources Department to make the final decision in a personnel action.

126. With the advent of the administration of Defendant Chapman, Defendants Loudoun County and the Board of Supervisors markedly changed their policy and practice vis-à-vis the LCSO to a completely hands-off approach, thereby abdicating their responsibilities under the Cooperative Agreement and the Handbook and allowing Defendant Chapman to take whatever personnel actions he wished to take, for whatever reasons he wished to take them.

127. The County Administrator, Mr. Hemstreet, under the direction of the Chairman of the Board of Supervisors, implements and enforces the personnel rules and regulations of Loudoun County for all employees governed by it. The County Administrator, in turn, exercised those responsibilities through the hierarchy of the County's personnel structure, that is, through Ms. Green, Director of the Department of Human Resources, through Ms. Douglas, a Human Resources Manager of that Department, down to Ms. Hunter, a Senior Management Analyst of

that Department, who became the official liaison of that Department and a key adviser to Defendant Chapman on all personnel matters.

128. Ms. Hunter exhibited unwavering loyalty to Defendant Chapman, acting solely to achieve his goals irrespective of whether those goals complied with the personnel rules set out in the Handbook or respected the rights of employees. Indeed, Ms. Hunter never acted as a representative of the interests of LCSO employees. Instead she worked solely to advance the schemes and desires of Defendant Chapman. The result of Ms. Hunter's practices in that regard was that the kind of behavior by Defendant Chapman described above went unchecked. The Human Resources chain of command and all relevant Loudoun County officials were fully aware of what Defendant Chapman was doing. On information and belief, a number of LCSO employees complained to the Human Resources Department and the County Attorney about Defendant Chapman's behavior, but nothing was ever done to rein him in. Indeed, when Liz Mills made her complaint to the Human Resources Department, both Ms. Douglas and Ms. Green, Ms. Hunter's superiors, admitted to her that they knew what was going on in the LCSO. Nevertheless, following their practice throughout the Chapman Administration of the LCSO, they did nothing to remedy the situation there.

129. Because of the responsibilities they had assumed under the terms of the Cooperative Agreement, Defendants Loudoun County and its Board of Supervisors were in a position to stop any personnel action proposed by Defendant Chapman if that action violated the rights of the employee involved under the personnel rules and policies of Loudoun County or the United States Constitution. Defendants Loudoun County and its Board of Supervisors never used that power under the Cooperative Agreement, and so demonstrated deliberate indifference to the rights of LCSO employees that were violated or chilled by the abusive actions of Defendant

Chapman. The unconstitutional retaliation inflicted on Mr. McCaffrey was one egregious consequence of that failure to act.

130. On information and belief, Ms. Hunter advised Defendant Chapman that he could lawfully terminate the employment of Mr. McCaffrey for any reason whatsoever, including terminating Mr. McCaffrey solely because he had supported Defendant Chapman's primary election opponent.

131. As a human resources professional, and as a Senior Management Analyst in the Loudoun County Human Resources Department, Ms. Hunter knew or should have known that Defendant Chapman's discretion to terminate any employee such as Mr. McCaffrey was limited by the Federal Constitution, the Virginia Constitution, the Virginia Code, by Defendant Chapman's own General Orders, and by the obligations Defendant Chapman voluntarily assumed in the Cooperative Agreement to apply the personnel policies of Defendants Loudoun County and its Board of Supervisors as set out in the Handbook.

132. Defendant Loudoun County, whose Administrator "implements and enforces" the County's personnel rules and regulations and signed the Cooperative Agreement, and Defendant Board of Supervisors, which "establishes" the County's personnel policies and whose Chairperson signed the Cooperative Agreement, knew or should have known that Defendant Chapman's discretion to terminate any employee like Mr. McCaffrey was limited by the Federal Constitution, the Virginia Constitution, the Virginia Code, by Defendant Chapman's own General Orders, and by the obligations Defendant Chapman voluntarily assumed in the Cooperative Agreement to apply the personnel policies of Defendants Loudoun County and its Board of Supervisors as set out in the Handbook.

133. Defendant Loudoun County and its Board of Supervisors knew or should have known of the failure of Ms. Hunter and the Human Resources Department to correctly advise

Defendant Chapman concerning his planned illegal retaliation against Mr. McCaffrey and of their failure to take effective steps to stop it.

134. Specifically, Ms. Hunter knew or should have known, and should have so advised Defendant Chapman, that even as a sheriff he cannot lawfully terminate or retaliate against an employee such as Mr. McCaffrey because of the employee's race, gender, religion or private political activity outside of work. At bottom, Ms. Hunter should have advised Defendant Chapman that he could not refuse to reappoint an excellent detective such as Mr. McCaffrey simply because Defendant Chapman was angered by the fact that Mr. McCaffrey had supported Defendant Chapman's opponent for the 2015 Republican nomination. Ms. Hunter should have exercised her responsibility under the Cooperative Agreement and the Handbook to prevent Defendant Chapman from retaliating against Mr. McCaffrey. By failing to do so and by affirmatively approving Defendant Chapman's retaliation against Mr. McCaffrey, Ms. Hunter violated his rights under the Federal Constitution, the Virginia Constitution, the Virginia Code.

135. Specifically, Defendants Loudoun County and its Board of Supervisors knew or should have known, and should have so directed Ms. Hunter to advise Defendant Chapman, that even as Sheriff he could not lawfully terminate or retaliate against an employee such as Mr. McCaffrey because of the employee's race, gender, religion or private political activity outside of work. At bottom, Defendants Loudoun County and its Board of Supervisors should have directed Ms. Hunter to advise Defendant Chapman that he could not refuse to reappoint an excellent detective such as Mr. McCaffrey simply because Defendant Chapman was angered by the fact that Mr. McCaffrey supported Defendant Chapman's opponent for the 2015 Republican nomination. Defendants Loudoun County and its Board of Supervisors should have employed the full extent of their authority under the Cooperative Agreement to prevent the retaliation against Mr. McCaffrey. In failing to exercise that responsibility, they violated Mr. McCaffrey's

rights under the Federal Constitution, the Virginia Constitution, the Virginia Code, by Defendant Chapman's own General Orders, and by their personnel policies as set out in the Handbook.

136. Nevertheless, consistent with their failure to exercise their responsibilities under the Cooperative Agreement and the Handbook to protect the rights of the employees of the LCSO, Defendants Loudoun County and its Board of Supervisors did nothing to stop Defendant Chapman's unconstitutional retaliation against Mr. McCaffrey. That is, Defendants Loudoun County and its Board of Supervisors never used their supervisory authority over Ms. Hunter or their authority under the Cooperative Agreement to stop the retaliatory termination of Mr. McCaffrey by Defendant Chapman.

137. As a direct, actual, and proximate result of the failure of Defendants Loudoun County and its Board of Supervisors to exercise their power under the Cooperative Agreement to fulfill their responsibility to prevent the retaliation against Mr. McCaffrey, they are jointly and severally liable with Defendant Chapman for the deprivation of Mr. McCaffrey's federally protected rights under color of State law by his retaliatory termination, as described above.

138. As a direct, actual, and proximate result of the failure of Defendants Loudoun County and its Board of Supervisors to exercise their power under the Cooperative Agreement to fulfill their responsibility to prevent the retaliation against Mr. McCaffrey, Mr. McCaffrey has suffered significant pecuniary and non-pecuniary damages, including loss of future pay and benefits, loss of back pay and benefits, loss of promotion opportunities, loss of retirement benefits, as well as mental anguish, anxiety, pain, suffering, embarrassment, and humiliation.

139. Pursuant to 42 U.S.C. § 1983, Mr. McCaffrey is entitled to an award of compensatory damages and the costs of this action against Defendants Hunter, Loudoun County, and its Board of Supervisors, jointly and severally, and to punitive damages against Ms. Hunter. Pursuant to 42 U.S.C. § 1988, Mr. McCaffrey is also entitled to an award in the amount of his

attorney's fees incurred in prosecuting this action against Defendants Hunter, Loudoun County, and its Board of Supervisors, jointly and severally.

COUNT III
*Violation of Plaintiff's Rights under the Virginia Constitution
by Defendant Chapman*

140. The allegations in the foregoing paragraphs of this Complaint are incorporated here by reference.

141. Section 12 of Article I of the Virginia Constitution is co-extensive with the First Amendment of the United States Constitution.

142. Accordingly, for the reasons set out above, the conduct of Defendant Chapman retaliating against Mr. McCaffrey for his political expression deprived Mr. McCaffrey of his rights secured by section 12 of the Virginia Constitution.

143. This deprivation of Mr. McCaffrey's rights was undertaken with malice and callous disregard of Mr. McCaffrey's rights protected by the Virginia Constitution.

144. As a direct, actual, and proximate result of the retaliation taken by Defendant Chapman against Mr. McCaffrey in violation of his rights protected by the Virginia Constitution, Mr. McCaffrey has suffered significant pecuniary and non-pecuniary damages, including loss of future pay and benefits, loss of back pay and benefits, loss of promotion opportunities, loss of retirement benefits, as well as mental anguish, anxiety, pain, suffering, embarrassment, and humiliation.

145. Mr. McCaffrey is entitled to an award of compensatory damages, punitive damages, and the costs of this action against Defendant Chapman.

COUNT IV

*Violation of Plaintiff's Rights under the Virginia Constitution
by Defendants Loudoun County and Its Board of Supervisors*

146. The allegations in the foregoing paragraphs of this Complaint are incorporated here by reference.

147. Section 12 of Article I of the Virginia Constitution is co-extensive with the First Amendment of the United States Constitution.

148. Accordingly, for the reasons set out above, as a direct, actual, and proximate result of the failure of Defendants Loudoun County, and its Board of Supervisors to exercise their power under the Cooperative Agreement to fulfill their responsibility to prevent the retaliation against Mr. McCaffrey, Defendants Loudoun County, and its Board of Supervisors are jointly and severally liable with Defendant Chapman for the retaliation against Mr. McCaffrey for his political expression which deprived him of his rights secured by section 12 of the Virginia Constitution.

149. As a direct, actual, and proximate result of the retaliation taken against Mr. McCaffrey in violation of his rights protected by the Virginia Constitution, Mr. McCaffrey has suffered significant pecuniary and non-pecuniary damages, including loss of future pay and benefits, loss of back pay and benefits, loss of promotion opportunities, loss of retirement benefits, as well as mental anguish, anxiety, pain, suffering, embarrassment, and humiliation.

150. Mr. McCaffrey is entitled to an award of compensatory damages and the costs of this action against Defendants Loudoun County and its Board of Supervisors, jointly and severally.

PRAYER FOR RELIEF

Therefore, Plaintiff demands judgment against Defendants and prays for relief as follows:

- a) That Plaintiff recover compensatory economic and non-economic damages against the Defendants, jointly and severally, in the amount of THREE MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$3,000,000);
- b) That Plaintiff recover punitive damages against Defendant Chapman under Count I in the amount of TWO MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000);
- c) That Plaintiff recover punitive damages against Defendant Chapman under Counts III and IV in the statutory maximum amount of THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000);
- d) That Plaintiff recover his attorneys' fees under 42 U.S.C. § 1988 against the Defendants, jointly and severally;
- e) That Plaintiff recover the costs of this litigation against the Defendants, jointly and severally;
- f) That the Plaintiff recover both pre- and post-judgment interest at the statutory rate; and
- g) That the Plaintiff receive such further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of any and all issues in this action so triable by right.

Dated: July 25, 2017

Respectfully submitted,

MARK F. MCCAFFREY

By: _____

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