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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

GARRETT SCHAAF,

Plaintiff,

v.

No. 2024 L _____

THE CITY OF CHICAGO, Illinois, a
municipal corporation,

Defendant.

COMPLAINT

Plaintiff, GARRETT SCHAAF, by and through his counsel, Devlin Joseph Schoop of Henderson Parks, LLC, makes the following Complaint against Defendant CITY OF CHICAGO, stating as follows:

NATURE OF THE CASE

In the wake of the October 20, 2014 police-involved shooting death of Laquan McDonald, the City of Chicago was at a critical crossroads. Public confidence in the City’s ability to comprehensively, fairly and objectively investigate allegations of police misconduct within the Chicago Police Department (“CPD”) was at an all-time low. But people with divergent and conflicting philosophies about *how* to fairly and effectively investigate alleged misconduct to ensure transparency and accountability could agree about one thing: that the Independent Police Review Authority (“IPRA”), the agency then tasked with investigating allegations of police misconduct within CPD, was irreparably broken. There was a popular public perception that IPRA did not conduct investigations in a comprehensive and transparent manner that would ensure fairness to both police officers accused of engaging in misconduct and their civilian accusers.

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Fighting to defend his increasingly tarnished political legacy, then-Mayor Rahm Emanuel promised to reform IPRA. Emanuel's idea of reform was as simple as it was cynical: appoint someone -- preferably an African-American with law enforcement credentials -- who would seemingly have immediate credibility in Chicago's African-American community and with local law enforcement. And then declare "problem solved!" In 2016, Emanuel chose African-American former federal prosecutor Sharon Fairley to become the new Chief Administrator of IPRA.

But merely appointing Fairley was not enough. Like its predecessor -- the Office of Professional Standards ("OPS") -- IPRA was ultimately dismantled in the wake of public outcry that confidence in IPRA was non-existent. After IPRA was dismantled, Fairley remained. Emanuel tasked Fairley to run the City's IPRA reboot.

This was the dubious 2017 genesis of the Civilian Office of Police Accountability ("COPA") and how its first chief administrator -- former federal prosecutor Sharon Fairley -- was tasked, purportedly, to usher in a new era of transparency and accountability involving alleged misconduct within the CPD. But seven years and one name change later, there is only one noticeable difference: Sharon Fairley, and later, Fairley's groomed successor, ANDREA KERSTEN, used their authority as COPA's Chief Administrator as a platform to gain access to media outlets for their personal or political gain.

Whenever there is a high-profile tragic event involving a Chicago Police Officer, KERSTEN pushes the increasingly popular narrative that the accused officer(s) engaged in misconduct, regardless of whether facts revealed during the course of an investigation support KERSTEN's chosen conclusion. Moreover, KERSTEN has suppressed from the public how internal quality assurance audits, conducted after a COPA investigation concludes, reveal *systemic issues* concerning the mischaracterization of evidence, failure to interview key witnesses

motivated, in whole or part, by improper political considerations, and repeated failure by senior COPA leadership to ensure that COPA Investigators know, for a fact, *how* the Chicago Police Department actually trains its officers on the use of force, and other essential police functions that are the frequent catalyst for a police misconduct complaint lodged with COPA. Put differently, COPA does not know how the Chicago Police Department actually trains its officers on matters such as, for example, the use of force.

In 1989, the U.S. Supreme Court announced its decision in *Graham v. Connor*, establishing the objective reasonableness standard to determine *when* and *how much* force a police officer can legally use upon a crime suspect without running afoul of the Fourth Amendment to the U.S. Constitution. Just like *Miranda v. Arizona* before it, *Graham v. Connor* has been mandatory training material for law enforcement agencies nationwide for thirty-five years. And the *Graham* Court made it abundantly clear that an officer's training is a material fact to be considered when deciding if the officer was acting objectively reasonably. The logic of the *Graham v. Connor* holding is obvious: modern police departments are presumed to be training their officers in the best practices of law enforcement; and if the officers are, in fact, following their training, then they should not be liable for compliance with their department-provided training. Training, which by departmental rules, **must** be obeyed by a sworn officer, on pain of disciplinary action, up to and including potential discharge from employment.

Given the significance of *Graham v. Connor*, it is not an over-statement that knowledge and understanding of an officer's training is a critically essential fact for COPA Investigators to have when assessing the reasonableness of the officer's actions. Because remember, Chicago Police Officers are not supposed to be disciplined for using force *per se*. To the contrary, police officers can, and frequently must, use some form of force to perform essential functions of their

job. Murderers, rapists and armed vehicular car-jackers can, and often do, use violence to evade and resist apprehension and arrest. As a matter of law, police officers -- *including* Chicago police officers -- can use commensurate reasonable force to apprehend suspects. That has been a reality since the inception of policing, firmly recognized and re-affirmed by the U.S. Supreme Court in *Graham v. Connor* and *Tennessee v. Garner*. The law, and CPD policy, requires only that their use of force be objectively reasonable under the totality of the circumstances. But when COPA chooses to cherry-pick facts and ignore an officer's training, then it is no great surprise that the people of the City of Chicago, once, again, are rapidly losing confidence in COPA's investigatory processes and outcomes.

Astonishingly, COPA Investigators have historically failed to acquire from the Chicago Police Department relevant training materials on performing law enforcement functions that often become the catalyst for a COPA investigation, including, for illustration: (1) use of force, including but not limited to, de-escalation techniques; (2) execution of search warrants, including but not limited to, no-knock warrants; (3) interrogation tactics; (4) taser deployments; and (5) maintenance and use of confidential informants.

That COPA Investigators do not have or regularly consult relevant Chicago Police Department training materials while conducting investigations comes as no surprise to KERSTEN. She has known about this systemic issue for years, but has chosen to ignore when COPA staff, including Plaintiff, frequently brought this to the attention of KERSTEN and members of her senior staff. Indeed, KERSTEN perpetuated a hostile and confrontational relationship with the Chicago Police Department that was so toxic, that when individual COPA Investigators attempted to acquire training materials directly from the CPD's Training and Education Division, those requests were rebuffed, with CPD insisting that such requests would have to be addressed between

the respective legal counsel for CPD and COPA. But, at the direction of KERSTEN, COPA's legal counsel consistently refused to acquire CPD training materials and/or provide those training materials to its COPA Investigators.

The motivation for KERSTEN's actions were simple. The lack of training material was used by KERSTEN to improperly second-guess the conduct of police officers and attempt to manipulate investigatory findings as a mechanism to bend police department policy to the will of KERSTEN. Put differently, if KERSTEN did not like a CPD policy or procedure, she used COPA investigatory findings to unfairly criticize CPD and its officers, using the publicity created by KERSTEN's public disclosure of findings to manufacture public pressure to push for what KERSTEN believed was a necessary policy change.

However, this method ignored the obvious: **in many instances, officers were being punished, or being recommended for punishment, despite how actual facts learned in the COPA investigation could not conclusively state whether the accused officer's conduct was contrary with their CPD training.** But KERSTEN did not want the truth to get in the way of her agenda of punishing officers whose conduct violated KERSTEN's subjective opinion about their conduct, without regard for the objective facts and in the absence of knowing and understanding the officer's actual training. *Graham v. Connor* be damned.

The most recent example of KERSTEN's desire to push a self-serving narrative to frame public opinion is the high-profile March 21, 2024 fatal police-involved shooting death of Dexter Reed, an African-American male. After exchanging gunfire with several CPD officers, Reed was shot and killed. Looking to use this high-profile event to seize the media spotlight, KERSTEN held a press conference where she publicly announced her narrative that the officers involved in the shooting should be relieved of their police powers because of KERSTEN's belief that the officers

lied about why they stopped Dexter Reed, asserting the shooting was the outgrowth of a pretextual traffic stop. KERSTEN's public narrative was reckless and she knew it was reckless when she made the statement to the public. That is because there is no documented evidence in the investigatory file attributing any statements to the officers about *why* they commenced the traffic stop of Dexter Reed.

Assumptions by KERSTEN are no proxy for actual evidence, but tellingly reveal her willingness to engage in confirmation bias while investigating police misconduct allegations. Unwilling or unable to allow the lack of evidence get in the way of her narrative, KERSTEN ignored the lack of evidence and made a demonstrably reckless statement to the general public. KERSTEN is a person with an agenda: use high-profile cases to gain media spotlight for self-promotion and career advancement. Her self-serving actions have been effective only at further eroding the public's already tenuous confidence in COPA's ability to fairly and objectively evaluate the evidence. In doing so, she has seriously damaged the career of dedicated public servant GARRETT SCHAAF, who had the courage to speak out about the cancer that has spread under KERSTEN's administration of COPA.

JURISDICTION AND VENUE

1. This is an action seeking redress for the violation of rights guaranteed to Plaintiff GARRETT SCHAAF by Illinois statutory and common law.
2. Jurisdiction of this Court is invoked pursuant to section 2-209 of the Illinois Code of Civil Procedure, because the facts and circumstances giving rise to the allegations are substantially connected with Illinois.
3. Venue is proper in Cook County pursuant to 735 ILCS 5/2-101, because the events giving rise to this action took place in Cook County.

PARTIES

4. Plaintiff, GARRETT SCHAAF, is a resident of the City of Chicago and a former employee of COPA.

5. At all relevant times, Defendant CITY OF CHICAGO, was a municipal corporation organized under the laws of the State of Illinois, and was the employer and principal of ANDREA KERSTEN, the Chief Administrator for COPA.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

6. SCHAAF is former law enforcement officer and law school graduate who was a dedicated public servant for the people of the City of Chicago.

7. At all relevant times, SCHAAF was a Supervising Investigator for COPA.

The 2017 Creation of the Civilian Office of Police Accountability.

8. In the wake of the public revelation that the City of Chicago had suppressed information about the true nature and circumstances of police-involved shooting death of Laquan McDonald, former Mayor Rahm Emanuel appointed Sharon Fairley to serve as the Chief Administrator of IPRA.

9. Once it became readily apparent that name “IPRA” was, in the public mind, synonymous with “cover up,” Emanuel and the City Council enacted an ordinance creating COPA, which would be led by Fairley. The transition from IPRA to COPA occurred in Summer 2017. Many, but not all, former IPRA staff -- including investigators and lawyers -- would continue performing their same functions under a new name: COPA.

10. According to the City of Chicago’s COPA website, “[o]n October 5, 2016, the Chicago City Council passed an ordinance to establish COPA, which replaced the Independent Police Review Authority as the civilian oversight agency of the Chicago Police Department.”

11. According to the City of Chicago’s COPA website, “[COPA] is an agency comprised of employees/residents who live and represent many of the 77 neighborhoods within the city of Chicago. As a result of our various personal and professional backgrounds, and our commitment to public safety as well as building bridges between law enforcement and community, COPA endeavors to provide a pictorial view into ‘Our People’ as a reflection of our agency’s work, partnerships, collaborations, and inner-office team moments.”

12. According to the City of Chicago’s COPA website, COPA has a “vision . . . to be the leader in police accountability by conducting **thorough investigations, to advance the culture of policing and build trust in civilian oversight.**”

13. According to the City of Chicago’s COPA website, it is COPA’s mission to:

- Provide a just and efficient means to fairly and timely conduct investigations within [its] jurisdiction;
- Determine whether allegations of police misconduct are well-founded;
- Identify and address patterns of police misconduct; and
- Make policy recommendations to improve the Chicago Police Department, thereby reducing incidents of police misconduct.

14. Under the direction of the Chief Administrator, and pursuant to Chicago Municipal Code, COPA has power and authority to conduct investigations of complaints made against members of the Chicago Police Department, involving:

- Incidents – including those in which no allegation of misconduct is made – in which a Police Department member discharges: (a) a firearm in a manner that potentially could strike another individual; (b) a stun gun or taser in a manner that results in death or serious bodily injury, or (c) in the Chief Administrator’s discretion, other weapons

discharges and other use of Police Department issued equipment as a weapon that results in death or serious bodily injury;

- Incidents of “officer-involved death,” as that term is defined in 50 ILCS 727/1-5;
- Complaints against members of the Police Department alleging domestic violence, excessive force, coercion, sexual misconduct, or verbal abuse;

- Incidents – including those in which no allegation of misconduct is made – where a person dies or sustains a serious bodily injury while detained or in Police Department custody, or as a result of police actions, such as during attempts to apprehend a suspect; and

- Complaints against members of the Police Department alleging improper search or seizure of either individuals or property, or unlawful denial of access to counsel.

15. All incidents in which a Chicago police officer shoots a person are investigated by COPA.

16. COPA Investigators’ duties include, among other things, conducting interviews and formal statements with complainants, witnesses, accused and witness officers, and the analysis of all forms of evidence, including video, forensic and documentary materials.

17. The most common forms of evidentiary materials acquired and analyzed during a COPA investigation include video footage obtained from police officer body-worn-camera (“BWC”) or police squad cars (“dashcam”), police reports, CPD departmental memoranda and reports, medical records, and ballistics reports generated by the Office of the Illinois State Police (“ISP”).

18. COPA utilizes the ISP forensics laboratory to conduct the ballistics analysis of firearms and ammunition related to police-involved shootings. The resulting forensics

examination yield useful information, including: (1) identification of weapons discharged during an event; and (2) matching bullets found inside someone shot with the firearm that discharged the bullet.

19. During a COPA investigation, the COPA investigator documents their investigation by creating reports and memorandum about the evidence and interviews conducted. The COPA investigator also attempts to gather all documents and other audio or video evidence related to the incident at issue and preserve them in the COPA file that is, or is supposed to be, maintained, in COPA's Case Management System ("CMS").

20. At the conclusion of their investigation, COPA Investigators make findings about the misconduct allegations; whether complaints against the officer(s) are "sustained," "not sustained," "exonerated," or "unfounded."

21. Findings and proposed discipline to be imposed (if any) in so-called "Major Cases" involving death or serious injury, are the result of a "Findings Meeting" (aka, a "consensus meeting") where multiple COPA Investigators, typically in the presence of COPA senior leadership, meet and confer about a pending investigation to formulate a consensus about the how to categorize the investigatory finding and what, if any, discipline should be imposed.

22. The consensus meeting can also result in deciding how to phrase or describe the underlying event, particularly in police-involved shooting matters, where *what* happened is rarely disputed, but *how* and *why* can be highly contentious matters. For example, whether there is sufficient evidence to conclude that an underlying traffic stop lacked reasonable suspicion, when deciding whether a subsequent use of deadly force was objectively reasonable or unreasonable.

23. If a COPA Investigation determines that a complaint of police misconduct is "sustained," COPA then makes a recommendation to the Superintendent of the Chicago Police

Department as to what discipline should be imposed for the officer(s) who COPA has determined committed misconduct.

24. Allegations of Chicago police officer misconduct, and how those allegations are investigated and resolved, as a matter of grave public concern to the people who live in or are physically present inside the city of Chicago, at any given time.

25. The Illinois Freedom of Information Act (“FOIA”) makes COPA investigative files and reports available to the public.

26. COPA investigative files are also subject to discovery in both criminal and civil litigation, in both state and federal courts; in addition to administrative hearings, such as disciplinary proceedings before the Chicago Police Board and/or union discharge arbitration proceedings governed by the collective bargaining agreement between the Fraternal Order of Police, Lodge No. 7 (“FOP Lodge No. 7”) and Defendant City of Chicago. FOP Lodge No. 7 is the recognized bargaining agent for rank-and-file Chicago police officers.

27. In addition, COPA investigators are routinely subpoenaed or otherwise required to testify under oath about their investigations and findings in both civil and criminal matters, disciplinary proceedings before the Chicago Police Board, and union discharge arbitration proceedings.

COPA Investigatory Standards.

28. According to the City of Chicago’s COPA website, “COPA is committed to conducting investigations with **integrity, transparency, independence and timeliness**. COPA employees are expected to conduct their work **objectively and without bias**. Conflicts of interest in COPA’s investigations shall be identified and prohibited.”

29. It is the recognized public policy of Defendant CITY OF CHICAGO, as set forth in COPA's Agency-Wide "Conflict of Interest and Recusal Policy, dated December 28, 2021 that:

Effective polices ensure compliance with the law, promote the use of **best practices, foster integrity and independence** in the performance of COPA activities, and provide transparency regarding the procedures and standards for the conduct of those activities.

COPA recognizes the negative impact of **actual bias or the appearance of bias** on the legitimacy of administrative investigations. For that reason, conflicts of interest in administrative investigations will be identified and prohibited.

COPA During its Tumultuous 2017 Reboot.

30. In 2017, during the transition phase from IPRA to COPA, SCHAAF was hired to the position of COPA Investigator.

31. During the 2016-2017 transition phase, Fairley also interviewed and hired her protégé, ANDREA KERSTEN, to serve at COPA's Chief Legal Officer.

32. COPA began operations effective September 2017. But almost immediately after its public launch, Fairley decided to capitalize on the publicity that she garnered from purportedly "transforming" police accountability practices in Chicago to spring board into her ultimately unsuccessful bid to become Illinois Attorney General, in the 2018 election cycle.

33. But before abruptly departing COPA, Fairley promoted her protégé, KERSTEN, to serve as Deputy Chief Administrator, positioning KERSTEN to become the next Chief Administrator of COPA.

34. Instead of appointing KERSTEN, former Mayor Emanuel appointed retired Cook County Circuit Judge Patricia Banks to serve as Chief Administrator on an interim basis. Meanwhile Emanuel commenced a nationwide talent search for Fairley's replacement.

35. During that talent search, Judge Banks served primarily as a figure head for COPA, using her prestige as a former judge to create a narrative that COPA was reforming into an objective fact-finding organization, whose only purpose was finding the truth and promoting transparency and accountability.

36. As Judge Banks served as the public “face” of COPA, KERSTEN continued to serve as Deputy Chief and was responsible for day-to-day operations, including hiring and supervision of staff.

Fairley’s Grooming and Installation of Kersten as Chief Administrator of COPA.

37. In April 2018, Mayor Emanuel appointed Sydney Roberts to replace Fairley on a permanent basis as COPA’s Chief Administrator.

38. In March 2020, Roberts promoted SCHAAF to the position of Major Case Specialist, citing how SCHAAF’s law enforcement credentials and prior investigatory experience, was a key factor to him securing the promotion.

39. Formerly a native of downstate Illinois, Roberts was an outsider to Chicago political circles and was tasked with the unenviable job of promoting public confidence in COPA. But her ability to do so was curtailed by her lack of institutional knowledge of the organization and the specter of a lame duck Emanuel administration.

40. In September 2018, a mere four months into Roberts’ administration of COPA, Mayor Emanuel made the political bombshell announcement that he would not seek re-election as Mayor of the City of Chicago. After a contentious election cycle, long-shot mayoral hopeful Lori Lightfoot won election.

41. As both a former federal prosecutor and former OPS administrator who had served on Mayor Emanuel’s 2016 Police Accountability Taskforce (“PATF”), many pundits predicted

that Mayor Lightfoot had credentials making her uniquely qualified to address the challenges of police accountability in Chicago.

42. Mayor Lightfoot, a political novice with a well-documented obsession for shrouding her administration in secrecy, was an eager micromanager of day-to-day operations of various city agencies, particularly the Law Department and COPA, as is evident by the outrageous events involving Chicagoan, Anjanette Young.

Fairley Uses the Anjanette Young Scandal to Have Lightfoot Install Kersten as COPA Chief.

43. In February 2019, in the waning days of the Emanuel Administration, Anjanette Young, an African-American female gainfully employed as a clinical social worker, was home alone when multiple Chicago police officers conducted a late-night raid of her of her home to execute a “no-knock” warrant for a suspect who was *not* Ms. Young. The officers raided the wrong apartment.

44. The officers executing the warrant -- predominately male with their guns drawn -- handcuffed Ms. Young while she was standing naked in her living room, screaming and crying what was rather obvious: she was innocent, she had committed no crime, and the officers had the wrong apartment. Ms. Young has done nothing wrong and was, in fact, innocent. But instead of quickly exiting her home, the officers remained in her home, using their body-worn camera to record a visibly distraught, naked African-American woman who had been traumatized by having armed men storm her home and pointing guns in her face.

45. It was only after female Chicago Police Officer Ella French arrived at the scene, was any attempt made to console Ms. Young. Showing respect for Ms. Young’s privacy and basic human dignity, Officer French did not activate her body-worn camera to avoid capturing footage

of an innocent naked woman crying in a distraught manner, after being victimized by a botched execution of a search warrant.

46. Similar to the Laquan McDonald shooting video, Defendant CITY OF CHICAGO, under then-Mayor Lori Lightfoot's administration, engaged in Herculean efforts to stall the public disclosure of the body-worn camera footage of what happened to Ms. Young. But in the wake of the Anjanette Young crisis, Sydney Roberts announced her resignation from COPA, giving Mayor Lightfoot her first opportunity to make an appointment to COPA.

47. Leveraging her close relationship with Mayor Lightfoot, former COPA Chief Administrator Sharon Fairley lobbied Mayor Lightfoot to appoint KERSTEN to replace Roberts as Chief Administrator. Fairley's efforts paid off: Lightfoot formally nominated KERSTEN to serve as COPA's Chief Administrator, in 2021.

Kersten's Inherent Bias Towards Law Enforcement Becomes Self-Evident in the Wake of Kersten's Three-Day Suspension Disciplinary Recommendation for Slain CPD Officer Ella French.

48. Prior to her nomination to serve as COPA's Chief Administrator, KERSTEN served as the lead investigator in COPA's investigation of misconduct in connection with the 2019 botched raid on the apartment of Anjanette Young.

49. One of the officers who arrived on scene after the raid was mostly over, was Chicago Police Officer Ella French. As Ms. Young would later publicly attest herself, Officer French was the only officer who showed Ms. Young "dignity or respect" that night.

50. Tragically, on August 7, 2021, Officer Ella French was shot and killed in the line of duty, protecting the citizens of the city of Chicago, while conducting a traffic stop.

51. But KERSTEN ignored Ms. Young's apt description of Officer French as a compassionate officer who showed Ms. Young "dignity."

52. While Officer French's death was still a very fresh open wound on the collective psyche of the people of the city of Chicago, KERSTEN chose to publicly disclose her recommendation that Officer French be posthumously suspended for three days for allegedly failing to activate her body-worn camera while present at Ms. Young's home.

53. In other words, KERSTEN wanted to punish Officer Ella French, who: (a) was the only female officer on the scene; (b) who appeared *after* the raid had occurred; (c) used the sound professional judgment to *not* video record a naked woman standing in her living room when it was obvious that Ms. Young not the intended target of the warrant.

54. KERSTEN's judgment and objectivity were clearly impaired, considering how: (a) it was simply *impossible* for Officer Ella French – who months earlier died a hero's line of duty death, protecting the citizens of Chicago – to serve a 3-day suspension; (b) impose discipline against Officer Ella French when it clearly did not serve the public interest, but rather, would provoke fierce public outrage and condemnation toward COPA, considering the actual evidence.

55. KERSTEN has never publicly explained *how* it was even possible for a police officer slain in the line of duty could actually serve a suspension, much less, a suspension that many felt was never warranted.

56. KERSTEN's gross lack of judgment received quick and overwhelmingly negative public rebuke from Mayor Lori Lightfoot and scores of Chicago Aldermen. Mayor Lightfoot, expressing serious disappointment in KERSTEN's judgment, said it was “**the height of tone deafness**” for KERSTEN to recommend discipline for French to be included in KERSTEN's COPA report after Officer French had been killed in the line of duty. That was particularly true, given how Ms. Young herself described Officer French as the only officer that night to show Ms. Young any dignity.

57. Twenty members of the Chicago City Council attempted to block KERSTEN's appointment to serve COPA's Chief Administrator, expressing genuinely valid concern that KERSTEN's conduct in the Young/French debacle was evidence of KERSTEN's lack of objectivity and judgment when handling investigations of alleged police misconduct.

58. But Mayor Lightfoot, at the urging of Sharon Fairley, used her political capital to push KERSTEN's appointment to confirmation by the full City Council.

After Her Tumultuous Confirmation Hearing, Kersten Begins to Increasingly Influence Investigatory Outcomes in "Heater Cases" and Interfere with Core COPA Functions to Utilize Investigatory Best Practices.

59. KERSTEN's handling of the Ella French controversy was a harbinger of things to come. After successfully securing confirmation to become Chief Administrator of COPA, KERSTEN would quickly promulgate a custom and practice of steering investigations in high-profile investigations.

60. In October 2021, KERSTEN promoted SCHAAF to Supervising Investigator. During a subsequent private meeting with SCHAAF, KERSTEN told SCHAAF that while she valued his competence in conducting investigations, KERSTEN cautioned SCHAAF about being a "rebel rouser."

61. KERSTEN elaborated on her comment, encouraging SCHAAF to immediately cease voicing complaints about the integrity of COPA operations to include concerns about Major Cases investigations.

62. When SCHAAF explained that his desire to ensure thorough investigations could not be fairly characterized as "rebel rousing," KERSTEN responded by stating she had provided him with an opportunity of professional growth, that his prior complaints would not be appreciated

or tolerated now that he was a supervisor, and that he was part of the “leadership team” who must stay on the same message.

63. To facilitate KERSTEN’s custom and practice to “sustain more complaints against officers,” KERSTEN began to hire and/or promote COPA staff that shared KERSTEN’s ideology and biases. The more fervent a staff member was with promoting narratives being pushed by KERSTEN, the closer they were drawn into KERSTEN’s inner-circle.

64. KERSTEN’s acolytes would ignore material facts and evidence in order to secure investigatory outcomes desired by KERSTEN, without regard for investigatory best practices or the actual evidence acquired during the course of actual investigations. A principal actor doing KERSTEN’s bidding in this regard was KERSTEN’s personal friend, and hand-picked Deputy Chief Administrator, Sharday Jackson.

65. Sharday Jackson was an Assistant State’s Attorney with the Cook County State’s Attorney’s Office (“CCSAO”), who worked in the administration of Cook County State’s Attorney Kim Foxx. KERSTEN was Jackson’s mentor when they both worked at the CCSAO.

66. KERSTEN, in violation of the City of Chicago’s Hiring Plan implemented as part of the *Shakman* consent decree, participated in the hiring interview of Jackson despite being a close friend of Jackson, and steered the decision to hire Jackson.

67. Upon assuming the role of COPA Chief Administrator, KERSTEN promoted Jackson to Deputy Chief Administrator. At all times relevant times, there were three persons serving in the role of Deputy Chief Administrators of COPA: (1) Sharday Jackson; (2) Angela Hearts-Glass; and (3) Matthew Haynam. Haynam, like SCHAAF, was unlawfully terminated by KERSTEN, on August 30, 2024, for engaging in protected whistle-blowing activity concerning what was happening at COPA under KERSTEN’s direction and control.

68. KERSTEN, seeking to send a strong message to all COPA personnel that Jackson was her “right hand,” KERSTEN had Jackson’s office moved immediately next door to KERSTEN and publicly rebuked COPA personnel who questioned Jackson’s judgment or understanding of police misconduct investigatory procedures. And those questions were frequently, and legitimately, raised by COPA staff.

The 2023 COPA Investigation of the Migrant Sexual Misconduct Rumor.

69. In Summer 2023, newly-elected Mayor Brandon Johnson was under siege. There was increasing public scrutiny of his management of the influx of migrant asylum-seekers. Migrants were over-running local police districts, using them as makeshift homeless encampments.

70. Mayor Johnson found himself in the unenviable position of having numerous members of the City Council decry how Mayor Johnson was doing more for migrants than Chicago homeless veterans who has served their nation in the battlefields of Iraq or Afghanistan.

71. Equally vocal advocates for migrants were highly critical of the city’s need for a more robust response to aid the migrants. It was in this context, that COPA became embroiled in a media relations morass concerning a *rumor* that an under-age migrant girl had become pregnant as a result of an inappropriate sexual encounter with a Chicago police officer.

72. Carlos Rivas, the Director of Public Affairs for COPA, related a rumor being spread at the Office of Emergency Management and Communication (OEMC) that an under-age migrant girl had been subjected to some unspecified form of sexual conduct by a Chicago police officer.

73. No identifying information had been provided about the girl and none is still known at this time. Nor did COPA have any details about where or how the alleged encounter occurred.

Put simply, all COPA had to go on was a *rumor* that a migrant girl had been subjected to sexual conduct by a particular Chicago police officer.

74. KERSTEN informed COPA staff that a sexual assault must be investigated, otherwise there would be protests from migrant advocacy groups that Mayor Johson was doing nothing to protect migrants and was indifferent to their plight.

75. Desperate to establish her professional and political relevance with the newly-elected Mayor Johnson, KERSTEN seized on the opportunity to make headlines by announcing that COPA would be actively investigating allegations of sexual misconduct by an officer against the migrant female.

76. KERSTEN ordered that the investigation would be spearheaded by Sharday Jackson, citing Jackson's prior experience conducting sexual assault investigations while employed at the CCSAO. Jackson's subsequent handling of the alleged migrant sexual assault became a textbook example of how *not* to conduct an investigation.

77. Jackson did not comply with investigatory best practices.

78. First, it was uncommon for a Deputy Chief Administrator to be directly involved in a COPA investigation. But in this instance, Jackson micromanaged and was personally involved in many aspects of the investigation, which was highly unusual for a Deputy Chief Administrator. Additional cause for concern was how Jackson, at the direction of KERSTEN, staffed this investigation with two (2) new, junior investigations with little, if any, investigatory experience and no documented experience investigating sexual assault allegations.

79. Jackson's investigatory methods were in direct violation of COPA investigatory protocols and best practices, including, but not limited to: (1) interviewing officers without creating a recorded audio recording of questions asked posed to and the answers provided; (2)

interviewing witnesses outside the presence of a third person, who could later act as a “prover” to the nature and circumstances of the interview; (3) failing to log evidence, including the names of persons KERSTEN and Jackson did not want to have interviewed, including high-ranking employees of Defendant CITY OF CHICAGO.

80. Ultimately, Jackson and her team conducted random and haphazard canvassing of nearby residences, in a scatter-shot manner, *hoping* that neighborhood residents might have witnessed something.

81. Particularly problematic, Carlos Rivas, COPA’s Director of Public Affairs, was not initially interviewed by Jackson’s team. His interview was initially avoided because it would only draw attention to what increasingly obvious, i.e., that the rumor was precisely that -- a rumor untethered to any form of verifiable fact -- and that COPA had to perpetuate the investigation to provide Mayor Brandon Johnson political cover in the tense situation.

82. Remembering KERSTEN’s directive that his complaints would not be tolerated and he was expected to be on the “leadership team” as supervisor, SCHAAF, like numerous other COPA Investigators, recognized that the haphazard manner in which KERSTEN was allowing Jackson to “manage” the investigation of the migrant assault rumor, was a clear indication that KERSTEN intended to misuse COPA resources to create a case where none likely existed, in order to sate KERSTEN’s desire for a “sustained” finding against an officer in a Major Case.

83. SCHAAF wrote a letter to the Office of the Inspector General (OIG) and the Community Commission for Public Safety and Accountability (“CCPSA”), raising concerns about the investigatory integrity of the migrant rumor investigation, in addition to overall concerns about confirmation-bias infecting other unrelated COPA investigations.

84. Apart from completing an intake questionnaire, the OIG took no further action to investigate SCHAAF's concern about the KERSTEN's conduct in relation to the migrant investigation.

85. Several COPA Investigators shared SCHAAF's concern that Jackson and KERSTEN were unwilling to acknowledge what was demonstrated by the evidence -- that there was nothing more than an unfounded rumor -- because KERSTEN knew that Mayor Johnson needed to create the public perception that his administration was being proactive at holding police accountable and protecting migrants.

Kersten's Increasing Attempts to Unduly Influence Investigatory Outcomes in Major Cases.

86. KERSTEN assigned more staff to Sharday Jackson and Angela Hearts-Glass, who demonstrated a willingness to acquiesce to KERSTEN's desire to shape investigatory outcomes based on KERSTEN's opinion, regardless of the actual evidence.

87. Sharday Jackson and Angela Hearts-Glass were willing to adhere to KERSTEN's custom and practice of ignoring evidence and pushing particular investigatory outcomes to influence the means and methods of investigations and their outcomes.

88. At the conclusion of fact-finding phase of a Major Case investigation, COPA Investigators convene a "consensus meeting" where investigators and Deputy Chief Administrators will meet and confer about the evidence compiled in the investigation, and make recommendations about what category of investigatory classification will be assigned to the accusation (i.e., "sustained," "not sustained," "exonerated," or "unfounded.")

89. The end result was COPA Investigators were increasingly unable to reach about consensus about key aspects of investigations in Major Cases, including: (1) how to characterize material facts that would affect how evidence would be publicly perceived; (2) whether to include,

or disregard, facts which were clearly material to the determination of whether misconduct occurred; (3) ignoring how, in many instances, COPA Investigators had no information concerning whether the accused officer's conduct was consistent with, or contrary to, police department training because COPA does not maintain a library of the quality and nature of training provided by CPD to its officers.

90. The total lack of knowledge and understanding by COPA Investigators about how CPD trained its officers triggered genuine disputes about whether misconduct actually occurred and whether discipline could be properly implemented if nobody genuinely knew whether the officer's conduct was consistent with their CPD training.

91. Put simply, too often, COPA Investigators could not genuinely address that key question at a consensus meeting in a Major Case because they had no evidence of actual training provided by CPD to accused officers. Instead, COPA Investigators substituted their personal judgment for what an officer should do, regardless of whether it was consistent with CPD policy or actual law.

92. In those instances where COPA investigators could not reach consensus, Deputy Chief Administrators Jackson and/or Angela Hearts-Glass were tasked, by KERSTEN, to make the tie-breaking decision.

93. KERSTEN knew that Jackson and Hearts-Glass would rubber-stamp findings and disciplinary recommendations in Major Cases that could be dictated to them by KERSTEN, outside the purview of front-line investigators, creating the outward appearance that KERSTEN did not directly participate in investigations.

94. Increasing concern among COPA Investigators about investigatory integrity reached a boiling point in March 2023, after the fatal police-involved shooting death of Dexter Reed.

95. Dexter Reed's death was what is commonly referred to as a "heater case," i.e., a high-profile incident likely to generate huge public interest and commensurate scrutiny. The need for strict adherence with investigatory protocols was essential to maintain the public's confidence.

96. Nevertheless, KERSTEN directly intervened in the Dexter Reed investigation. Contrary to past protocols, KERSTEN strictly forbade the lead investigator in the Reed investigation from discussing the evidence or any aspect of the investigation with anyone at COPA other than KERSTEN and a select few members of the lead investigator's team.

97. KERSTEN explicitly told the lead investigator that the Reed investigation was not to be discussed with Deputy Chief Administrator Matthew Haynam, in particular. Haynam enjoyed a reputation among COPA Investigators for his objectivity and professional integrity.

98. KERSTEN's command was immediately suspect because the investigator was in Haynam's reporting chain-of-command.

99. By not reporting on investigatory developments and seeking direction from a superior not only interferes with timely and transparent lines of communication necessary to complete an investigation thoroughly and efficiently, but needlessly injects awkwardness within the office.

100. In the ensuing months, KERSTEN would make public comments about the Dexter Reed shooting that KERSTEN knew was unsupported by the actual evidence adduced in the investigatory file.

101. This includes KERSTEN's unsupported theory that the reason *articulated* by the officers for initiating the traffic stop of Dexter Reed -- i.e., that Dexter Reed was stopped because he was not wearing his seat belt -- was fabricated by the officers. However, at the time that KERSTEN made that public comment, she knew it was not accurate because the accused officers had yet to be interviewed by COPA and had articulated *any* reason, much less the "no seat belt" reason claimed by KERSTEN in her comment to the public.

102. Despite knowing that there was no evidentiary basis for her comment, KERSTEN publicly demanded the CPD Superintendent Larry Snelling immediately relieve the officers involved in the Reed traffic stop of their police powers.

103. KERSTEN's conduct caused already shaky morale within COPA to plummet drastically and triggered open, public hostility between KERSTEN and Superintendent Snelling.

104. The abysmal state of morale at COPA and the open hostility between COPA and CPD did not go unnoticed by other city agencies, particularly the CCPSA.

105. Even before the Dexter Reed incident, SCHAAF and several other COPA Investigators made complaints to the OIG, CCPSA or both, raising concerns about the ethics of COPA senior personnel, namely KERSTEN and Jackson, concerning how they were shaping investigatory outcomes without regard for an objective consideration of the evidence.

106. COPA Investigators, including SCHAAF, also complained about how COPA Investigators were being prevented from obtaining police training materials necessary to objectively evaluate whether an accused officer's conduct was contrary to their training.

107. Despite fearing for his career and livelihood, SCHAAF authored similar complaints to the OIG and CCPSA, to report how KERSTEN's course of conduct was casting sincere doubt on the genuineness of COPA's investigations that would only serve to further erode the public's

already shaky confidence in the ability of COPA to conduct fair and impartial investigations of police misconduct.

108. In July 2024, due to multiple, credible complaints raising genuine concerns about the lack of objectivity by COPA leadership and an erosion of investigatory integrity, the CCPSA convened a meeting to address those concerns.

109. The CCPSA then referred COPA, particularly KERSTEN, for investigation by the City's OIG Deborah Witzburg to investigate the quality and integrity of COPA investigations and concerns about potential retaliation against COPA staff during KERSTEN's tenure as Chief Administrator.

110. Furious by the CCPSA's referral to the OIG, KERSTEN began an internal inquiry to learn the identity of anyone who complained to the OPIG and/or CCPSA. SCHAAF and several COPA Investigators knew that KERSTEN was on a witch hunt to seek, locate and retaliate against anyone she perceived as being disloyal to her by reporting how there was a clear pattern of bias perpetuated by KERSTEN that was affecting the integrity of COPA Major Case investigations.

111. After KERSTEN began to suspect SCHAAF and others had complained to the CCPSA and OIG, KERSTEN enlisted her former mentor, former COPA boss Sharon Fairley, to propound requests, pursuant to the Freedom of Information Act ("FOIA"), to obtain, among other things, **“all email communication between any current or former COPA employees and Anthony Driver, president of the community commission [CCPSA].”**

112. Fairley is now a lecturer in law at the prestigious University of Chicago Law School. The law school's website boasts how Fairley “served as the First Deputy Inspector General and General Counsel for the City of Chicago Office of the Inspector General . . . [and] was also responsible for creating and building Chicago's Civilian Office of Police Accountability.”

113. Fairley was clearly attempting to use her perceived power and influence as a former OIG General Counsel and COPA Chief Administrator to pressure the CCPSA and Defendant CITY OF CHICAGO to identify any whistleblowers who raised genuine concerns about KERSTEN's continued fitness to serve as COPA Chief Administrator.

114. It was later publicly reported that Fairley dubiously claimed that her FOIA request was part of a research project, citing her historic interest in police accountability. That assertion was **demonstrably false** to anyone familiar with how KERSTEN was a protégé of Fairley.

115. In or around August 22, 2024, KERSTEN met with Mary B. Richardson-Lowry, the Corporation Counsel for the City of Chicago, and Deputy Mayor for Community Safety Garien Gatewood. According to Defendant CITY OF CHICAGO's website, Gatewood is the "first-ever Deputy Mayor of Community Safety . . . [who leads] cross-governmental efforts to eradicate the root causes of crime and violence, and advance[s] a comprehensive, healing-centered approach to public safety."

116. This meeting occurred after the CCPSA's referral of KERSTEN to the OIG for investigation in light of genuine complaints made by SCHAAF and other COPA staffers about KERSTEN'S fitness to lead COPA. This meeting also occurred after the Chicago Sun Times reported that Fairley had made a FOIA request seeking, among other things, emails by and between CCPSA President Anthony Driver and COPA staff. *See* "Tension building between COPA and civilian police oversight panel," by Fran Spielman, Chicago Sun Times, August 9, 2024. <https://chicago.suntimes.com/city-hall/2024/08/09/copa-civilian-commission-police-dexter-reed-shooting-snelling-driver-fairley-inspector-general>.

117. On August 30, 2024, after KERSTEN's meeting with Corporation Counsel Richardson-Lowry and Deputy Mayor Gatewood, Deputy Chief Administrator Angela Hearts-

Glass scheduled an impromptu video meeting with SCHAAF. During that meeting, Hearts-Glass informed SCHAAF that he was being summarily terminated from his employment with COPA, effective immediately.

118. Also present for this meeting was KERSTEN's Chief of Staff, Ephraim Eddy and COPA staff member Deja McDaniel. That same day, COPA Deputy Chief Administrator Matthew Haynam, who was one of several COPA staff members to complain about KERSTEN's unethical conduct to the OIG and CCPSA, was similarly terminated from his employment.

119. Since the terminations of SCHAAF and Haynam from COPA, approximately sixteen (16) members of COPA staff have signed and submitted a letter to the CCPSA, expressing "no confidence" in KERSTEN's administration over COPA, citing her lack of objectivity and commitment to providing thorough evidence-based investigations as detrimental to the public's confidence in COPA's ability to meet its statutory obligation to fairly and impartially investigate allegations of officer-involved misconduct.

120. On September 13, 2024, nearly two weeks **after** SCHAAF's August 30, 2024 termination, **the OIG finally attempted to contact SCHAAF about his complaints about what was happening at COPA under KERSTEN's management.**

121. The stakes at issue are incredibly high. Scores of investigations in Major Cases conducted during the tenure of KERSTEN are tainted by confirmation bias, contain descriptions of incidents that provide an incomplete or distorted description of underlying events, and often omit key facts, including how certain witnesses -- particularly elected public officials -- who had personal knowledge that could confirm or refute facts material to an accusation, were intentionally not interviewed due to purely political considerations.

122. COPA Investigatory findings are critical documents and the key source of evidence that is the centerpiece of scores of pending labor arbitrations, administrative hearings, and lawsuits pending in state and federal court, concerning allegations of office-involved misconduct. The propriety of those proceedings is now cast into doubt, given the unreliable nature of the investigatory reports and findings that are at the heart of those proceedings.

COUNT I
Illinois Whistleblower Act
740 ILCS 174/15(b) and 20.1

123. Each of the preceding paragraphs is re-alleged as if full set forth herein.

124. As more fully described above, KERSTEN created and enforced customs and practices preventing Plaintiff and other COPA employees from conducting fair, thorough and comprehensive investigations of allegations of police misconduct, primarily in high profile cases including *but not limited to*, the 2023 allegations of sexual assault of a migrant temporarily housed at a police station and the police-involved fatal shooting death of Dexter Reed.

125. As more fully described above, KERSTEN made false statements to the public concerning high profile matters under pending investigation by COPA with the intention and desire to shape public opinion to push an outcome that KERSTEN wanted, even where when an objective evaluation of the totality of the evidence would lead a reasonable person to conclude that KERSTEN's desired outcome was neither supported by the facts nor governing law.

126. The purpose of KERSTEN's custom and practice was to frame a narrative that KERSTEN believed would best bolster her public image as a "reformer," enabling her to use the COPA office as a spring board for future opportunities in government, the political arena, private sector or academia.

127. As more fully described above, Plaintiff did report KERSTEN's unethical conduct to the Office of the Inspector General for the City of Chicago and Civilian Commission on Public Safety and Accountability, emphasizing that KERSTEN's lack of objectivity and attempts to influence the outcomes of COPA investigations, even if contrary to evidence acquired during the course of the investigation, was contrary to statute and public policy.

128. As more fully described above, KERSTEN threatened to and did retaliate against Plaintiff when KERSTEN, immediately after meeting with the Corporation Counsel of the City of Chicago on August 30, 2024, terminated Plaintiff's employment with COPA in retaliation for Plaintiff's good faith disclosure of KERSTEN's outrageous misconduct to both the Office of the Inspector General for the City of Chicago and Civilian Commission on Public Safety and Accountability.

129. SCHAAF suffered retaliation for disclosing and/or attempting to disclose to both the OIG and CCPSA a matter of public interest to the citizens of the city of Chicago concerning the quality and integrity of COPA investigations.

130. As a result of KERSTEN's act of retaliation, which was perpetuated and supported by her employer and principal, Defendant CITY OF CHICAGO, SCHAAF has suffered damages to his professional reputation and to maintain gainful employment to financially support himself and his family.

WHEREFORE, Plaintiff GARRETT SCHAAF prays for a judgment against Defendant CITY OF CHICAGO, granting SCHAAF:

- A. Reinstatement with the same seniority status that the employee would have had, but for the violation;
- B. Back pay with pre- and post-judgment interest;

- C. The present and future value of any list benefits during the time he was unlawfully stripped of his job;
- D. Emotional distress damages;
- E. Compensation for litigation costs, expert witness fees, and reasonable attorneys' fees;
- F. Compensation for any other damages sustained and for any other relief as is just and equitable as the Court may deem appropriate under the circumstances.

COUNT II
Common Law Retaliatory Discharge

131. Each of the preceding paragraphs is re-alleged as if full set forth herein.

132. As more fully described above, SCHAAF was terminated for his activities of reporting misconduct within COPA in contravention of state and municipal public policy.

133. As a result of this retaliatory discharge, SCHAAF suffered damages.

134. Illinois law provides that a public entity, such as Defendant CITY OF CHICAGO, is liable for compensatory damages on a tort judgment against its employees acting within the scope of their employment.

135. At all times relevant, KERSTEN was an agent and employee of Defendant CITY OF CHICAGO. Therefore, Defendant CITY OF CHICAGO is liable for all torts committed by its agents and/or employees, including ANDREA KERSTEN.

WHEREFORE, Plaintiff GARRETT SCHAAF prays for a judgment against Defendant CITY OF CHICAGO in a fair and just amount, sufficient to compensate Plaintiff for his damages, and any other relief as is just and equitable.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted,

PLAINTIFF GARRETT SCHAAF,

By: Devlin Joseph Schoop
One of his Attorneys

September 13, 2024

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RULE 222 AFFIDAVIT

Plaintiff, pursuant to 735 ILCS 5/1-109 of the Illinois Code of Civil Procedure, certify as follows:

The total of money damages being sought in the Complaint filed against the Defendant City of Chicago exceeds \$50,000.00, exclusive of costs, interest, fees, and punitive damages.

/s/ Devlin Joseph Schoop