

FILED

APR 22 2016

LOIS A. DURBIN
CIRCUIT CLERK

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
MACON COUNTY, ILLINOIS

BRADLEY L. SWEENEY,

Plaintiff,

vs.

CITY OF DECATUR,

Defendant.

No. 2016-L-18

VERIFIED AMENDED COMPLAINT

NOW COMES the Plaintiff, Bradley L. Sweeney, by and through his attorneys, Bolen Robinson & Ellis, LLP; and for his Amended Complaint against the Defendant, CITY OF DECATUR, he states:

**Count I
Common Law Retaliatory Discharge**

1. At all relevant times, the Plaintiff, Bradley L. Sweeney, and ("Sweeney") has been a resident of the County of Macon, State of Illinois.

2. At all relevant times, the Defendant, City of Decatur, ("City") was a corporation duly organized under the laws of the State of Illinois with its principal place of business in Macon County, Illinois.

3. On March 23, 2015, Tim Gleason, ("Gleason") became City Manager for Decatur, Illinois; and as such he was acting for and on behalf of the City at all times pertinent to this Amended Complaint.

4. As of January 3, 2015, Sweeney was appointed Police Chief for the City of Decatur, reporting directly to the City Manager. Sweeney was appointed by Gleason's predecessor, then-City Manager Ryan McCrady.

5. Pursuant to the terms of his employment, Sweeney was to be paid an annual salary of \$125,000 plus benefits per Administrative Policy F-101.

6. Sweeney thereafter performed all the terms, conditions, and requirements of his position in a satisfactory and laudatory manner, as indicated by his Performance Evaluation Reports. A copy of Sweeney's most recent Performance Evaluation is attached as Exhibit 5.

7. On or about May 4, 2015, City Manager Gleason told Sweeney to provide a police car and uniformed officer to drive him to the St. Louis Airport so he could catch a plane for a vacation after the Decatur "State of the City" breakfast, which was to be held on May 7, 2015. Gleason indicated he was short on time to catch the flight, and said he thought "a police car would get him there on time," the obvious implication being that a police car could drive in excess of the speed limit without being stopped. In response, Sweeney reported to Gleason that this personal use of public resources would be improper. At that point, Gleason "ordered" Police Chief Sweeney to have the police car waiting at the Decatur Civic Center on May 7 to transport Gleason to the St. Louis Airport for his vacation trip to California.

8. After City Manager Gleason ordered Chief Sweeney to provide a police car and driver to him for his transportation to the St. Louis Airport, Sweeney discussed this order with then Deputy Chief Jim Getz prior to May 7, 2015. Jim Getz also agreed that Gleason's personal use and benefit of the police car and driver was improper, but ultimately Getz volunteered to drive Gleason to the airport in his police vehicle on May 7, 2015.

9. In response to City Manager Gleason's order, on May 7, 2015, then Deputy Chief Jim Getz, who was on duty at the time, drove Gleason to the St. Louis airport in his police vehicle. Officer Getz was taken out of service to the public for at least five hours on that day. Sweeney involuntarily allowed but did not order Gleason's personal use of the police resources.

10. It appears that the actions by Gleason violate one or more of the following local and state laws, policies, ordinances, regulations, and orders:

- a. Section 33-3(c) of the Illinois Criminal Code, the “Official Misconduct” statute, which provides that a public officer commits misconduct, a class 3 felony, when that public officer, acting in his official capacity and with the intent to obtain a personal advantage, performs an act in excess of his lawful authority. (720 ILCS 5/33-3(c)) (*See Exhibit 1.*);
- b. Decatur Police Department General Order 11-03 regarding the use of department vehicles outside the City limits, which provides in part, “under no circumstances, shall a departmental vehicle be used outside the city limits for personal errands or business.” (*See Exhibit 2.*);
- c. Chapter 8 (Ethics) of the City Code of Decatur, Illinois, which provides “The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the City, is hereby prohibited.” (*See Exhibit 3.*);
- d. The State Officials and Employees Ethics Act, 5 ILCS 430/1-1 et seq.¹; and
- e. Article VIII, Section 1(a) of the Illinois Constitution, which provides that “public funds, property or credit shall be used only for public purposes.”²

¹ City Code of Decatur, Illinois, at Chapter 8 (Ethics) incorporates the State officials and Employees Ethics Act, 5 ILCS 430/5-15 and 5 ILCS430/10-10 through 10-40. Gleason is also covered by the Act as an appointed Member of the Illinois Law Enforcement Training and Standards Board.

² The Illinois Supreme Court held that a violation of Article VIII, §1(a) of the Illinois Constitution can serve as a predicate unlawful act for the purposes of the official misconduct statute. *People v. Howard*, 320 Ill. Dec. 868 (2008).

11. Gleason has claimed in recent public statements that he was given permission by now-deceased Mayor McElroy to use a Decatur Police vehicle for his personal transportation to the St. Louis airport to catch a plane for his vacation. Whether or not this claim is true, Gleason is a Member of the Illinois Law Enforcement Training and Standards Board and a former Pekin Illinois Police Lieutenant, and as such, he knew or should have known that this personal use of public police property and an on-duty, uniformed officer was improper and perhaps a violation of Illinois law.

12. Sweeney was never contacted by Mayor McElroy regarding this incident; and prior to this lawsuit, Gleason never claimed to Sweeney that Mayor McElroy approved Gleason's personal use of public resources.

13. Sweeney did not voluntarily participate in Gleason's improper use of a police department vehicle and driver for his personal benefit. To the contrary, Sweeney was ordered to provide the car and driver by Gleason, who believes he has the authority as City Manager to overrule the Decatur Police Chief and established police department policies and orders, including the department's general order (Ex. 2) which prohibits taking police vehicles outside the City limits for any personal benefit.

14. Knowing that his personal use of a Decatur Police vehicle was improper and perhaps a violation of the law by a public official, Gleason should have declined to use the police vehicle for his personal use, even if it was offered by the Mayor as Gleason now claims.

15. Gleason has now admitted that he did not attempt to avoid his use of the police car and on-duty driver by investigating other flights which still would have arrived in California in time for his son's event on May 8, 2015.

16. After Gleason returned from California, during the week of May 11, 2015, Sweeney met privately with him at his office in the Decatur Civic Center. During this one-on-one meeting, Sweeney again disclosed to Gleason that his use of a police car and driver for his personal purposes was improper, and Sweeney indicated he was refusing to allow Gleason to ever again have the personal use and benefit of police department resources.

17. Although City Manager Gleason said he “understood” Sweeney’s objection to his personal use of the police car and officer, in retrospect, it now appears City Manager Gleason resented being warned about his personal use of Police Department resources. Sweeney’s relationship with Gleason was difficult thereafter.

18. Sweeney was away from his post as Police Chief from September 24, 2015 through January 4, 2016 on an approved leave while he attended the FBI National Academy and for a short vacation with his family after the FBI course.

19. On or about January 26, 2016, City Manager Gleason requested that Sweeney make a public statement at a Decatur City Council meeting to be held on February 1. Gleason told Sweeney he expected him to speak in support of a local motor fuel tax at the February 1 City Council meeting. At that time, Gleason was promoting his request for a new motor fuel tax which was then on the City Council agenda; and Sweeney believed Gleason wanted his statement as further support for the tax increase.

20. Matters of tax policy are outside the scope of Sweeney’s job duties as Police Chief, which are set forth in Chapter 13 of the City Code.

21. Sweeney exercised his Constitutional right not to be forced by government to speak by immediately refusing to make the public statement requested by Gleason. Sweeney did not support a motor fuel tax for Decatur; and he refused to make a public statement he believed to be

false and not related to his duties as Chief of Police. Gleason responded with hostility, and he told Sweeney to leave his office.

22. On February 2, 2016, City Manager Gleason and other City department heads, including Sweeney, met at the Civic Center. During this meeting, Gleason requested input from those present. At his turn, Sweeney responded that there were other potential revenue sources for Decatur, and he exercised his Constitutional right to freely speak as a citizen in stating his public opposition to a further tax increase.

23. Gleason immediately became furious and ordered Sweeney to leave the staff meeting. Later, on February 2, and again on February 3, 2016, Gleason impliedly threatened Sweeney with loss of his job by asking him: "Do you know who you work for?" and "Do you want to keep your job as Police Chief?"

24. City Manager Gleason called Sweeney to his office on February 4, 2016. At that time, Gleason asked Sweeney to resign. When Sweeney refused to resign and stated that he had done nothing wrong, Sweeney was given the attached written notice of termination. (See Exhibit 4.)

25. Sweeney had devoted his entire professional life, more than twenty (20) years, to serving the people of Decatur in the Decatur Police Department, and he received consistent performance reviews of "Exceeds Standards," including in his final performance review of November 2014, which is attached. (See Exhibit 5.)

26. Sweeney obtained his personnel file on February, 11, 2016; and there is no documentation of any kind to support Sweeney's termination.

27. The Illinois Department of Employment Security found that Sweeney was fired by the City Manager due to a personal conflict between the two of them: "The City has indicated that

the dispute was personal and not related to [Sweeney's] employment." See the IDES Determination letter attached as Exhibit 6.

28. At the times he objected to Gleason's use of the police vehicle and on-duty officer as driver, Sweeney had a good-faith belief that the City Manager's personal use of public resources violated the Decatur City Code and Illinois law.

29. Sweeney's termination from employment with the City was in retaliation for the following protected conduct by Sweeney:

- a. Sweeney's disclosure regarding Gleason's personal use of a Decatur police car and uniformed officer;
- b. Sweeney's refusal to make a public statement at the City Council meeting supporting Gleason's proposed motor fuel tax; and
- c. Sweeney's February 2, 2016 statement in opposition to increasing taxes when he believed other sources of income were available to the City.

30. Sweeney's retaliatory termination violates one or more of the following clear mandates of public policy: (1) enforcing the State's criminal code and ethics regulations, (2) the policy of furthering investigation of a crime within a police department, (3) preventing the private use of public resources, in violation of Article VIII(1)(a) of the Illinois Constitution, (4) protecting the First Amendment rights of public employees to speak on matters of public concern outside the scope of their job duties, and (5) protecting the First Amendment right of a public employees to not be coerced by their government employers into engaging in political speech.

31. Gleason has never reimbursed the City of Decatur for the fair and reasonable value of the City resources which Gleason used for his personal benefit.

32. As a direct and proximate result of the Defendant's retaliatory discharge of the Plaintiff, the Plaintiff has suffered damages, including, without limitation, lost income, benefits, emotional distress, and damage to his reputation; and loss of employment since February 4, 2016.

33. City Manager Gleason had actual knowledge of Sweeney's protected activities as described above, and Gleason's termination of Sweeney's employment with the City was a retaliatory response which binds the City as Defendant herein.

WHEREFORE, Plaintiff prays for judgment in his favor and against the Defendant for compensatory damages in excess of \$50,000, for reinstatement to his former post as Police Chief for the City of Decatur, and for such other and further relief as the court deems appropriate.

Count II
Illinois Whistleblower Act

Plaintiff Sweeney repeats, realleges and incorporates by references Paragraphs 1-33 of this Complaint as Paragraphs 1-33 of this Count II, as though fully set forth herein.

34. Defendant City is an "Employer" as defined by the Illinois Whistleblower Act, 740 ILCS 174/5, as amended.

35. From on or about May 23, 1995 until February 4, 2016, Plaintiff Sweeney was an "Employee" of the City as defined by the Illinois Whistleblower Act, 740 ILCS 174/5, as amended.

36. Sweeney brings this claim for retaliatory discharge pursuant to 740 ILCS 174/15, which prohibits retaliation for disclosing what Sweeney had reasonable cause to believe was a violation of state or federal law.

37. Sweeney disclosed certain information to Gleason who, as City Manager, was his sole supervisor and authorized by Defendant City to receive such information on behalf of the City government.

38. Sweeney had reasonable cause to believe that the information disclosed to City Manager Gleason concerned violations of the Illinois Constitution, the Illinois Criminal Code, and certain state laws, rules, and ethics regulations.

39. Gleason, acting for and on behalf of the City in his capacity as City Manager, retaliated against Sweeney by terminating his employment because Sweeney disclosed information to Gleason, pursuant to 740 ILCS 174/15, when Sweeney had reasonable cause to believe that the information disclosed a violation of state law.

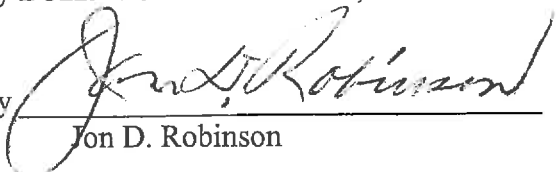
40. Defendant's retaliation against Sweeney violates 740 ILCS 174/15, which prohibits retaliation for these disclosures made to a government or law enforcement agency, being the City of Decatur.

WHEREFORE, the Plaintiff prays for judgment in his favor and against the Defendant, as follows:

- A. Reinstatement with the same seniority status Plaintiff would have had but for Defendant's violation of the Whistleblower Act;
- B. Back pay, with interest and penalties as permitted by statute;
- C. Compensation for reduction in Plaintiff's anticipated pension benefits;
- D. Compensation for litigation costs, expert witness fees, and reasonable attorneys' fees; and,
- E. For any other relief this Court deems just.

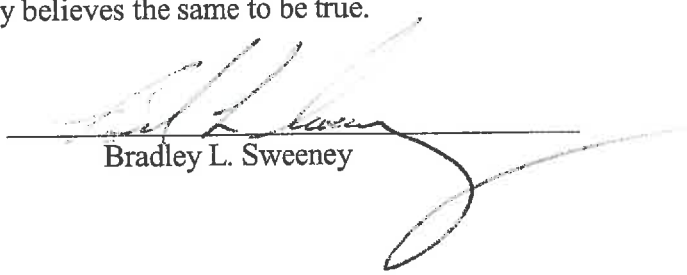
PLAINTIFF DEMANDS A TRIAL BY JURY.

BRADLEY L. SWEENEY, Plaintiff
By BOLEN ROBINSON & ELLIS, LLP

By 
Jon D. Robinson

VERIFICATION BY CERTIFICATION

Under the penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.


Bradley L. Sweeney

JON D. ROBINSON
BOLEN ROBINSON & ELLIS, LLP
202 South Franklin, 2nd Floor
Decatur, Illinois 62523
Telephone: 217-429-4296
Fax: 217-329-0034
Email: jrobinson@brelaw.com

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
MACON COUNTY, ILLINOIS

BRADLEY L. SWEENEY,

Plaintiff,

vs.

CITY OF DECATUR,

Defendant.

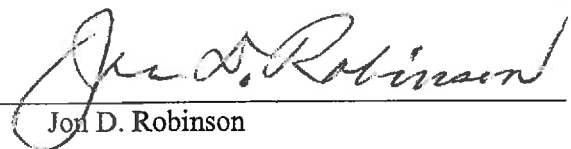
No. 2016-L-18

**AFFIDAVIT OF DAMAGES
IN COMPLIANCE WITH SUPREME COURT RULE 222**

Jon D. Robinson being first duly sworn upon his oath, states and deposes as follows:

1. He is an adult, under no legal disability, with personal knowledge of the matters set forth herein, and if called to testify as to said matters, would testify competently to said matters; he is an attorney, licensed to practice law in the State of Illinois; and he has been so licensed since November 15, 1971.
2. He is a partner with BOLEN ROBINSON & ELLIS, LLP, the law firm retained by the Plaintiff, Bradley L. Sweeney, and he is authorized by the Plaintiff to provide this Affidavit in compliance with Rule 222(b) of the *Rules of the Supreme Court of Illinois*.
3. The Plaintiff seeks relief hereunder in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

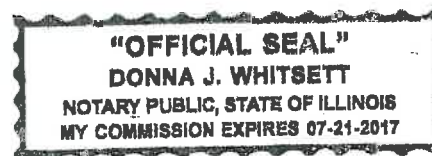
FURTHER AFFIANT SAITH NOT.


Jon D. Robinson

Subscribed and sworn to before me on this 22nd day of April, 2016.


Notary Public

JON D. ROBINSON
BOLEN ROBINSON & ELLIS, LLP
202 South Franklin, 2nd Floor
Decatur, Illinois 62523
Telephone: 217-429-4296
Fax: 217-329-0034
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IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
MACON COUNTY, ILLINOIS

BRADLEY L. SWEENEY,

Plaintiff,

vs.

CITY OF DECATUR, and TIM
GLEASON, City Manager

Defendants.

No. 2016-L- 18

Exhibit 1
720 ILCS 5/33-3(c)

720 ILCS 5/33-3

Statutes current through Public Act 99-370, except for parts of acts 50, 78, 85, 132, 143, 152, 158, 180, 227-229, 233, 245, 270, 278, 316, 318, 331, 351, 352, and 355 of the 2015 Legislative Session

Illinois Compiled Statutes Annotated > Chapter 720 CRIMINAL OFFENSES > CRIMINAL CODE > Criminal Code of 2012 > Title III. Specific Offenses > Part E. Offenses Affecting Governmental Functions > Article 33. Official Misconduct

720 ILCS 5/33-3 Official misconduct

- (a) A public officer or employee or special government agent commits misconduct when, in his official capacity or capacity as a special government agent, he or she commits any of the following acts:
 - (1) Intentionally or recklessly fails to perform any mandatory duty as required by law; or
 - (2) Knowingly performs an act which he knows he is forbidden by law to perform; or
 - (3) With intent to obtain a personal advantage for himself or another, he performs an act in excess of his lawful authority; or
 - (4) Solicits or knowingly accepts for the performance of any act a fee or reward which he knows is not authorized by law.
- (b) An employee of a law enforcement agency commits misconduct when he or she knowingly uses or communicates, directly or indirectly, information acquired in the course of employment, with the intent to obstruct, impede, or prevent the investigation, apprehension, or prosecution of any criminal offense or person. Nothing in this subsection (b) shall be construed to impose liability for communicating to a confidential resource, who is participating or aiding law enforcement, in an ongoing investigation.
- (c) A public officer or employee or special government agent convicted of violating any provision of this Section forfeits his or her office or employment or position as a special government agent. In addition, he or she commits a Class 3 felony.
- (d) For purposes of this Section, "special government agent" has the meaning ascribed to it in subsection (l) of Section 4A-101 of the Illinois Governmental Ethics Act [5 ILCS 420/4A-101].

History

P.A. 82-790; 94-338, § 5; 98-867, § 5.

Illinois Compiled Statutes Annotated
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IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
MACON COUNTY, ILLINOIS

BRADLEY L. SWEENEY,

Plaintiff,

vs.

CITY OF DECATUR, and TIM
GLEASON, City Manager

Defendants.

No. 2016-L- 18

Exhibit 2
Decatur Police Department General Order 11-03

DECATUR POLICE DEPARTMENT GENERAL ORDER 11-03

SUBJECT:	USE OF DEPARTMENTAL VEHICLES OUTSIDE CITY LIMITS & TAKE HOME VEHICLES.		
EFFECTIVE DATE:	03/11/2011	NO. PAGES:	2
DISTRIBUTION:	All Personnel	RESCINDS:	03-13
INDEX AS:	Use of Departmental Vehicles; Outside City Limits; Take Home Cars; Departmental Vehicles; Driving Outside City Limits	REVIEW DATE:	Annually

POLICY

It shall be the general policy of The Decatur Police Department that no police vehicles; marked or unmarked, shall be driven outside the city limits. It is recognized that in the course of a work day or nature of assignment, there may occur certain circumstances that require or allow an employee to drive a departmental vehicle beyond the city limits. It is further recognized that due to the nature of an assignment or position, a vehicle may be assigned exclusively to a Law Enforcement Officer; referred to as "Take Home Vehicle".

PROCEDURE

I. EXCEPTIONS ALLOWING OPERATION OF DEPARTMENTAL VEHICLES OUTSIDE CITY LIMITS

A. Employees shall not drive or utilize departmental vehicles outside the city limits of Decatur, Illinois unless:

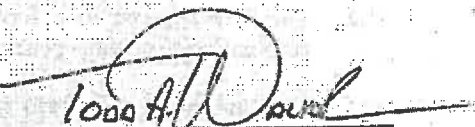
1. They are actively engaged in assisting another officer, whether it is of this department or an outside agency and then, only with the express prior permission of a supervisory officer;
2. They are engaged in a foot or vehicular pursuit normally referred to as "hot pursuit", or responding to an emergency situation based on mutual aid agreements.
3. They are going to or from authorized training that has received prior approval of the Chief of Police and City Manager, and for necessary travel during the course of that training;
4. Under the guidelines of City of Decatur Administrative Policy E-510, a department director may authorize an employee to take a vehicle home if the nature of his/her duties and responsibilities require the availability of a vehicle full time during and after normal work schedules.
 - a. The Chief of Police is the only authority to officially determine, and authorize a take home vehicle for an employee of the Decatur Police Department. The Chief will notify the City of Decatur Fleet Supervisor of individuals assigned and authorized to take vehicles home.
 - b. A take home vehicle will only be officially authorized for, used, and operated by a full-time Law Enforcement Officer; a paid city employee-MSF Fleet Technician is authorized to operate a marked or unmarked vehicle for the sole purpose of maintenance-repair issues.

- c. In accordance with IRS Treasury regulations, full-time law enforcement officers authorized a take home vehicle; marked or unmarked, must utilize the vehicle incident to law enforcement functions, such as being able to report directly from home to a stakeout or surveillance site, or to an emergency situation. Use of a unmarked or marked vehicle for vacation, recreation trips or personal use is not a qualified use under the IRS Treasury regulations and shall be a prohibited practice by any employee of the Agency authorized a take home vehicle.
5. They are subpoenaed to court or assigned to an investigation for which travel outside the city limits has been authorized by the Division Deputy Chief and the Chief of Police;
6. They are attending a business related meeting with approval of the Chief of Police;
7. They have been granted permission by their commanding officer in advance to leave the city. Any time permission is granted (outside the restrictions articulated below), the commanding officer shall so notify his Division's Deputy Chief and/or Chief of Police as soon as practical; or
8. They are going to or from a location no further than 3.0 miles outside the city limits for the sole purpose of taking their authorized meal break.

II. FURTHER RESTRICTIONS

- A. Beyond the exceptions listed in I., A., 6., above, under no circumstances, shall a departmental vehicle be used outside the city limits for personal errands or business.
- B. Employees shall not be permitted to add attachments, or make alterations to city vehicles.
- C. All existing rules and regulations governing the operation of departmental vehicles shall also apply when operating the vehicles outside the city limits.

BY ORDER OF:


Todd A. Walker
Interim Chief of Police

DISTRIBUTION: A

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
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BRADLEY L. SWEENEY,

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GLEASON, City Manager

Defendants.

No. 2016-L- 18

Exhibit 3
Chapter 8 (Ethics)
City Code of Decatur

CHAPTER 8

ETHICS

(Adopted, Ordinance No. 2004-44, May 17, 2004)
Effective May 19, 2004

1. **ADOPTION.** The regulations of Sections 5-15 (5 ILCS 430/5-15) and Article 10 (5 ILCS 430/10-10 through 10-40) of the State Officials and Employees Ethics Act, 5 ILCS 430/1-1 et. seq., (hereinafter referred to as the "Act" in this Section) are hereby adopted by reference and made applicable to the officers and employees of the City to the extent required by 5 ILCS 430/70-5.

2. **GIFT ACCEPTANCE PROHIBITED.** The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the City, is hereby prohibited.

3. **GIFT OFFERING PROHIBITED.** The offering or making of gifts prohibited to be offered or made to an officer or employee of the City under the Act, is hereby prohibited.

4. **POLITICAL ACTIVITY PARTICIPATION PROHIBITED.** The participation in political activities prohibited under the Act, by any officer or employee of the City, is hereby prohibited.

5. **DEFINITIONS.** For purposes of this Chapter, the terms "officer" and "employee" shall be defined as set forth in 5 ILCS 430/70-5 (c).

6. **PENALTY.** The penalties for violations of this Chapter shall be the same as those penalties set forth in 5 ILCS 430/50-5 for similar violations of the Act.

7. **OTHER CODE REGULATIONS.** This Chapter does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of City officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Chapter, however, the provision of this Chapter shall prevail in accordance with provisions of 5 ILCS 430/70-5 (a).

8. **AMENDMENTS.** Any amendment to the Act that becomes effective after the effective date of this Chapter shall be incorporated into this Chapter by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Chapter by reference without formal action by the corporate authorities of the City.

9. **ILLINOIS SUPREME COURT ACTION.** (A) If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Chapter shall be repealed as of the date that the Illinois Supreme Court's decision becomes final and not subject to any further appeals or rehearings. This Chapter shall be deemed repealed without further action by the Corporate Authorities of the City if the Act is found unconstitutional by the Illinois Supreme Court.

(B) If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Chapter shall remain in full force and effect; however, that part of this Chapter relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the City.

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
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BRADLEY L. SWEENEY,

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Defendants.

No. 2016-L-18

Exhibit 4
Sweeney Termination Letter



CITY OF DECATUR ILLINOIS

#1 GARY K. ANDERSON PLAZA

DECATUR, ILLINOIS 62523-1196

February 4th, 2016

Re: Termination of Employment

Mr. Sweeney,

Effective immediately your employment with the City of Decatur is terminated.

Respectfully,

A handwritten signature in dark ink, appearing to read "Tim Gleason", is written over the word "Respectfully,".

Tim Gleason, City Manager

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
MACON COUNTY, ILLINOIS

BRADLEY L. SWEENEY,

Plaintiff,

vs.

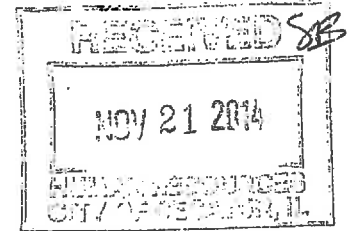
CITY OF DECATUR, and TIM
GLEASON, City Manager

Defendants.

No. 2016-L- *18*

Exhibit 5
Performance Review - Nov. 2014

MANAGEMENT PERFORMANCE EVALUATION
CITY OF DECATUR, ILLINOIS



NAME Brad Sweeney TITLE Police Lieutenant
PERIOD 10/01/2014 - 09/30/2014 DUE DATE 11/07/2014

Section 1 - INSTRUCTIONS FOR COMPLETING EVALUATION FORM

Complete all items in Section 2-A (and, if applicable, 2-B) of the form using the following definitions.

Fully Fails to Meet Standard. Performance that is unacceptable for the position should be assigned this rating. An explanation of the rating must appear in the space provided for each criterion. Explain the degree of improvement needed. Show specific instances where possible.

Needs Improvement to Meet Standard. Performance is substandard, though not totally unsatisfactory. An explanation is required of the degree to which improvement is needed. Show specific instances where possible.

Meets Performance Standard. This rating indicates the employee is performing his or her duties as they should. The quality of performance is good; the employee maintains high performance standards for self and others under his or her supervision.

Exceeds Standard in Limited Aspects. This rating indicates performance above what is expected of a person in this classification. Though not required, an explanation of the rating should appear in the space provided for comments.

Exceeds Standard in Substantial Measure. This rating indicates performance of exceptional nature for a person in this classification. An explanation of the rating must appear in the space provided for comments.

Although you are encouraged to comment on all ratings you give, you are only required to comment on those that "fully fail to meet standard", "need improvement", and "exceed standard in substantial measure". To rate an employee's performance on Performance Measures 1 through 4 on the following page, please first review that person's job description. To rate performance on Measure 40, please review the City's Mission Statement at the "Mission" tab on the City's intranet site (<http://decweb01/>).

Sign and date the form as the "Rater". If someone other than the supervisor rated the employee, that individual should also sign in the appropriate place. Complete all sections as appropriate. Prior to presenting the evaluation to the employee, forward the completed form to the Department Director and await its return with signature. Department Directors, please forward all completed forms to the Human Resources Division, and review with employee only after the concurrence of Human Resources.

Performance Goals

Assigning major goals and objectives, projects, or special assignments is the supervisor's responsibility. Supervisors are to use them in the determination of the employee's performance at the conclusion of the rating period. The goals may be developed by the employee, the supervisor, or both. Midyear projects and special assignments do arise, which will, from time to time, take precedence over previously agreed upon goals and objectives. In those cases, revisions to the goals are appropriate and should also be mutually agreed upon.

The completed evaluation packet should therefore include a completed form 2-1-57 and any attachments generated in the evaluation process. If you have questions about the process, please contact the Human Resources Division.

**MANAGEMENT EMPLOYEE
PERFORMANCE EVALUATION
CITY OF DECATUR, ILLINOIS**

Section 2 – PERFORMANCE MEASURES

Please rate the employee on each of the following Performance Measures, using the associated Performance Standard for that measure. Use the following scale of 0 to 4 to rate the employee on each measure, where

- 0 = fully fails to meet performance standard
- 1 = needs improvement to meet standard
- 2 = meets performance standard
- 3 = exceeds standard in limited aspects
- 4 = exceeds standard in substantial measure

Please note that all ratings of 0, 1 and 4 require written justification for the rating.

Section 2-A: PERFORMANCE MEASURES - FOR ALL PERSONNEL				
#	Performance Measure	Performance Standard	Rating (0 - 4)	Rater's Justification (required for ratings of 0, 1 & 4)
01	Execution of Duties	Performs all assigned work of the approved position description for the job, as well as other assigned duties	4	Currently performs the duties that were once performed by both a Lieutenant and a Deputy Chief. Remains active in field operations by being the ACT Commander and Bike Patrol Coordinator.
02	Job Knowledge and Skills	Possesses the job skills and abilities described in the position description for the employee's position	4	Bachelors Degree from the University of Illinois. Experience in two of the three Divisions. Demonstrate a vast knowledge in the areas of Communications, budgets, internal affairs, and numerous administrative duties.
03	Quality of Work	Consistently provides work product that is of acceptable quality for the assignments given	4	Received compliments and praise from city legal on the quality of the formal interrogations and internal investigation. Monthly reports and day to day operations are of high quality.
04	Quantity of Work	Consistently provides the necessary quantity of work to provide service and fully complete assignments	4	Responsible for the Communications Center, hiring and recruiting, FOIA, internal affairs investigations, crime prevention, evidence, records, chaplain committee, anti-crime team and the bike patrol unit.
05	Interest in Position	Demonstrates by words and actions an enthusiasm for the position and a desire to undertake the work involved	4	Exhibits a positive attitude towards the missions and goals of the Department. Consistently seeks advancement within the organization.
06	Prioritizing Skills	Identifies work by criticality and time sensitivity, and is able to articulate reasons for that for each task	4	Monthly reports are always submitted on time. Numerous deadlines are kept without delays.
07	Problem Solving	Thinks through problems and job issues, and provides reasonable options for implementation	3	Extremely resourceful. Has developed a network of contacts within and outside the city government.
08	Efficiency	Produces negligible waste in using material, financial and human resources in the timely execution of duties	4	Extremely efficient, hands on supervisor that delegates a proper amount of work to maximize the efficiency of my Division. Ensures accuracy by all.
09	Technological Skills	Shows proficiency in the use of technology and information systems in the execution of duties	4	Exceptional technical skills. Utilizes numerous databases on a daily basis with no difficulty. RMS, SMS, CAD, PS data base, VMware, etc.

#	Performance Measure	Performance Standard	Rating (0 - 4)	Rater's Justification (required for ratings of 0, 1 & 4)
10	Time Usage and Scheduling Flexibility	Effectively manages work time to meet deadlines, and exhibits a willingness to modify schedule as needed	4	Willingly adjusts schedule to attend community walks, community issues, testing days, and worked long days to facilitate the move to the new building.
11	Expression of Ideas & Skill in Communicating	Demonstrates communication skills needed to effectively convey thoughts to others and to complete assignments	3	Holds monthly meetings in Division. Meets with supervisors daily. Available 24/7
12	Initiative	Consistently demonstrates initiative needed to start and complete work on time and on budget	4	Remains "gung-ho" about the profession. Operates within the limits of budget line items.
13	Judgment	Consistently exercises discernment in work matters which benefits the employer and the public	4	Offers opinion on personnel matters that are both positive and negative issues. Strongly supports the decision that is rendered.
14	Attitude	Exhibits positive interaction and cooperation with the public, customers and fellow employees	4	Extremely positive attitude. Creates harmony in the workplace. Respects others' values and workspace. Positive example to all.
15	Focus on Public Service	Demonstrates an orientation toward serving the public by consistently focusing on meeting the public's needs	4	Truly enjoys being active in the community. Participates in neighborhood meetings, walks, etc... Often attends city council meetings on own accord.
16	Goal Orientation	Identifies, articulates, undertakes and accomplishes tasks in a mission-oriented fashion	4	Supports, develops, and reaches goals that have been set.. Continually strives to do better each month, quarter, and year.
17	Team Approach	Raises legitimate matters with fellow employees and provides meaningful input in appropriate situations	3	Encourages team work by allowing staff members to take the lead on projects and implement projects. Ensures compliance with all work rules and that the product is completed timely and properly
18	Listening Skills	Clearly demonstrates an ability to absorb and reiterate others' positions and empathize with them	3	Strong communication skills. Is able to gain support from staff by listening to them.
19	Adherence to Policy and Rules	Complies with City policies in furthering City mandates, and actively references them when uncertain about them	4	Has thorough understanding of both the Department policy and the City's Administrative policy. Utilizes both while handling internal affairs matters. Often called upon to conduct additional research in this area.
20	Use and Care of City Property	Properly uses and maintains City property and equipment to complete assigned tasks and to maximize useful life	4	Very protective of the new facility. Demonstrates a need to maintain and care for the facility daily. Major player in the design, planning, and move into the new department.
21	Safety Compliance	Adheres to safety rules and requirements, and applies them consistently in the execution of duties	3	Not involved in a vehicular accident this past year. Represents the Department at the monthly City Safety meetings.
22	Observance of Leave Policies	Ensures that all leaves are taken in compliance with policy and departmental operating procedures	3	All holidays, vacations, sick leave, and FMLA leave taken by staff is approved well in advance.
23	Fair and Consistent Treatment	Applies fair and consistent treatment to others in all aspects of the job, without showing favoritism	4	Demands and expects the same level of productivity and professionalism from all members of staff.

#	Performance Measure	Performance Standard	Rating (0 - 4)	Rater's Justification (required for ratings of 0, 1 & 4)
24	Professional Development	Seeks to further City career by seizing opportunities for career education and advancement	4	Has tried for years to attend Northwestern's School of Police Staff & Command. Canceled twice due to low enrollment. Most recently applied for the FBI National Academy.
25	Orientation Toward Position	Maintains workplace appearance, environment and disposition appropriate for job held and interaction anticipated	4	Neat and professional in appearance. Office is tidy and squad car is clean inside and out.

Section 2-B: PERFORMANCE MEASURES - FOR SUPERVISORY PERSONNEL ONLY

26	Planning and Organizing	Effectively plans and organizes work, and anticipates and identifies potential issues and concerns	4	Establishes monthly, quarterly, and yearly goals for Division. Goals are aimed to facilitate the overall mission of the Department.
27	Leading and Coaching	Effectively guides others, inspires team work, negotiates means to meet goals, and resolves disputes	3	Leads by example. Will not ask staff to do anything he would not or have not done.
28	Issue Follow Through	Demonstrates the ability to pursue issues through problem identification, solving and resolution	4	Does not avoid or ignore problems. Identifies them and finds the best possible solutions in a timely manner. Always finishes tasks and assignments on time.
29	Decision Making Skill	Demonstrates an ability to act decisively and effectively in work matters after determining and weighing inputs	4	Very alert to making good decisions that are in the best interest of the Department and protects the City from unnecessary liability.
30	Support of Subordinates	Maintains good working relationships with subordinates to obtain desired work outcomes	3	Has a good working relationship with subordinates. Has groomed some of them for advancement within the Department.
31	Evaluating Subordinates	Routinely assesses, documents and provides feedback to subordinates regarding their performance	4	Subordinates evaluations are always completed fairly and timely. Proper documentation for all ratings.
32	Training of Employees	Ensures that subordinates attend all training programs required for continuing competency in their jobs	4	Ensures staff are current and up to date on hot topics in law enforcement by scheduling them for the needed training. Oversees all DPD training.
33	Budget and Project Management	Attends to budgetary controls, prepares budgets, and adheres to financial and budgeting policies	4	Directly involved in department budget. Has cut the operating budget for the communications center for the third straight year.
34	Policy Enforcement and Use of Corrective Action	Actively monitors subordinates' adherence to City policies and corrects deviations from them	4	When necessary, delivers shift counseling and progressive discipline to subordinates to correct misbehavior. Oversees and/or Investigates all I/A investigations.
35	Safety Rules Enforcement	Ensures that all safety rules are followed in the execution of subordinates' duties and on-duty actions	3	Ensures staff has the needed safety equipment to properly do their tasks and assignments.
36	Preparation of Reports	Prepares, as required, reports and forms with clear and concise information for the reader's benefit	4	Monthly reports are always on time, neat, and easily read. Internal affairs investigations meet the required time lines.

#	Performance Measure	Performance Standard	Rating (0 - 4)	Rater's Justification (required for ratings of 0, 1 & 4)
37	Promotion of Equal Opportunity	Encourages workplace respect and equality among employees, monitors behavior and resolves issues	4	Does not allow abusive language or horseplay in the workplace. Works closely with EAP and other mechanisms to advance respect in the work place.
38	Acceptance & Advocacy of Policy Changes	Consistently shows support for changes in policy when they occur, and advocates for them with staff	4	Stays on top of the on-going changes within the Department, and ensure that policy accurately reflects the way we do business.
39	Service Orientation Support	Promotes an overarching philosophy of service to the public among those in subordinate positions	4	Supports the need to be transparent to the public. Fulfills FOIA requests and respond to inquires from the general public in a professional and timely fashion.
40	Commitment to City Mission	Shows by ongoing effort an orientation to achievement of the mission of the organization and officials	4	Very supportive of the Department's mission and strives to gain the public's confidence by providing strong leadership.

Section 3 – EMPLOYEE GOALS

Section 3-A – PROGRESS ON GOALS IN PERFORMANCE PERIOD: (refer to prior year evaluation for goals, and indicate progress in the area below)
No specific goals established.

Section 3-B – GOALS FOR UPCOMING YEAR:
(list goals in area below)

1. Register for a higher level of training at the FBI National Academy.
2. Complete an accurate inventory register of my Division's assets.
3. Implement a strategy or incentive plan to reduce the number of officer involved accidents.

Section 4 - EMPLOYEE COMMENT

(use space below to provide comments)

Section 5 – SIGNATURES

Employee

Date:

Rater

Date:

Department Director

Date:

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
MACON COUNTY, ILLINOIS

BRADLEY L. SWEENEY,

Plaintiff,

vs.

CITY OF DECATUR, and TIM
GLEASON, City Manager

Defendants.

No. 2016-L-18

Exhibit 6
IDES Determination Letter

Illinois Department of Employment Security

P.O. Box 19509
Springfield, IL 62794
Phone: (800) 244-5631 • TTY: (800) 244-5631
Fax: (217) 557-4913
www.ides.illinois.gov



BRADLEY L. SWEENEY
1424 W GROVE RD
DECATUR, IL 62521-9130

Date Mailed: 03/14/2016
Claimant ID: 5761897

Determination

(Este es un documento importante. Si usted necesita un intérprete, póngase en contacto con el Centro de Servicio al Reclamante al (800) 244-5631)

The following determination has been made in connection with the claim for unemployment insurance benefits.

Based on the issue included in this letter, you are eligible for benefits or wait week credit as long as you meet the eligibility requirements.

Wait week credit will be granted and/or benefit payment will be ordered for each week.

Please read each determination carefully as it may include benefit reductions.

Issue 001 602A - Misconduct

Allow Effective 02/07/2016 - 12/31/9999

Was the claimant discharged for misconduct connected with the work? The evidence shows the claimant was discharged from CITY OF DECATUR because of a dispute with his supervisor. The claimant was fired by the city manager due to a personal conflict between the two of them. The city has indicated that the dispute was personal and not related to the claimant's employment. Since the claimant's action, which resulted in his discharge was not a violation of a reasonable rule or policy of the employing unit, the claimant is not ineligible for benefits from 02/07/2016 in regard to this issue.

FOR INFORMATION REGARDING YOUR RIGHTS UNDER ILLINOIS' UNEMPLOYMENT INSURANCE ACT AND THE EXACT LANGUAGE OF THE ACT AND IDES RULES, PLEASE VISIT THE AGENCY'S WEBSITE AT www.ides.illinois.gov/UIRights.

FOR INFORMATION ON HOW TO OBTAIN FREE LEGAL SERVICES SEE IMPORTANT NOTICE BELOW.

If you require further details concerning the information in this letter, please contact the Agency at the phone number listed above.

Please see appeal rights listed below and additional information regarding this determination.

001 602A - Misconduct - 820 ILCS 405/602A provides that an individual shall be ineligible for benefits for the weeks in which he has been discharged for misconduct connected with his work and, thereafter, until he has become re-employed and has had earnings equal to or in excess of his current weekly benefit amount in each of four calendar weeks. The term "misconduct" means the deliberate and willful violation of a reasonable rule or policy of the employing unit, governing the individual's behavior in performance of his work, provided such violation has harmed the employing unit or other employees or has been repeated by the individual despite a warning or other explicit instruction from the employing unit. The previous definition notwithstanding, "misconduct" shall include any of the following work-related circumstances: 1. Falsification of an employment application, or any other documentation provided to the employer, to obtain employment through subterfuge. 2. Failure to maintain licenses, registrations, and certifications reasonably required by the employer, or those that the individual is required to possess by law, to perform his or her regular job duties, unless the failure is not within the control of the individual. 3. Knowing, repeated violation of the attendance policies of the employer that are in compliance with State and federal law following a written warning for an attendance violation, unless the individual can demonstrate that he or she has made a reasonable effort to remedy the reason or reasons for the violations or that the reason or reasons for the violations were out of the individual's control. Attendance policies of the employer shall be reasonable and provided to the individual in writing, electronically, or via posting in the workplace. 4. Damaging the employer's property through conduct that is grossly negligent. 5. Refusal to obey an employer's reasonable and lawful instruction, unless the refusal is due to the lack of ability, skills, or training for the individual required to obey the instruction or the instruction would result in an unsafe act. 6. Consuming alcohol or illegal or non-prescribed prescription drugs, or using an impairing substance in an off-label manner, on the employer's premises during working hours in violation of the employer's policies. 7. Reporting to work under the influence of alcohol, illegal or non-prescribed prescription drugs, or an impairing substance used in an off-label manner in violation of the employer's policies, unless the individual is compelled to report to work by the employer outside of scheduled and on-call working hours and informs the employer that he or she is under the influence of alcohol, illegal or non-prescribed prescription drugs, or an impairing substance used in an off-label manner in violation of the employer's policies. 8. Grossly negligent conduct endangering the safety of the individual or co-workers. For purposes of paragraphs 4 and 8, conduct is "grossly negligent" when the individual is, or reasonably should be, aware of a substantial risk that the conduct will result in the harm sought to be prevented and the conduct constitutes a substantial deviation from the standard of care a reasonable person would exercise in the situation. Nothing in paragraph 6 or 7 prohibits the lawful use of over-the-counter drug products as defined in Section 206 of the Illinois Controlled Substances Act, provided that the medication does not affect the safe performance of the employee's work duties.

If you disagree with this determination, you may complete and submit a request for reconsideration/appeal. A letter will suffice if you do not have an agency form. Your request must be filed with the Illinois Department of Employment Security within thirty (30) calendar days after the date this notice was mailed to you. If the last day for filing your request is a day that the Department is closed, the request may be filed on the next day the Department is open. Please file the request by mail or fax at the address or fax number listed above. Any request submitted by mail must bear a postmark date within the applicable time limit for filing. If additional information or assistance regarding the appeals process is needed, please contact the Agency at the phone number listed above.

If you file or have filed a request for reconsideration/appeal, continue to certify for benefits as long as you remain unemployed or until you are otherwise instructed, even though you will not receive benefits unless the appeal is decided in your favor.

Si no está de acuerdo con esta determinación, puede completar y presentar una solicitud de reconsideración / apelación. La apelación puede ser enviada por correo o fax a la Agencia, en la dirección o número de fax que aparece arriba. La apelación debe ser presentada dentro de los treinta (30) días a partir de la fecha de envío. Si la apelación se envía por correo, debe tener matasellos dentro de los treinta (30) días a partir de la fecha de envío. Si usted presenta una apelación, continuará certificando para beneficios mientras usted permanece desempleado.

Si su solicitud resulta en una apelación, una audiencia se llevará a cabo ante un árbitro que le dará la oportunidad de presentar pruebas. Se le notificará por adelantado de la hora y lugar de la audiencia.

Para obtener información adicional sobre sus derechos de apelación visite nuestra pagina de internet en www.ides.illinois.gov/UIRights.

BRADLEY L. SWEENEY

03/14/2016

Important Notice

IDES contracts with private law firms to provide limited free legal services (consultation and/or representation at IDES administrative hearings) to claimants and small employers who are eligible for this service. These independent law firms are not part of IDES. Representation at your hearing is not automatic and depends, in part, upon the facts in your case.

Note: A small employer is an employer which reported wages paid to less than twenty individuals, whether part time or full time, for each of any two of the four calendar quarters preceding the quarter in which its application for legal assistance is made.

If you are interested in this legal service, call the applicable telephone number right away after receiving a ruling against you or notice of an appeal. Any delay in calling could result in your not being able to obtain this service. Normal working hours are from 8:30 a.m. until 5:00p.m., Monday through Friday.

Claimants:**(SSN ending with 0-4)****Toll-Free: (800) 884-6591****Out of State: (847) 991-9240****TTY: (866) 848-5609****(SSN ending with 5-9)****Toll-Free: (888) 430-1776****Phone: (847) 251-1776****TTY: (847) 251-6985****Small Employers:****(UI Acct. No. ending with 0-4)****Toll-Free: (866) 641-4288****TTY: (312) 641-6403****(UI Acct. No. ending with 5-9)****Toll-Free: (877) 849-2007****TTY: (866) 802-8732**