RANDY LAW, CLERK OF COURTS
2026 CV 03025
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IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

ERIC MERKEL c/o Employment Law Partners, LLC 4700 Rockside Rd., Suite 530 Independence, Ohio 44131 Plaintiff-Relator, v. **EDDIE L. COLBERT** ***in his individual capacity and his official capacity as Director of Public Service and Safety of the City of Warren, Ohio*** 391 Mahoning Ave N.W. Warren, Ohio 44483 and **WILLIAM D. FRANKLIN** ***in his individual capacity and his official capacity as Mayor of the City of Warren, Ohio*** 391 Mahoning Ave N.W. Warren, Ohio 44483 and **CITY OF WARREN, OHIO** 391 Mahoning Ave N.W. Warren, Ohio 44483 Defendants-Respondents.	CASE NO. JUDGE **VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT, PERMANENT INJUNCTION, PETITION FOR WRIT OF MANDAMUS, AND OTHER RELIEF** **(Jury Demand Endorsed Hereon)**

Plaintiff-Relator, a former Chief of Police, Eric Merkel ("Chief Merkel" or "Plaintiff-Relator"), for his Complaint for Declaratory Judgment, Permanent Injunction, and Petition for Writ of Mandamus against Defendants-Respondents City of Warren, Ohio ("City") and its Mayor

William D. Franklin ("Mayor Franklin") and Director of Public Service and Safety, Eddie L. Colbert ("Director Colbert") (collectively "Defendants-Respondents"), states as follows:

INTRODUCTION

1. Plaintiff-Relator brings this action for injunctive relief and a declaration of rights and seeks a writ of mandamus to compel Defendants-Respondents to comply with their clear legal duties. Plaintiff-Relator also seeks damages pursuant to R.C. 2307.60 based on Mayor Franklin's and Director Colbert's criminal violations of Ohio Revised Code Chapter 124.

PARTIES, VENUE, AND JURISDICTION

2. Chief Merkel is a United States citizen residing in Howland Township, Ohio, in Trumbull County.

3. At all relevant times, Chief Merkel was an "employee" and/or "person" within the meaning of Chapter 124 of the Ohio Revised Code and related rules found in the Ohio Administrative Code ("Chapter 124").

4. Chief Merkel is also a "person" within the meaning of Chapter 2721 of the Ohio Revised Code ("Chapter 2721").

5. Director Colbert, pursuant to the Codified Ordinances of the City of Warren, Ohio, and Ohio Rev. Code § 733.01, is an "appointing authority" of the City with respect to the position of Chief of Police, including as that term is used in Chapter 124.

6. Director Colbert's powers as the appointing authority are subject to the provisions of the City's Codified Ordinances, as well as the laws of the State of Ohio.

7. Director Colbert is also a "person" within the meaning of Chapter 2721 and a "public servant" as defined in Ohio Rev. Code § 2921.01. At all relevant times, Director Colbert was acting and serving under color of state law.

8. Mayor Franklin is the duly elected Mayor of the City of Warren, Ohio.

9. Mayor Franklin, pursuant to R.C. 733.03, is the chief conservator of peace within the City of Warren and maintains authority to appoint and remove the Director of Public Service and Safety. *See also* R.C. 737.01.

10. Pursuant to R.C. § 733.01, Mayor Franklin is an "appointing authority" of the City with respect to the position of Chief of Police, including as that term is used in Chapter 124.

11. Mayor Franklin is also a "person" within the meaning of Chapter 2721 and a "public servant" as defined in Ohio Rev. Code § 2921.01. At all relevant times, Mayor Franklin was acting and serving under color of state law.

12. The City is a noncharter statutory municipality located in Trumbull County, Ohio. It is governed by the general laws of the State of Ohio and its Codified Ordinances and is subject to the duties and responsibilities imposed by applicable law.

13. The City, as a municipal corporation, is a "person" within the meaning of Chapter 2721.

14. This Court has jurisdiction to issue a writ of mandamus pursuant to R.C. 2731.02, and to order and award all other relief requested herein.

15. This Court is also the appropriate venue for this matter as all acts and omissions complained of herein took place in the City of Warren, located in Trumbull County.

FACTUAL BACKGROUND

16. The City is comprised of various departments, one of which is the Department of Public Service and Safety. The Department of Public Service and Safety includes the Police Department.

17. After initially beginning his career with the City's Police Department in January of 1995 and rising through the ranks, Chief Merkel was appointed as the City's Chief of Police in June of 2013.

18. Chief Merkel, as the City's Chief of Police, was a classified civil servant whose employment was subject to rights guaranteed by Chapter 124.

19. On July 8, 2026, Mayor Franklin and Director Colbert summoned Chief Merkel to a meeting in Mayor Franklin's office.

20. During this meeting, Mayor Franklin and Director Colbert shared that an officer had made a complaint about Chief Merkel the previous afternoon.

21. Contending that they were disturbed by the allegations, and ostensibly motivated by political concerns, Mayor Franklin and Director Colbert presented Chief Merkel with an ultimatum: resign or be terminated.

22. However, the allegations shared by Defendants-Respondents with Chief Merkel were unfounded and/or legally insufficient to justify the termination of a police chief who is a classified civil servant.

23. At the time of this meeting, no complaint or supporting documents had been provided to Chief Merkel by Defendants-Respondents, no meaningful investigation had been conducted, no administrative or criminal charges had been filed, and Chief Merkel had not been afforded any of the civil-service process to which he would be entitled for a potential removal.[1]

[1] Specifically, the lawful mechanism for removal of a chief of police, as set forth in R.C. 124.34(C), requires the following: "In the case of the suspension for any period of time, or a fine, demotion, or removal, of a chief of police…who is in the classified civil service, the appointing authority shall furnish the chief or member with a copy of the order of suspension, fine, demotion, or removal, which order shall state the reasons for the action. The order shall be filed with the municipal or civil service township civil service

24. Also, at the time of this meeting, Chief Merkel was approximately seven (7) weeks away from attaining his five-year anniversary in the Ohio Police & Fire Pension Fund's Deferred Retirement Option Plan ("DROP").

25. Pursuant to the rules of DROP, a participant forfeits all of the interest accrued in their DROP account if they do not complete at least five (5) years of service following entry into DROP.

26. To coerce Chief Merkel's resignation, Defendants-Respondents threatened Chief Merkel with immediate termination, and told him that if he resigned, he could defer his resignation date until August 24, 2026, when he would attain the five (5) years of service in DROP.

27. Under these coercive circumstances, Chief Merkel did not believe that he had any choice but to resign.

28. On July 9, Defendants-Respondents called Chief Merkel in and had Human Resources Director Brian Massucci present him with a prepared resignation letter, which Chief Merkel then signed and submitted to Defendants-Respondents (the "Resignation Letter"). A true and accurate copy of Chief Merkel's Resignation Letter is attached hereto as **Exhibit 1**.

29. Notably, in the Resignation Letter, Chief Merkel indicated his intent to resign "effective close of business on August 24, 2026" and that he would be utilizing accumulated vacation leave until then.

30. Thereafter, Defendants-Respondents never informed Chief Merkel that they had accepted his resignation.

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commission. Within ten days following the filing of the order, the chief or member may file an appeal, in writing, with the commission."

31. Thus, because his resignation had not been accepted and with the benefit of time to consider his position, on August 23, 2026, Chief Merkel submitted written notice to Defendants-Respondents that he was withdrawing his letter of resignation, effective immediately (the "Resignation Rescission"). A true and accurate copy of Chief Merkel's Resignation Rescission is attached hereto as **Exhibit 2**.

32. It was not until *after* Chief Merkel submitted his Resignation Rescission that Defendants-Respondents, for the first time, delivered him a copy of a letter accepting his resignation, via a certified letter dated August 24, 2026. A true and accurate copy of the August 24, 2026 letter and accompanying envelope are attached hereto as **Exhibit 3**.

33. Upon information and belief, instead of delivering Chief Merkel personal and actual notice of acceptance of his resignation at the time he initially submitted the Resignation Letter, Defendants-Respondents merely left a letter for Chief Merkel at the Police Department (the "Attempted Resignation Acceptance Letter") – a location at which Defendants-Respondents knew he would not be present because he was utilizing vacation. A true and accurate copy of the Attempted Resignation Acceptance Letter is attached hereto as **Exhibit 4**.

34. Chief Merkel did not receive the Attempted Resignation Acceptance Letter nor any other notice from Defendants-Respondents that they had accepted his resignation until *after* he submitted his Resignation Rescission.

35. On September 2, 2026, Chief Merkel sent a letter to the City's Municipal Civil Service Commission, requesting, *inter alia*, that the timely withdrawal of his resignation be recognized, and that he be restored to his rightful position as the City's Chief of Police. *See* **Exhibit 5**.

36. Defendants-Respondents declined to recognize Chief Merkel's timely and proper withdrawal of his resignation or otherwise restore him to his position.

37. Instead, Defendants-Respondents have announced that a vacancy exists for the position of Chief of Police and have announced a competitive hiring process for Chief of Police – a position that Chief Merkel is ineligible to seek when deemed by Defendants-Respondents as a non-current employee.

38. Defendants-Respondents announced the vacancy for the first time on August 26, 2026 – three days *after* Chief Merkel rescinded his resignation. *See* **Exhibit 6**.

COUNT I
Declaratory Judgment: Valid Withdrawal of Prospective Resignation and Continued Classified Employment

39. Chief Merkel re-alleges all prior paragraphs and incorporates them here by reference.

40. Chief Merkel's claim for declaratory judgment is brought pursuant to Ohio Rule of Civil Procedure 57 and Chapter 2721 of the Ohio Revised Code.

41. Chief Merkel was a classified civil servant serving as the City's Chief of Police, and his employment was subject to the rights and protections guaranteed by Chapter 124 of the Ohio Revised Code.

42. Chief Merkel's July 9, 2026 Resignation Letter was prospective and stated that his resignation would become effective at the close of business on August 24, 2026.

43. Under Ohio law, a public employee may withdraw a prospective resignation before its effective date unless the public employer has previously accepted the resignation through affirmative action clearly communicating acceptance to the employee. *See Davis v. Marion Cty. Engineer*, 60 Ohio St.3d 53, 573 N.E.2d 51 (1991).

44. Before Chief Merkel submitted his written Resignation Rescission on August 23, 2026, Defendants-Respondents had not communicated to him, orally, in writing, or otherwise, that they had accepted his prospective resignation.

45. Defendants-Respondents knew that Chief Merkel was utilizing accumulated vacation leave and was not and would not be present at the Police Department, and their act of merely leaving the Attempted Resignation Acceptance Letter at that location did not clearly communicate acceptance to Chief Merkel.

46. Chief Merkel did not receive the Attempted Resignation Acceptance Letter or any other notice of acceptance until after he submitted the Resignation Rescission.

47. Chief Merkel therefore withdrew his prospective resignation before its effective date and before Defendants-Respondents formally accepted and communicated acceptance of that resignation.

48. The acceptance letter delivered after Chief Merkel submitted the Resignation Rescission could not revive a prospective resignation that he had already validly withdrawn.

49. Because Chief Merkel validly withdrew the Resignation Letter, his resignation never became effective, he did not voluntarily separate from employment, he remained the City's classified Chief of Police after August 24, 2026, and no lawful vacancy arose in that position.

50. An actual, present, and justiciable controversy exists because Defendants-Respondents refuse to recognize Chief Merkel's Resignation Rescission, refuse to restore him to his position, and are proceeding with a competitive process to fill a purported vacancy in the office of Chief of Police.

51. The parties' interests concerning the validity and legal effect of the Resignation Rescission are real and adverse, and the controversy is ripe for adjudication.

52. Chief Merkel is entitled to a declaration that his August 23, 2026 Resignation Rescission was timely and effective; that Defendants-Respondents did not formally accept and communicate acceptance of his prospective resignation before that rescission; that the resignation never became effective; that Chief Merkel remained the classified Chief of Police after August 24, 2026; that no lawful vacancy arose; and that Defendants-Respondents may not treat him as separated from employment or the position as vacant absent compliance with the laws governing removal of classified civil servants.

COUNT II
Petition for Writ of Mandamus: Recognition of Resignation Rescission and Restoration to Classified Position

53. Chief Merkel re-alleges all prior paragraphs and incorporates them here by reference.

54. Chief Merkel, pursuant to Chapter 2731 of the Ohio Revised Code, petitions this Court for a writ of mandamus in the name of the State of Ohio on his relation.

55. Chief Merkel has a clear legal right to recognition of his timely Resignation Rescission and to continued service in his classified position because he withdrew his prospective resignation before its effective date and before Defendants-Respondents formally accepted and communicated acceptance of it.

56. Defendants-Respondents have a clear legal duty to recognize Chief Merkel's timely withdrawal of his prospective resignation and lack discretion to treat the withdrawn resignation as effective or the office of Chief of Police as vacant.

57. Defendants-Respondents have failed and refused to perform that duty by refusing to recognize the Resignation Rescission, refusing to restore Chief Merkel to his classified

position, treating him as separated from employment, declaring a vacancy, and commencing a competitive process to appoint another Chief of Police.

58. Chief Merkel lacks a plain and adequate remedy in the ordinary course of law because Defendants-Respondents did not issue a removal order from which he can confidently pursue the ordinary statutory civil-service appeal, but instead characterize his separation as a resignation and continue to deny that he remains employed.[2]

59. Declaratory relief alone is not an adequate remedy because it would not compel Defendants-Respondents to restore Chief Merkel to office, return him to payroll, restore his seniority, service credit, compensation, pension contributions, and employment benefits, or cease the process to fill the purported vacancy.

60. Defendants-Respondents' announced competitive hiring process threatens to place another person in the office of Chief of Police before Chief Merkel can obtain relief through the ordinary course of law, further rendering any such remedy inadequate.

61. Chief Merkel is entitled to a writ compelling Defendants-Respondents to recognize the August 23, 2026 Resignation Rescission; cease treating his resignation as effective and the position as vacant; discontinue the competitive hiring process; restore him to the position of Chief of Police with his classified status, seniority, service credit, compensation, pension contributions, and employment benefits; and refrain from removing him except through procedures authorized by Chapter 124 of the Ohio Revised Code and other applicable law.

[2] For the purpose of preserving and pursuing all possible alternative remedies, Chief Merkel is concurrently filing an appeal of the *non-written* decision of the City's Municipal Service Commission, rejecting his withdrawal of his resignation before its effective date and consequently removing Chief Merkel from his position as Chief of Police in the classified civil service.

62. As required by R.C. 2731.04, Chief Merkel's application for a writ of mandamus is verified by an affidavit attached hereto.

COUNT III
Declaratory Judgment: Involuntary Resignation Constituted an Unlawful Removal

63. Chief Merkel re-alleges all prior paragraphs and incorporates them here by reference.

64. Chief Merkel's claim for declaratory judgment is brought pursuant to Ohio Rule of Civil Procedure 57 and Chapter 2721 of the Ohio Revised Code and is pleaded in the alternative to Counts I and II.

65. As the City's Chief of Police, Chief Merkel was a classified civil servant whose tenure was protected by Chapter 124 of the Ohio Revised Code.

66. Under R.C. 124.34, Chief Merkel could not be removed from his classified position except for legally sufficient cause and through the procedures prescribed by law.

67. The allegations and asserted bases upon which Defendants-Respondents threatened to terminate Chief Merkel were false, unfounded, pretextual, and/or legally insufficient to support his removal under R.C. 124.34.

68. Defendants-Respondents had not conducted a meaningful investigation, provided Chief Merkel with the complaint or supporting evidence, filed administrative or criminal charges, or afforded him a meaningful opportunity to review and respond to the allegations before demanding his resignation.

69. Instead, Defendants-Respondents presented Chief Merkel with a false choice—sign the pre-prepared resignation letter or be terminated—and threatened immediate removal without the cause and process required by R.C. 124.34.

70. The threatened immediate termination also placed Chief Merkel at risk of forfeiting the interest accrued in his DROP account shortly before his five-year anniversary, thereby exerting substantial economic pressure upon him.

71. Under these circumstances, Chief Merkel had no reasonable or meaningful alternative and did not freely and voluntarily choose to relinquish his classified employment.

72. Where an appointing authority induces a resignation as the only alternative to removal based upon unfounded or legally insufficient charges, the purported resignation is involuntary and ineffective and the separation constitutes a removal subject to the protections of R.C. 124.34. *See Kinney v. Ohio State Dep't of Admin. Servs.*, 14 Ohio App.3d 33, 469 N.E.2d 1007 (10th Dist.1984).

73. Defendants-Respondents' procurement and enforcement of Chief Merkel's purported resignation therefore constituted a de facto or constructive removal from classified civil service.

74. Defendants-Respondents did not furnish Chief Merkel with a written order of removal stating the reasons for the action, file such an order with the Municipal Civil Service Commission, or afford him the statutory opportunity to appeal, as required by R.C. 124.34(C).

75. An actual, present, and justiciable controversy exists because Defendants-Respondents maintain that Chief Merkel voluntarily resigned, while Chief Merkel maintains that the purported resignation was involuntary and that Defendants-Respondents unlawfully removed him from classified employment.

76. Chief Merkel is entitled to a declaration that his purported resignation was involuntary and legally ineffective; that Defendants-Respondents' actions constituted a removal

governed by R.C. 124.34(C); that the asserted bases for termination did not constitute legally sufficient cause for removal; that Defendants-Respondents failed to comply with the mandatory procedures of R.C. 124.34(C); and that Chief Merkel remained entitled to the position of Chief of Police, together with the compensation, benefits, seniority, service credit, and other incidents of that classified employment.

COUNT IV
Petition for Writ of Mandamus: Remedy for Involuntary Separation and Unlawful Removal

77. Chief Merkel re-alleges all prior paragraphs and incorporates them here by reference.

78. Chief Merkel, pursuant to Chapter 2731 of the Ohio Revised Code, petitions this Court for a writ of mandamus in the name of the State of Ohio on his relation, and pleads this claim in the alternative to Counts I and II.

79. Chief Merkel has a clear legal right, as a classified Chief of Police, to continued employment during good behavior and efficient service and not to be removed except for legally sufficient cause and in compliance with R.C. 124.34(C).

80. Defendants-Respondents had a clear legal duty not to remove Chief Merkel from classified employment except for cause authorized by R.C. 124.34 and through the mandatory procedures governing removal of a classified Chief of Police.

81. Because the asserted bases for termination were false, unfounded, pretextual, and/or legally insufficient to support removal under R.C. 124.34, Defendants-Respondents could not lawfully accomplish Chief Merkel's removal by threatening immediate termination and procuring a purported resignation.

82. Chief Merkel's purported resignation was involuntary and legally ineffective because Defendants-Respondents left him no reasonable or meaningful alternative to signing the pre-prepared resignation letter.

83. Defendants-Respondents thereby effected a de facto or constructive removal without furnishing Chief Merkel with a written removal order stating the reasons for the action, filing such an order with the Municipal Civil Service Commission, or affording him the statutory opportunity to appeal.

84. Defendants-Respondents have failed and refused to perform their clear legal duties by treating Chief Merkel as having voluntarily resigned, excluding him from the office of Chief of Police, declining to restore him to employment, declaring the position vacant, and commencing a process to appoint his replacement.

85. Chief Merkel lacks a plain and adequate remedy in the ordinary course of law because Defendants-Respondents did not issue or file a removal order from which he could invoke the appeal procedure provided by R.C. 124.34(C), but instead characterize his separation as a resignation.

86. Declaratory relief alone is not an adequate remedy because it would not compel Defendants-Respondents to restore Chief Merkel to office, return him to payroll, restore the incidents of his classified employment, or cease the process to fill the purported vacancy.

87. The announced hiring process threatens to place another person in the office of Chief of Police before Chief Merkel can obtain relief in the ordinary course of law, further rendering any such remedy inadequate.

88. Chief Merkel is entitled to a writ compelling Defendants-Respondents to treat the purported resignation as involuntary and ineffective; cease treating the office of Chief of Police as vacant; discontinue the competitive hiring process; restore Chief Merkel to the position of Chief of Police with his classified status, seniority, service credit, compensation, pension contributions, and employment benefits; provide back pay and other relief necessary to make him whole, subject to any offsets required by law; and refrain from removing him except for legally sufficient cause and through procedures authorized by R.C. 124.34 and other applicable law.

89. As required by R.C. 2731.04, Chief Merkel's application for a writ of mandamus is verified by an affidavit attached hereto.

COUNT V
Civil Liability Under R.C. 2307.60(A) for Criminal Violations of Ohio Revised Code Chapter 124 by Defendants Franklin and Colbert

90. Chief Merkel re-alleges all prior paragraphs and incorporates them here by reference.

91. R.C. 2307.60(A)(1) provides a civil cause of action to a person injured in person or property by a criminal act and permits recovery of full damages and other relief authorized by law.

92. At all relevant times, Mayor Franklin and Director Colbert were persons and public officeholders subject to Ohio Revised Code Chapter 124, and they knew that Chief Merkel occupied the classified civil-service position of Chief of Police.

93. Mayor Franklin and Director Colbert knew of and failed to follow, or recklessly disregarded, their legal obligations to comply with R.C. 124.34(C) and other provisions in Chapter 124.

94. The failure to comply with Chapter 124 or its rules and regulations constitutes a criminal act by Mayor Franklin and Director Colbert in violation of R.C. 2921.44(E), which prohibits a public servant from engaging in a dereliction of their duty. Specifically, R.C. 2921.44(E) states that "no public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office."

95. R.C. 124.61 prohibits any person from using threats or coercion to induce or seek to induce a person in the classified service to resign his position.

96. Mayor Franklin and Director Colbert violated R.C. 124.61 by jointly summoning Chief Merkel, presenting him with the ultimatum that he resign or be terminated, presenting him with a pre-prepared resignation letter, threatening an immediate separation that would jeopardize substantial accrued DROP interest, and thereby inducing or seeking to induce him to resign through threats and coercion.

97. Mayor Franklin and Director Colbert further acted contrary to R.C. 124.34(C) by threatening, procuring, and enforcing Chief Merkel's removal from classified service without legally sufficient cause; without furnishing him a written removal order stating the reasons for the action; without filing such an order with the Municipal Civil Service Commission; and without affording him the statutory opportunity to appeal.

98. Mayor Franklin and Director Colbert also willfully refused or neglected to comply with and conform to Chapter 124, and willfully violated its provisions, by using threats and coercion to obtain Chief Merkel's purported resignation, treating that involuntary resignation as effective, refusing to recognize his timely rescission, excluding him from

classified employment without compliance with R.C. 124.34(C), and proceeding to fill the resulting purported vacancy.

99. R.C. 124.62 prohibits a person from willfully refusing or neglecting to comply with or conform to the sections of Chapter 124 and from willfully violating any section of that chapter.

100. Mayor Franklin's and Director Colbert's conduct constituted willful violations of R.C. 124.62, including through their underlying violations of R.C. 124.61 and R.C. 124.34(C).

101. R.C. 124.99 expressly subjects a person who violates R.C. 124.62 to criminal penalties. Mayor Franklin's and Director Colbert's willful violations of Chapter 124 therefore constitute criminal acts within the meaning of R.C. 2307.60(A)(1), whether or not either Defendant has been criminally prosecuted or convicted.

102. Mayor Franklin and Director Colbert acted manifestly outside the scope of their duties and/or acted knowingly, intentionally, willfully, maliciously, and/or with conscious disregard for Chief Merkel's classified civil-service rights and for the mandatory requirements of Chapter 124.

103. As a direct and proximate result of Mayor Franklin's and Director Colbert's criminal acts, Chief Merkel suffered and continues to suffer injury to his person and property, including lost wages, benefits, pension contributions, seniority, service credit, employment rights, and other economic and noneconomic harm.

104. Chief Merkel is entitled under R.C. 2307.60(A)(1) to recover full compensatory damages from Mayor Franklin and Director Colbert, jointly and severally to the extent permitted by law, together with the costs of this action, any attorney fees authorized by law,

punitive or exemplary damages under R.C. 2315.21, and all other available legal and equitable relief.

WHEREFORE, Plaintiff-Relator prays that the Court enter judgment in his favor and award the following relief against Defendants-Respondents:

A. Enter a declaratory judgment that Chief Merkel's August 23, 2026 Resignation Rescission was timely and effective; that Defendants-Respondents did not formally accept and communicate acceptance of his prospective resignation before that rescission; that the resignation never became effective; that Chief Merkel remained the City's classified Chief of Police after August 24, 2026; and that no lawful vacancy arose in that position.

B. Alternatively, enter a declaratory judgment that Chief Merkel's purported resignation was involuntary and legally ineffective; that Defendants-Respondents' procurement and enforcement of that resignation constituted a de facto or constructive removal governed by R.C. 124.34(C); that the asserted grounds did not constitute legally sufficient cause for removal; and that Defendants-Respondents failed to comply with the mandatory requirements of R.C. 124.34(C).

C. Permanently enjoin Defendants-Respondents from treating Chief Merkel's resignation as effective, treating the office of Chief of Police as vacant, appointing or employing another person as Chief of Police, or otherwise interfering with Chief Merkel's exercise of the rights and incidents of his classified position, except through procedures authorized by R.C. 124.34 and other applicable law.

D. Issue a writ of mandamus compelling Defendants-Respondents to recognize the Resignation Rescission or, alternatively, to recognize that the purported resignation was involuntary and ineffective; restore Chief Merkel to the position of Chief of Police; cease any competitive hiring process for that position; and refrain from removing him except for legally sufficient cause and in compliance with R.C. 124.34 and other applicable law.

E. Order Defendants-Respondents to restore Chief Merkel's classified status, seniority, service credit, compensation, pension and DROP contributions or credits, employment benefits, and all other rights and incidents of employment.

F. Award Chief Merkel back pay, lost benefits, lost pension and DROP contributions or credits, prejudgment and post-judgment interest as authorized by law, and all other make-whole relief, subject to any offsets required by law.

G. Enter judgment against Mayor Franklin and Director Colbert under R.C. 2307.60(A)(1) for the injuries proximately caused by their criminal acts and award Chief Merkel full

economic and noneconomic compensatory damages, jointly and severally to the extent permitted by law.

H. Award punitive or exemplary damages against Mayor Franklin and Director Colbert under R.C. 2315.21 based on their malicious, intentional, willful, and/or conscious disregard for Chief Merkel's rights.

I. Award Chief Merkel the costs of this action and reasonable attorney fees to the extent authorized by law.

J. Retain jurisdiction to enforce the Court's declaratory, injunctive, and mandamus relief and to determine the amount of back pay, benefits, damages, interest, attorney fees, costs, and other monetary relief due.

K. Award Chief Merkel all other legal and equitable relief to which he is entitled.

Respectfully submitted,

/s/ Stuart G. Torch
STUART G. TORCH (0079667)
DAVID N. TRUMAN (0082347)
EMPLOYMENT LAW PARTNERS, LLC
4700 Rockside Road, Suite 530
Independence, Ohio 44131
(216) 382-2500 (Phone/Fax)
stuart@employmentlawpartners.com
david@employmentlawpartners.com

Attorneys for Plaintiff-Relator Eric Merkel

JURY DEMAND

Pursuant to Rule 38 of the Ohio Rules of Civil Procedure, Plaintiff-Relator hereby requests a trial by jury on all issues so triable.

Respectfully submitted,

/s/ Stuart G. Torch
STUART G. TORCH (0079667)

Attorney for Plaintiff-Relator Eric Merkel

VERIFICATION

STATE OF OHIO :
: **ss.**
COUNTY OF TRUMBULL :

I, Eric Merkel, being duly sworn according to law, depose and state that the factual recitations contained in the foregoing Verified Complaint in this action are true and correct, and all documents attached thereto are authentic copies of the originals, to the best of my knowledge, information, and belief.

ERIC MERKEL

Sworn to and subscribed in my presence this 17th day of October, 2026

NOTARY PUBLIC

ANNA M LONEY
Notary Public
State of Ohio
My Comm. Expires
May 9, 2028

My Commission Expires: May 9, 2028

EXHIBIT
1

July 9, 2026

William D. Franklin, Mayor and Eddie L. Colbert, Director of Public Service and Safety:

Please accept this letter as my resignation from the position of Chief of Police for the City of Warren, effective close of business on August 24, 2026. I am requesting to use my lawfully accumulated vacation from July 9, 2026, through August 24, 2026, with the understanding that the hours used will be reduced from any separation pay.

After careful consideration, I have concluded that stepping aside is in the best interests of the Department, its officers, and the community we serve. This decision is made solely to allow the Department to move forward without ongoing controversy.

I will cooperate fully in ensuring a smooth and orderly transition of leadership.

Thank you for the opportunity to serve.

Respectfully,

Eric J. Merkel

Gmail

Eric Merkel <[redacted]@gmail.com>

Resignation Withdrawal

Eric Merkel <[redacted]@gmail.com> Sun, Aug 23, 2026 at 4:03 PM
To: Doug Franklin <dfranklin@warren.org>, City Of Warren <ecolbert@warren.org>, bmassucci@warren.org, ddaugherty@warren.org

Mayor Franklin, Director Colbert.
Effective immediately, I am withdrawing the letter of resignation signed by me on July 9, 2026. I will continue to use accrued vacation time until further notice.
Respectfully,
Chief Eric Merkel

EXHIBIT
2

EXHIBIT

3

CERTIFIED MAIL™

7012 3460 0002 1655 1702

US POSTAGE
$ 06.33
First-Class - IMI
ZIP 44483
08/24/2026
032A 0061857987

City of Warren
1 Mahoning Ave NW
ren, Ohio 44483-4634
Attn: HR

Eric J Merkel
[redacted]
Warren, Ohio 44484

44484-997475

Office of the Mayor
City of Warren

391 Mahoning Ave., N.W. • Warren, Ohio 44483-4634
Phone: (330) 841-2601 • Fax: (330) 841-2676

William Douglas Franklin
Mayor

Eddie L. Colbert
Director of Service-Safety

August 24, 2026

Eric J. Merkel
Warren Police Department
City of Warren, Ohio

Dear Mr. Merkel:

We are in receipt of your correspondence dated August 23, 2026, advising that you wish to withdraw your resignation.

On July 9, 2026, you submitted your written resignation from the position of Chief of the Warren Police Department, effective at the close of business on August 24, 2026. Your resignation was subsequently accepted by the City under the terms and conditions set forth in your July 9, 2026, letter.

Your request to withdraw your resignation is hereby declined. Accordingly, your resignation remains in effect, and your separation from employment will be effective at the close of business on August 24, 2026, as provided in your resignation letter and the City's acceptance thereof.

Copies of your July 9, 2026, resignation letter and the City's written acceptance of your resignation are enclosed for reference.

Sincerely,

William D. Franklin
Mayor

Eddie L. Colbert
Director of Public Service and Safety

Pc: Enzo C. Cantalamessa, Law Director
Brian M. Massucci, Director, Human Resources
David D. Daugherty, Personnel Supervisor
Vince Flask, Auditor

Enclosures: 1. July 9, 2026, Resignation Letter
2. City's Acceptance of Resignation

"This Agency is an Equal Provider of Services and an Equal Opportunity Employer – C.R.A. 1964"

July 9, 2026

William D. Franklin, Mayor and Eddie L. Colbert, Director of Public Service and Safety:

Please accept this letter as my resignation from the position of Chief of Police for the City of Warren, effective close of business on August 24, 2026. I am requesting to use my lawfully accumulated vacation from July 9, 2026, through August 24, 2026, with the understanding that the hours used will be reduced from any separation pay.

After careful consideration, I have concluded that stepping aside is in the best interests of the Department, its officers, and the community we serve. This decision is made solely to allow the Department to move forward without ongoing controversy.

I will cooperate fully in ensuring a smooth and orderly transition of leadership.

Thank you for the opportunity to serve.

Respectfully,

Eric J. Merkel

Office of the Mayor
City of Warren

391 Mahoning Ave., N.W. · Warren, Ohio 44483-4634
Phone: (330) 841-2601 · Fax: (330) 841-2676

William Douglas Franklin
Mayor

Eddie L. Colbert
Director of Service-Safety

July 9, 2026

Eric J. Merkel
Warren Police Department
City of Warren, Ohio

Dear Mr. Merkel:

I hereby accept your resignation as Chief of the Warren Police Department under the terms and conditions set forth in your letter dated July 9, 2026.

Your resignation is accepted solely to avoid the potential of costly and lengthy litigation. You are instructed to return all City property in your possession no later than 4:00 p.m. on July 10, 2026.

If you have any questions, please contact me.

Sincerely,

Eddie L. Colbert, Director,
Public Service and Safety

Cc: Brian M. Massucci
David D. Daugherty
Civil Service Commission
Payroll
File

"This Agency is an Equal Provider of Services and an Equal Opportunity Employer – C.R.A. 1964"

Office of the Mayor
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William Douglas Franklin
Mayor

Eddie L. Colbert
Director of Service-Safety

July 9, 2026

EXHIBIT
4

Eric J. Merkel
Warren Police Department
City of Warren, Ohio

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If you have any questions, please contact me.

Sincerely,

Eddie L. Colbert, Director,
Public Service and Safety

Cc: Brian M. Massucci
David D. Daugherty
Civil Service Commission
Payroll
File

REQUEST FOR INVESTIGATION AND RECOGNITION OF WITHDRAWAL OF RESIGNATION

To: Warren Municipal Civil Service Commission
From: Eric J. Merkel
Re: Resignation as Chief of the Warren Police Department

EXHIBIT 5

Dear Members of the Warren Municipal Civil Service Commission:

I respectfully request that the Commission (1) recognize and give effect to my timely withdrawal of my resignation (Exhibit A) and restore my position and civil-service rights, and (2) investigate whether City officials procured and enforced that resignation through threats, coercion, political considerations, and disparate treatment in violation of Ohio law.

My resignation, which the City authored, was not voluntary. On July 8, 2026, I was given an ultimatum to resign or be terminated almost immediately after a complaint was made against me (less than 24 hours later). At that time, the complaint and/or affidavit had not been provided to me, no meaningful investigation had been completed, no administrative or criminal charges had been filed, and I had not been afforded the civil-service process that would accompany an attempted removal. I did not resign because I wished to walk away from my position of 31 years but because I was given no choice, and forced to do so. The City was well aware that I was 6 weeks short of a crucial five-year point in the Ohio Police & Fire DROP Program. A separation of service before August 22, 2026 would have resulted in a financial loss of approximately $75,000. The City expressed a willingness to extend my service to this critical date only if I offered my resignation immediately.

This complaint was filed in bad faith by a disgruntled, former detective who was upset over my lack of unconditional support for a grievance he filed in January of 2026 which could have a significant financial impact to the City when the arbitrator delivers his ruling in the coming weeks. This grievance was followed up in May when the officer filed an unfair labor practice

claiming there was a hostile work environment. This was wholly withdrawn with prejudice by the police union due in part to its inaccurate and misleading claims.

City Administration forced my resignation despite their awareness that the allegations in the complaint did not warrant termination as evidenced by their admission that it was accepted "solely to avoid costly and lengthy litigation" (Exhibit B) inherent in a wrongful termination action. This statement was made in the City's "acceptance" of my resignation- an "acceptance" not provided to me in person, by email or regular U.S. mail until after my email to them seeking to withdraw my resignation but given to media outlets immediately. Even the Tribune Chronicle, after accessing the public records documents, questioned why I resigned and attempted to relate it to wholly unrelated lawsuits pending against the City as the allegations contained in the complaint had not been proven and further criminal investigation thereof was declined by Ohio B.C.I. & I. (Exhibit C).

R.C. 124.61 expressly prohibits the use of "threats or coercion" to induce a person in the classified service to resign. A willful violation of Chapter 124 may also implicate R.C. 124.62 and the criminal penalties in R.C. 124.99. R.C. 124.56 further provides that when a municipal civil service commission has reason to believe removal authority has been abused in violation of Chapter 124, the Commission "shall make an investigation," including conduct contrary to the "intent and spirit" of the civil-service laws.

The decision to threaten me with immediate termination also reflects grossly disparate treatment. For example, a City employee was accused of getting paid for overtime to which she was not entitled, yet the Mayor reportedly directed that the involved employee be "given the right answers" if questioned. To my knowledge, that employee was not terminated, charged criminally or even disciplined. That employee is African American. In another incident, a former police captain directed the ethnic slur "dago" at another employee, in the presence of civil-rights

attorneys from the Department of Justice, and received a 30-day suspension rather than termination. In yet another incident, a lieutenant admitted to being intoxicated while driving around on the southeast side of Warren in an unmarked police vehicle, armed, and using racial slurs and soliciting drugs from residents of the Hampshire House apartments. This lieutenant was given a 10-day suspension for which he was permitted to use accrued vacation time. Five months later, he was promoted to Captain by then- Safety Service Director Doug Franklin.

In contrast, I was threatened almost immediately with termination before allegations were meaningfully investigated. Perhaps even more egregious than the threat of a hasty, unlawful termination of a police chief with an outstanding record, 31 years of service, credited with institutionalizing agency reform and a declaration from the Mayor on the same day as the forced resignation that I was "the best Police Chief the City ever had," this Administration has openly admitted to another employee that I was forced to resign because failing to remove me would be "political suicide." Given the Mayor's upcoming election and the nature of the allegations, these circumstances raise substantial questions whether political or other impermissible considerations drove the demand for my resignation rather than consistently applied disciplinary standards.

I withdrew my resignation on August 23, 2026, before its August 24 effective date, and unequivocally advised the City that I intended to remain employed. The City nevertheless rejected my withdrawal and proceeded with my separation. (Exhibit D). The City should not be permitted to accomplish through a coerced resignation what otherwise would have required lawful disciplinary or removal proceedings and the process afforded to me by Ohio law.

I respectfully request that the Commission investigate this matter pursuant to R.C. 124.56; recognize the withdrawal of my resignation; reinstate me to the position of Chief of Police; and order backpay and benefits to August 25, 2026; preserve and restore my civil-service rights; obtain the relevant records concerning the comparator incidents described above; and determine

whether the actions taken to procure and enforce my resignation violated R.C. 124.61 or other provisions of Ohio law.

I am still in possession of a valid Ohio Police Officer Training Academy certification and can return to work immediately. I am prepared to appear before the Commission and provide testimony, documents, and witnesses concerning these matters.

Respectfully,

Eric Merkel

Eric J. Merkel
Former Chief of Police
Warren Police Department

[redacted]@gmail.com

Human Resources Department

City of Warren

391 Mahoning Ave., N.W. · Warren, Ohio 44483-4634
Phone: (330) 841-2610 · Fax: (330) 841-2676

William Douglas Franklin
Mayor

Eddie L. Colbert
Director of Service-Safety

Brian M. Massucci
Director

August 26, 2026

EXHIBIT 6

Warren Civil Service Commission
% City Hall
391 Mahoning Ave., N.W.
Warren, Ohio 44483-4634

Dear Commission:

Following the resignation of Eric Merkel, I am requesting that a promotional examination be administered for the position of Chief of Police in the City of Warren Police Department.

Please feel free to contact me with any questions.

Sincerely,

Eddie L. Colbert, Director
Public Service and Safety

Cc: Brian M. Massucci
David D. Daugherty
Capt. Robert Massucci
Civil Service File