

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
Case Type: 7 – Employment

Danielle Baggett, Patrick King, Daniel Kurtz,
Tracey Martin, Jeffrey Storms, Timothy Stout,
and Dawanna Witt,

Court File No.: _____

Plaintiffs,

v.

**COMPLAINT
(JURY TRIAL DEMANDED)**

Hennepin County,

Defendant.

Plaintiffs Danielle Baggett, Patrick King, Daniel Kurtz, Tracey Martin, Jeffrey Storms, Timothy Stout, and Dawanna Witt, by their attorneys, Nichols Kaster, PLLP, Premo Frank PLLC, and Tostrud Law Group, PC, bring this action for damages and other relief, stating the following as their claims against Defendant Hennepin County:

INTRODUCTION

1. While former Hennepin County Sheriff David Hutchinson (“Hutchinson”) held the highest law enforcement position in Hennepin County, he created a work environment at the Sheriff’s Office filled with bigotry and fear. He brutally demeaned many of his subordinates because of their race, sexual orientation, and other protected statuses—regularly using derogatory language such as “hood rat,” “gorilla,” “faggot,” “pedophile,” and “retarded” in the office. He was also openly vindictive—he threatened to fire people and talked about killing people who crossed him, often dangerously waving his loaded service weapon around while doing so. Hutchinson was allowed to engage in this abhorrent behavior with impunity for several years.

2. In December 2021, after Hutchinson crashed his County vehicle while drunk, his

conduct became even more erratic and dangerous. In addition to frequent angry outbursts and vengeful threats directed toward County employees, Hutchinson also began stealing County funds and covering for other County employees who were doing the same.

3. Plaintiffs, seven employees of Hennepin County with more than 130 years of law enforcement experience between them, were subordinates of Hutchinson. This group represents a highly dedicated collection of individuals who the County relies on for the safety and welfare of County residents and visitors. Many of the Plaintiffs have received awards and honors for their commitment to public safety. On several occasions starting in at least the summer of 2019, Plaintiffs and others reported Hutchinson's harassing, illegal, and unsafe conduct to the County. The County refused to address it for years, ignoring its legal obligations to maintain a safe workplace free of discrimination while making the excuse that its hands were tied due to Hutchinson's elected position.

4. When the County finally began investigating some of Plaintiffs' concerns in April 2022, Hutchinson retaliated, threatening to "fire" his entire Command Staff and Chief of Staff for insubordination and take other actions to "address" the "insubordination." He screamed at Plaintiff Dawanna Witt that he would get her fired and ruin her reputation, and made similar threats about other whistleblowers who crossed him.

5. Because of Hutchinson's conduct, which the County failed to address, Plaintiffs feared for their lives and the lives of their coworkers and families. Following a particularly explosive meeting on April 19, 2022, Plaintiffs believed that they were "sitting ducks" at work and would be the victims of a mass shooting by Hutchinson. The County was aware of Hutchinson's dangerous and retaliatory behavior, but still refused to take action for several weeks. During these harrowing weeks, Plaintiffs were required to work at the office with Hutchinson, who knew

Plaintiffs had made reports about him and was openly enraged about it.

6. Although Hutchinson eventually went on administrative leave in or around mid-May 2022, and was censured seven months later, he continued to retaliate against Plaintiffs. He disparaged them publicly, made accusations of betrayal, threatened that “karma” would get them, and warned them to “watch their six”—a military term that means to watch your back. Hutchinson’s angry campaign of retaliation continued into the spring of 2023, after the County notified him about the claims in this case, when Hutchinson used his associate to deliver a threatening package to several Plaintiffs at the Sheriff’s Office that included a handwritten note saying, “BULLS***! You should be ashamed.”

7. Despite knowing about Hutchinson’s recent vengeance, the County has done nothing to ensure the safety of Plaintiffs and their families. It has not even bothered to meet with Plaintiffs to see how they are doing or what they need to feel safe in their workplace. In the absence of County intervention, Plaintiffs have been forced to take action to protect themselves and their families, including some buying security systems for their homes and, in one instance, calling another County’s Sheriff’s Office to request a patrol car at their home. They now bring this case to obtain relief for the hostility and distress they have been forced to endure, and to ensure that the County does not allow it to happen again.

PARTIES

8. Plaintiff Danielle Baggett is an individual residing in Hennepin County, Minnesota. Baggett is presently an Administrative Assistant Senior for the Hennepin County Sheriff’s Office.

9. Plaintiff Patrick King is an individual residing in Washington County, Minnesota. King was formerly Major of the Investigations Bureau for the Hennepin County Sheriff’s Office.

10. Plaintiff Daniel Kurtz is an individual residing in Goodhue County, Minnesota.

Kurtz is presently Major of the Administrative Services Bureau for the Hennepin County Sheriff's Office.

11. Plaintiff Tracey Martin is an individual residing in Hennepin County, Minnesota. Martin is presently Chief Deputy for the Hennepin County Sheriff's Office.

12. Plaintiff Jeffrey Storms is an individual residing in Hennepin County, Minnesota. Storms was formerly Major of the Administrative Services Bureau for the Hennepin County Sheriff's Office.

13. Plaintiff Timothy Stout is an individual residing in Washington County, Minnesota. Stout is presently Chief of Staff for the Hennepin County Sheriff's Office.

14. Plaintiff Dawanna Witt is an individual residing in Hennepin County, Minnesota. Witt is presently the Sheriff of Hennepin County.

15. Defendant Hennepin County (the "County" or "Defendant") is a Minnesota public corporation located in Hennepin County, Minnesota. At all times relevant, the County acted through its proxy or alter ego and/or its agents, including, but not limited to, Hutchinson.

JURISDICTION AND VENUE

16. Plaintiffs assert claims under the Minnesota Human Rights Act, Minn. Stat. § 363A.01, *et seq.*, the Minnesota Whistleblower Act, Minn. Stat. § 181.931, *et seq.*, and common law.

17. This Court has jurisdiction over Defendant because Defendant is a Minnesota public corporation, Defendant conducts business in Minnesota, Defendant employed and/or presently employs Plaintiffs in Minnesota, and Defendant's actions and/or omissions caused harm to Plaintiffs in Minnesota.

18. Venue is proper in Hennepin County because the Defendant is Hennepin County,

Defendant conducts business in Hennepin County, Defendant employed and/or presently employs Plaintiffs in Hennepin County, and Defendant's actions and/or omissions caused harm to Plaintiffs in Hennepin County.

FACTUAL ALLEGATIONS

Hutchinson Is Elected Hennepin County Sheriff.

19. David Hutchinson was elected Sheriff of Hennepin County in November 2018.

20. Hutchinson began transitioning into the Sheriff's Office in December 2018 and formally took office in early January 2019.

21. As Sheriff of Hennepin County, Hutchinson was the highest-ranking law enforcement officer in Hennepin County and the County's proxy or alter ego.

22. As Sheriff, Hutchinson had the authority to appoint individuals to roles within the Sheriff's Office, subject to the County's human resources and compensation policies. Individuals who were appointed by Hutchinson to roles within the Sheriff's Office were employed by Hennepin County. For civilian appointees, Hutchinson could recommend those appointees to civil service-protected roles, subject to approval by Hennepin County.

23. Hutchinson also had the authority to remove individuals from roles that he had appointed them to, and to recommend the demotion, transfer, or termination of Hennepin County employees to the County. For civilian appointees without civil service-protection, Hutchinson had the authority to terminate their employment.

24. Hennepin County had the authority to exercise control over Hutchinson and/or discipline Hutchinson in a number of ways.

25. Hennepin County set and controlled Hutchinson's budget and compensation as Sheriff, as well as his County-issued purchasing card.

26. Hennepin County controlled the Sheriff's Office facilities, as well as Hutchinson's County-issued property, including his vehicle and firearm.

27. Hennepin County set policies governing County employees in the Sheriff's Office and requires periodic training on its policies. As a specific example, the County maintains a Non-Discrimination and Respectful Workplace Policy committing it to keeping the workplace free of discrimination and harassment.

28. Hennepin County had the ability to investigate Hutchinson's conduct and publicize its findings.

29. Hennepin County had the ability to facilitate a leave of absence for Hutchinson.

30. Hennepin County had the ability to issue a public censure of Hutchinson.

31. Hennepin County also had the ability to recommend that Hutchinson be removed from office.

Plaintiffs' Roles in Hutchinson's Administration.

32. Hutchinson had not previously held a leadership role in law enforcement, but he selected a highly experienced team to support him and run the Sheriff's Office effectively.

33. Upon taking office in January 2019, Hutchinson appointed Plaintiff Tracey Martin ("Martin") the Chief Deputy of the Hennepin County Sheriff's Office. Martin has been employed with the Sheriff's Office since 1996 and has served in four separate Sheriffs' administrations.

34. As Hutchinson's Chief Deputy, Martin was second in command of the Sheriff's Office. Martin led day-to-day operations of the Sheriff's Office and oversaw the Majors that lead each of the Office's bureaus (together with Martin, the "Command Staff").

35. In January 2019, Hutchinson appointed Plaintiff Patrick King ("King") as a Major and tasked King with leading the Investigations Bureau. King has worked in law enforcement for

over 33 years.

36. When Hutchinson took office in January 2019, Hutchinson appointed Plaintiff Jeffrey Storms (“Storms”) as a Major to lead the Administrative Services Bureau. When Hutchinson began his term, Storms had been working for the Hennepin County Sheriff’s Office for approximately 27 years and had previously served as Chief Deputy under former Sheriff Richard Stanek.

37. After taking office in January 2019, Hutchinson appointed Plaintiff Timothy Stout (“Stout”) to the role of Senior Administrative Manager. In or around January 2021, Hutchinson appointed Stout to Chief of Staff. Stout has been working for the Hennepin County Sheriff’s Office since 2012 after a career in a variety of government and policy roles.

38. Plaintiff Danielle Baggett (“Baggett”) was an Administrative Assistant Intermediate when Hutchinson took office in January 2019. During Hutchinson’s administration, Baggett was responsible for providing administrative support to Chief Deputy Martin and Majors King, Daniel Kurtz, Storms, and Dawanna Witt. Baggett began her employment with the Hennepin County Sheriff’s Office in February 2014.

39. In September 2019, Hutchinson appointed Plaintiff Dawanna Witt (“Witt”) as a Major to lead Hennepin County’s Adult Detention and Court Services. Witt began her career in law enforcement in 2000 and previously held roles in both the Hennepin County and Dakota County Sheriffs’ Offices before returning to the Hennepin County Sheriff’s Office under Hutchinson.

40. Witt was appointed as an external hire and did not have civil service protection until early 2021.

41. In December 2019, Hutchinson asked Plaintiff Daniel Kurtz (“Kurtz”) to join his

administration as a legal advisor and work on Data Practices Act compliance for the Sheriff's Office. Kurtz began his career in law enforcement in 2001 as a police officer and practiced as an attorney in a variety of government and law enforcement related roles.

42. Kurtz was hired as a civilian and did not have civil service protection until April 20, 2022.

43. In March 2020, Hutchinson appointed Kurtz as a Major and tasked him with leading the administrative side of the Sheriff's Office, including overseeing tasks such as hiring, training, policy, and Data Practices Act compliance.

44. As Sheriff, Hutchinson had the authority to supervise and direct each of the Plaintiffs' daily work activities.

Hutchinson Engages in Offensive Workplace Conduct.

45. Hutchinson was often unprofessional and disrespectful, lacking appropriate boundaries in his conduct and communications with both employees and third parties.

46. Hutchinson would regularly demean and publicly embarrass employees in front of other employees, County leaders, and personnel from other law enforcement agencies.

47. During Hutchinson's tenure, Plaintiffs and other employees were subjected to, or witnessed, Hutchinson make highly offensive comments relating to race, sex/gender, disability, national origin, and sexual orientation, among other protected characteristics.

Hutchinson Discriminates Against Plaintiffs Baggett and Witt Based on Race.

48. Baggett and Witt are Black women.

49. Hutchinson regularly engaged in racist conduct that made Baggett and Witt extremely uncomfortable in the workplace.

50. Baggett's office was one office away from Hutchinson's office. As Hutchinson

passed Baggett's office, Hutchinson would mimic what he apparently perceived to be Black patterns of speech and movement—for example, changing his walking style and his voice to be in a manner that he believed to be “Black.” When engaged in this offensive caricature, Hutchinson would curse and ask Baggett and whoever else was around if they wanted to go “smoke some weed.”

51. Baggett estimates that Hutchinson engaged in this racist behavior in nearly all of her interactions with him.

52. Witt also witnessed Hutchinson engage in this racist caricature behavior and was aware that Hutchinson was regularly engaging in this behavior. Hutchinson only engaged in this behavior around Baggett, Witt and other Black employees.

53. Hutchinson regularly made racially charged comments to Baggett about her Black co-workers, including Witt.

54. Witt learned that Hutchinson made comments about her race to other employees, including, but not limited to the following:

- stating that Witt “likes white chocolate,” referring to her being Black and having a White spouse; and
- in a discussion about Witt seeking the DFL endorsement for Hennepin County Sheriff, Hutchinson stated, “She get (sic) dfl for sure. Black all the (sic) care about” and “People are sick of black people getting things solely on being black.”

55. Hutchinson often made offensive comments to Witt that targeted her race. For example, on at least one occasion, Hutchinson referred to Witt as a “hood rat.”

56. In the wake of the murder of George Floyd in 2020, Hutchinson made the following comments to Witt:

- “Do you have to be Black to talk to Black people?”;
- “I don't know how to talk to Black people”;

- “Maybe I should hire your husband since he is White and knows how to talk to a Black woman?”; and
- stating “this fucking gorilla keeps calling me” in reference to Nekima Levy Pounds, a Black lawyer and social justice activist.

57. In the wake of the murder of George Floyd, Hutchinson was overheard referring to Black people as “criminals.”

58. On at least one occasion, Hutchison told Baggett and Witt separately that he knew, “the darker the berry the sweeter the juice.”

59. Hutchinson made comments that Witt and other Black individuals only receive leadership roles or promotions because they are Black.

60. Hutchinson referred to Martin, who is also Black, as a “token hire” for the County.

61. Hutchinson’s offensive comments about race, as well as his insulting mocking of what he believed to be Black patterns of speech and movement, were persistent when Hutchinson was in the Sheriff’s Office.

Hutchinson Targets Employees Based on Sexual Orientation and Perceived Sexual Orientation.

62. Hutchinson regularly made offensive comments about employees’ sexual orientation, including referring to employees as “Gay [Name],” and using homophobic slurs, such as “faggot.”

63. King is married to a woman, but Hutchinson repeatedly made comments to King, other employees, law enforcement personnel, and the public, about what he apparently perceived to be King’s sexual orientation.

64. Hutchinson consistently alleged King was gay and called King offensive homophobic slurs such as “faggot.” Hutchinson also called King a “pedophile.”

65. For example, on one occasion, when King asked Hutchinson if he needed

information in preparation for a phone call with another state officer, Hutchinson responded: “I don’t know. Maybe. Fuck you-ya bald mumbling faggot.”

66. Hutchinson told King and others that on the “gay scale” King was more “gay than straight” and alleged King wore “negligees” and “pink halter tops.”

67. On another occasion, Hutchinson sent King and a male County employee an email, asking King to help the employee because the employee “loves handsome thick HCSO (Hennepin County Sheriff’s Office) majors named Pat King (he must not know you).”

68. King was embarrassed and distressed by Hutchinson’s repeated comments about sexual orientation. Hutchinson would not only make these comments in front of King and other employees, but in front of County leaders and other law enforcement agencies.

69. On occasion, Hutchinson made harassing comments to Kurtz regarding sexual orientation. For example, Hutchinson would call Kurtz, who is married to a woman, gay slurs such as “faggot,” and referred to him as “Gay Dan.” Hutchinson referred to Kurtz as a “woman” and falsely stated that Kurtz engaged in “cross-dressing.”

70. On multiple occasions, Hutchinson would call Stout, who is married to a woman, “Gay Tim.”

71. Hutchinson would make these comments in front of other employees and third parties, such as attorneys who were meeting with Hutchinson and Kurtz about working with the Sheriff’s Office.

72. When King, Kurtz and others asked Hutchinson to stop his offensive comments and homophobic slurs, Hutchinson would laugh it off and continue his conduct.

Plaintiffs and Other Employees Complain to Hennepin County Leaders About Hutchinson’s Conduct.

73. On many occasions, Plaintiffs King, Kurtz, Martin, Storms, Stout, and Witt told

Hutchinson to stop and that he could not engage in conduct that was offensive and/or targeted employees based on their protected characteristics. Hutchinson ignored their complaints and continued his harassing behavior.

74. Kurtz and Martin would remind Hutchinson that written communications were subject to the state Data Practices Act, hoping that would stop Hutchinson from using text messages and emails to make discriminatory statements. It did not.

75. Martin and the other Plaintiffs were routinely put in a position where they had to engage in damage control by correcting and apologizing for Hutchinson's behavior to other employees and third parties.

76. Martin relayed both her own and other Plaintiff's complaints about Hutchinson's inappropriate and unprofessional conduct to County Leaders, specifically Chela Guzman ("Guzman"), Assistant County Administrator. The County never took any corrective action in response.

77. In or around August 2019, then Chief of Staff, Robert Allen ("Allen"), complained to County Administrator, David Hough ("Hough"), and Assistant County Administer, Mark Thompson ("Thompson"), about Hutchinson's harassment and discriminatory comments and suggested Hutchinson receive coaching. Allen specifically told Hough and Thompson that he and other leaders in the Sheriff's Office had "no control over [Hutchinson]." Hough and Thompson responded that Hutchinson was an elected official and did not report to the County. Allen told Hough and Thompson that those working under Hutchinson in the Sheriff's Office and targeted by Hutchinson were County employees and therefore the County had "a problem." Nonetheless, the County did not take corrective action.

78. In late summer of 2019, Allen reported Hutchinson's harassment to then County

Attorney, Michael Freeman. During their conversation, Allen told Freeman: “You have a problem with your Sheriff and it is going to explode.”

79. In or around January 2021, Allen separated from his employment with Hennepin County. Allen was clear in his communications to County leaders, including Thompson, that he was forced to leave because of Hutchinson’s harassment and offensive conduct, as Hutchinson often targeted Allen based on sexual orientation.

80. After Allen separated from the Sheriff’s Office, Stout became Hutchinson’s Chief of Staff in or around January 2021.

Hutchinson Threatens Employees’ Physical Safety in the Workplace.

81. Hutchinson would threaten employees that they would be fired if they did something he did not like. He would make statements such as: “There is the door,” or “You are appointed, and I don’t need to keep you.”

82. On a number of occasions, Hutchinson would make statements about using his County-issued firearm to shoot people who disagreed with him. Hutchinson would grasp his weapon and ask: “should we kill them?” or “should we shoot them?” referring to the individuals upsetting him.

83. Hutchinson would also pull out his County-issued firearm when people disagreed with him. On several occasions, Hutchinson removed his loaded gun from his holster and waved the gun around.

84. On one occasion in or around 2021, approximately two years into Hutchinson’s administration, King, Storms and several other employees were in Hutchinson’s office when Hutchinson unholstered his gun, a revolver, and aimed it at employees while “joking” about “shooting” people. In doing so, Hutchinson flipped open the gun’s chamber and bullets fell to the

ground.

85. As seasoned law enforcement professionals, King and Storms were incredibly disturbed. Storms told Hutchinson to stop and that he could seriously hurt someone.

86. Hutchinson's threats to use his weapon to target individuals who upset him, coupled with his reckless handling of firearms in the Sheriff's Office, made employees fear for their physical safety in the workplace.

Hutchinson Crashes a Hennepin County Vehicle While Intoxicated.

87. In December 2021, Hutchinson crashed and totaled his County vehicle while driving intoxicated.

88. Upon Hutchinson's return to the Sheriff's Office following the crash, his harassing conduct continued, but was compounded with anger and increasingly erratic behavior.

89. At the time, Hutchinson was under public pressure to resign from his position as Sheriff, but he remained in office.

90. Martin, Stout and other Plaintiffs on the Command Staff advised Hutchinson to address the media, take responsibility, and apologize for his behavior.

91. Hutchinson ultimately addressed the media about the crash, including an interview with CBS Minnesota in or around December 27, 2021. In response to questions during the CBS Minnesota interview about whether he had ever driven drunk prior to the accident, Hutchinson responded, "You know, I think everybody has at one point." After being publicly lambasted for this response, Hutchinson falsely alleged to others that Martin and Stout had "set [him] up."

92. In the Sheriff's Office, Hutchinson was aggressive and frequently yelled at and threatened employees, including Plaintiffs. His offensive and embarrassing comments based on Plaintiffs' protected statuses increased.

93. Plaintiffs and others in the Sheriff's Office became more fearful of Hutchinson's unpredictable behavior, which included threats to their jobs and threats to their physical safety.

94. Plaintiffs had serious concerns about Hutchinson's potential for violence and worried he would "snap."

95. Hutchinson engaged in conduct that was erratic and indicated paranoia, including having the locks on his office door changed. Hutchinson also claimed that offices were "bugged," and had a white noise machine delivered to the office. In or around February 2022, Hutchinson told Stout that he believed his County-issued vehicle had brakes with "signs of tampering." Hutchinson said that he was having an independent shop look for signs of tampering and then would "go to the FBI."

96. Hutchinson pitted employees against each other and ruined relationships between co-workers. For example, Hutchinson falsely told employees that Baggett was "watching" them enter and leave the Office and reporting it to Martin. He told employees not to "trust" Baggett and alleged that she was informing on them.

97. Hutchinson declared in an office meeting that it was his administration; he was the Sheriff; and staff must get on board with him. If not, Hutchinson threatened: "You will be removed. I have that power."

98. Hutchinson told Martin: "It's my office and no one else's. I have at least a year left and I will do what I want."

99. Throughout early 2022, Martin regularly reported to Assistant County Administrator Guzman her own and other Plaintiffs' concerns about Hutchinson's combative, erratic, and inappropriate conduct towards employees. Still, the County took no corrective action.

100. Also in early 2022, King complained to Jim Keeler ("Keeler") from the County

Attorney's Office about the ongoing harassment from Hutchinson. At the time, Keeler was the Hennepin County Attorney's Office assigned counsel and liaison to the Sheriff's Office. Again, the County took no corrective action.

Plaintiffs Reported to Hennepin County that Hutchinson Was Misusing County Funds.

101. Beginning in mid-December 2021, several Plaintiffs grew concerned about Hutchinson's use of his County purchasing card ("p-card").

102. Following Hutchinson's car crash, the Sheriff's Office received a number of data practices requests for records involving Hutchinson, including Hutchinson's p-card statements.

103. Kurtz, who oversaw data practices requests to the Sheriff's Office, routinely urged Hutchinson to comply with the law and produce necessary records, including over Hutchinson's objections. In some of these exchanges, Hutchinson would threaten to demote Kurtz for pushing him to comply and respond to data practices requests.

104. After reviewing records relating to data practices requests, King, Kurtz, and Stout noticed a number of irregularities in Hutchinson's spending and became concerned that Hutchinson was making unauthorized charges to his County p-card.

105. For example, Hutchinson would charge his County p-card at a gas station to fill a tank of gas, and then, a day later, again charge his card for a full tank of gas.

106. Other examples of concerning charges that Hutchinson made on his County p-card included clothing purchases, expensive meals, and gift cards.

107. Hutchinson had previously disclosed that the County was making him pay for the damage to the County vehicle he had crashed in December 2021, and threatened to "get the money back" and spend it on whatever he wanted to.

108. Hutchinson also told Martin that if the County "fucked" him by seeking money for

the car, he was going to “fuck them.”

109. King, Kurtz and Stout reported their concerns about Hutchinson’s p-card spending to Martin.

110. Kurtz also reported Hutchinson’s p-card spending to the County Attorney’s Office during this time.

111. On or about February 23, 2022, Stout notified Keeler in the County’s Attorney’s Office about Hutchinson’s harassing conduct and irregularities with Hutchinson’s spending on the County p-card.

112. In or around March 2022, a local businessman who had ongoing business with the County called Stout. The businessman had seen Hutchinson at a restaurant while dining with someone else. When it came time to pay, the businessman learned that Hutchinson had already paid his bill and was concerned that Hutchinson’s “gift” created a conflict with respect to his ongoing and/or pending contracts with the County. After Martin and Stout confirmed with the County’s Finance Department that Hutchinson had used his County p-card to pay for the businessman’s meal, Stout worked with the businessman to swiftly reimburse the County.

113. Martin notified Hutchinson that the Sheriff’s Office had worked with the businessman to reimburse the County and that he could not use his p-card for personal purchases. As Stout had been the one to work with the local businessman to reimburse the County, Hutchinson would have known that it was Stout who raised these concerns to Martin.

114. After Martin alerted the County Finance Department about the concerns regarding Hutchinson’s County p-card spending in or around March 2022, the County Finance Department began an audit.

Plaintiffs Continued to Complain to Hennepin County Leaders About Hutchinson’s Conduct and Hutchinson Strips Stout of Three Direct Reports.

115. Beginning in approximately early February 2022, Martin began regularly reporting Hutchinson’s bizarre, inappropriate, and aggressive behavior to Guzman.

116. In early 2022, Stout became concerned that three of his direct reports were submitting fraudulent timecards. On several occasions in early 2022, Stout raised concerns to Hutchinson about the veracity of the timecard submissions of these three individuals. Hutchinson dismissed Stout’s concerns and discouraged Stout from continuing to question whether these employees were accurately submitting time worked.

117. In or about mid-March, 2022, Martin confronted Hutchinson about the timecard submissions of the same three employees. Hutchinson asked Martin if Stout was “the snitch” about the timecards. Hutchinson told Martin that he would terminate people for continuing to probe into employee timecards.

118. On or around March 11, 2022, Martin and Stout discussed concerns about the employee timecards with Keeler.

119. On or around March 14, 2022, Martin again reported concerns to Guzman that Hutchinson was displaying bizarre behavior during a staff meeting.

120. On or around March 26, 2022, King complained to Hennepin County Commissioner Jeffrey Lunde (“Lunde”) about Hutchinson’s conduct, including Hutchinson subjecting him to offensive comments based on his perceived sexual orientation, and other conduct causing an intimidating work environment for many in the office. Lunde responded that Hutchinson’s conduct did not “surprise” him, or words to that effect.

121. Upon information and belief, Commissioner Lunde shared King’s complaint with County Administrator Hough, who then alerted Assistant County Administrator Guzman. Shortly

thereafter, Guzman contacted Martin and asked if King was “OK,” but did not commit to any corrective action.

122. On or around March 28, 2022, Hutchinson summarily stripped Stout of managing three out of four of his direct reports. The three employees Hutchinson removed from Stout were the same employees whose timecard submissions Stout had raised concerns about.

123. Without any explanation, Hutchinson told Stout that the three employees would now report to Hutchinson directly. This was a highly unusual move, as Sheriffs did not typically manage staff employees as direct reports.

124. As Stout’s only remaining direct report had recently announced their intention to separate from the Sheriff’s Office, Hutchinson’s action ultimately left Stout without any direct reports.

125. Once Hutchinson assumed supervision of these employees, the employees submitted their timecards directly to Hutchinson for payroll approval.

126. King, Martin, and Stout became concerned about the lack of accountability for these three employees, particularly with the existing concerns about the veracity of their timecard submissions.

127. Martin suggested to Hutchinson that these employees create a Teams Calendar so that other employees would know their schedule. Hutchinson refused, stated that he was supervising them, and they could do “whatever they want.”

128. After these employees coded that they were working regular hours on days when their social media posts indicated they were out-of-state and did not appear to be working, King, Martin, and Stout grew increasingly concerned about potential timecard fraud.

129. When King and Stout raised these concerns with Hutchinson, he told them that it

was none of their business, the three employees reported directly to him, and “If I say they are working, they are working.”

130. When Martin asked Hutchinson about the employees’ timecards, specifically the instance where the employees coded that they were working regular hours on days when their social media posts indicated they were out-of-state and did not appear to be working, Hutchinson responded: “I’m not going to play this Mickey Mouse stuff.”

131. On or around March 31, 2022, Martin spoke with Guzman about Hutchinson’s p-card spending and Martin confirmed she was working with the County Finance Department who was performing an audit.

132. A couple of weeks later, on or around April 13, 2022, Martin alerted Guzman and Hough that, after concluding its audit, the County Finance Department recommended shutting off Hutchinson’s County p-card.

133. In mid-April, the County shut down Hutchinson’s County p-card.

Hutchinson Retaliates Against Plaintiffs King, Kurtz, Martin, Storms, Stout, and Witt for Reporting Violations and Suspected Violations of Law.

134. On or around April 18, 2022, Hutchinson met with Stout about initiatives he wanted the Sheriff’s Office to work on. Hutchinson was confrontational and appeared upset with Stout. Stout said very little in an attempt to defuse the situation. Hutchinson told Stout he would not stand for “insubordination” and made it clear that Stout would face consequences if he did not do what Hutchinson wanted.

135. That same day, Hutchinson entered Stout’s office while Stout was speaking with an employee and began yelling, “Nobody better mess around with [employee’s] fucking timecard!”

136. On April 19, 2022, during a regularly scheduled, in-person Command Staff

meeting, Hutchinson explosively confronted King, Kurtz, Martin, Storms, and Witt, all of whom were in attendance, threatening to terminate those who continued questioning, reporting, or otherwise opposing his apparently unlawful activities.

137. Early in the meeting, there was a discussion regarding documents that Kurtz believed the Sheriff's Office needed to release pursuant to the state Data Practices Act. Hutchinson refused to comply and told Kurtz not to provide the records. When Kurtz and the other Command Staff told Hutchinson he had to comply with the statute, Hutchinson began laughing and talking about the government and CIA attempting to "take him out."

138. Hutchinson threatened to demote and terminate Kurtz for continuing to insist that Hutchinson comply with the Data Practices Act.

139. During the same meeting, King, Kurtz, Martin, Storms, and Witt raised concerns about Hutchinson's timecard approvals for the three staff members he had recently removed from reporting to Stout.

140. Hutchinson yelled that people were accusing him of cheating on his timecards. When Hutchinson was corrected and told that the issue concerned improper time keeping by other employees and his approval of their timecards, Hutchinson shouted: "I am the fucking Sheriff. If I approve time, I approve time."

141. Hutchinson began screaming that he would terminate those who questioned his activities and were looking into his approval of employee timecards.

142. Hutchinson said that he knew someone in the Sheriff's Office Administration was looking at his time and the time of the employees who reported to him, and that he would "walk them out," i.e., terminate them. Hutchinson threatened the Command Staff that he knew who it was and that when he could prove it, those who were looking into the timecards would "regret they

ever did it” and would be removed from the Sheriff’s Office.

143. In response to Hutchinson’s threats, Martin and the others in attendance told Hutchinson that it would be unlawful to terminate those reporting violations or suspected violations of law.

144. King stated, “If me or anyone else believes you are breaking the law and we report it, we would be a whistleblower,” to which Hutchinson responded: “So you’re a whistleblower? Bring it on. There is nothing anyone can do to me,” and “I will fucking walk you out right now.”

145. King and the other Plaintiffs in attendance insisted that Hutchinson could not retaliate against employees for raising concerns about fraud and other unlawful or suspected unlawful conduct, but Hutchinson continued to scream at King, Kurtz, Martin, Storms, and Witt, despite their efforts to try to calm Hutchinson down.

146. Ultimately, Hutchinson declared he would “fire” the whole Command Staff and have them investigated for insubordination.

147. Hutchinson was so hostile during this meeting that Storms left the meeting upset and deeply disturbed. Storms did not return to the meeting.

148. At one point, Hutchinson was screaming directly at Witt and specifically threatened her reputation and job with the County.

149. When Witt told Hutchinson not to threaten her or talk to her that way, Hutchinson replied, “You haven’t seen threatening yet.”

150. Witt left the meeting crying. Witt was so disturbed and upset by Hutchinson’s behavior, that she grabbed a number of personal items from her office and exited the building with no intention of returning to work at the Sheriff’s Office. But, at the time, Witt’s husband was battling leukemia, and she could not afford to lose her family’s health insurance. Witt collected

herself and ultimately returned to the meeting, where the remaining Command Staff members were extremely upset and concerned about Hutchinson's hostile, retaliatory conduct.

151. Before storming out of the meeting himself, Hutchinson declared that he was considering putting "everyone" on administrative leave for "insubordination."

152. Stout did not attend the meeting with Hutchinson on April 19, 2022, but could hear from his office that Hutchinson was screaming loudly down the hall.

153. While the meeting was ongoing, Witt burst into Stout's office in tears. Storms followed Witt and said: "I can't believe what I just witnessed," and "I've been in law enforcement for over 25 years, and I have never been treated like this."

154. Stout was told about Hutchinson's threats to terminate employees for insubordination who were looking into employee timecards, which Stout interpreted to refer to him directly, since he had raised that concern to Hutchinson, Martin and County leaders.

155. Later that day, following the meeting, King, Kurtz, Martin, Storms, Stout, and Witt met without Hutchinson. Each agreed that Hutchinson was out of control, aggressive, and potentially dangerous, and that they needed to again report Hutchinson's conduct to the County Administrator's Office.

156. In addition to fearing for their jobs, Plaintiffs were concerned that Hutchinson had access to the Sheriff's Office, could freely come and go, and feared for their physical safety and the potential for workplace violence.

157. That day, April 19, 2022, Martin notified Guzman about Hutchinson's conduct during the Command Staff meeting and his threats to retaliate against employees for reporting violations or suspected violations of law. Martin asked for help and told Guzman that employees believed Hutchinson was out of control and were concerned Hutchinson would become physically

violent.

158. That evening, Hutchinson sent a text message to Martin telling her that the more he thought about the earlier meeting, the “more angry” he became due to employees’ “insubordination.” Hutchinson told Martin that he was reviewing policies for “further violations.”

159. Hutchinson asked Martin to meet him outside the office the next morning, April 20, 2022, so he could discuss “what I want done,” and wrote, “[a]s for today and [sic] the insubordination [sic] will be addressed.” Hutchinson told Martin that he was hiring an “HR Attorney” to discuss next steps and was going to ask Internal Affairs to investigate employees.

160. Martin was concerned about meeting Hutchinson alone outside the Sheriff’s Office and notified Guzman.

161. Guzman advised Martin not to meet Hutchinson alone, outside the Sheriff’s Office.

162. Guzman told Martin that the County would begin an investigation into Hutchinson’s conduct and that Hough, Michael Rossman (“Rossman”), the County Chief Human Resources Officer, and County Board Attorney Beth Stack (“Stack”) were all aware.

163. That evening, Martin spoke with Hough who confirmed individuals on both the Command Staff and administrative staff had contacted Lunde about Hutchinson’s explosive and retaliatory conduct during the meeting.

164. Late in the evening on April 19, 2022, Hutchinson told Kurtz that he and “everyone else” were insubordinate, and that he had requested the Sheriff of a different County to begin an investigation into Kurtz’s insubordination.

165. Following the explosive April 19, 2022 meeting, Hutchinson continued to come into the Sheriff’s Office—armed with his County-issued weapon—and engage in harassing and retaliatory behavior.

166. On the morning of April 20, 2022, Hutchinson told Martin by phone that he was even more upset and angry about the Command Staff meeting the previous day, and that he may come down to the Office and “walk people out.” Martin told Hutchinson that he needed to stop threatening employees and that there were legal obligations to protect employees from retaliation. When Hutchinson stated that Martin needed to be loyal to him, Martin responded that her loyalty was to the County employees she supervised. Hutchinson accused Martin of being insubordinate and refusing to carry out his orders.

167. When Martin met with Hutchinson later that day at the Sheriff’s Office, Hutchinson reiterated that he was going to request that the Command Staff be investigated and that he wanted to “walk everyone out the door.”

Hutchinson Becomes Aware Plaintiffs Complained About Him and an Investigation Begins.

168. On April 21, 2022, Hutchinson told Martin that he learned a complaint had been made against him to County leaders and that there would be an investigation. Hutchinson told Martin that he would “find out” who made the complaint.

169. Later that same day, Hutchinson met with Martin in-person at the Sheriff’s Office. Hutchinson was angry and told Martin that he believed she had made the complaint about him. When Martin did not confirm or deny it, Hutchinson began yelling and asked if Martin could see his Sheriff’s certificate on the wall.

170. Hutchinson asked about the nature of the complaint and Martin responded that it was to get his harassing and retaliatory behavior to stop. When Hutchinson asked further questions about the complaint against him, Martin told Hutchinson that he should speak to County Administrator Hough.

171. Hutchinson’s anger and retaliatory behavior led Plaintiffs to be further concerned

about their physical safety in the workplace.

172. In late April 2022, when Hutchinson would arrive at the Sheriff's Office, he would often walk down the hallway yelling, "Where is everybody?" and "Why are all the doors closed? Everyone needs to open their fucking doors!"

173. Plaintiffs, who had previously witnessed or heard about Hutchinson's threatening behavior with his weapon at the Sheriff's Office, feared that they were "sitting ducks" and that Hutchinson would come through the door and open fire on them in the Sheriff's Office.

174. Around the same time, in or around the end of April 2022, Hennepin County hired Amy Kern & Associates ("Kern"), a third-party investigator, to investigate Hutchinson's conduct.

175. The Plaintiffs participated in the investigation and were each interviewed in or around late April 2022 and early May 2022. Plaintiffs complained about being subjected to or witnessing discriminatory conduct by Hutchinson, retaliation by Hutchinson, and concerns about Hutchinson's threats to workplace safety.

176. At the time, Plaintiffs were told that the investigation findings would be kept confidential.

177. Despite the County being on notice that Plaintiffs had serious concerns about their safety, the County did not offer Plaintiffs any support or accommodation following the April 19, 2022 meeting.

178. No one from the County notified Plaintiffs of any corrective action taken, addressed Plaintiffs' workplace safety concerns, or disclosed any plan to protect Plaintiffs from Hutchinson during the pendency of the investigation.

179. For approximately three to four weeks, Plaintiffs continued to report to work for Hutchinson—who was armed, angry and aware that Plaintiffs had complained about him and

participated in an investigation where he was the subject—in an environment where they did not feel physically safe.

Hutchinson Takes Administrative Leave.

180. In or around mid-May 2022, at the urging of County leaders, Hutchinson commenced an administrative leave.

181. Despite being on administrative leave, Hutchison remained Sheriff of Hennepin County through the end of his term in December 2022.

182. Plaintiffs were never told that Hutchinson would remain on leave for the duration of his term and feared that he may return to the Sheriff's Office at some point.

183. Plaintiffs were not informed of any restrictions placed on Hutchinson's access to the secured employee-only area of the Sheriff's Office. During his tenure, Hutchinson regularly had subordinates provide him with access to the secured area in the event he did not have his access badge and referenced using a key to access the work area so his entrance and exit could not be tracked.

184. Although the County requested that Hutchinson return his County-issued firearm, Hutchinson had previously bragged about his personal collection of weapons and had attended meetings by video where employees could see approximately five guns displayed on the wall of Hutchinson's home. At one point, Hutchinson had also disclosed that he was working at a firearms store.

185. Throughout this time, Plaintiffs remained fearful for their physical safety and concerned that Hutchinson would violently confront them in the Sheriff's Office, at their homes, or when they were out in public.

186. Several Plaintiffs installed extra security measures at their homes due to their fear

of Hutchinson.

187. Despite the County being on notice that Plaintiffs were concerned for their safety, it did not offer Plaintiffs any support or accommodation during Hutchinson's leave, other than a perfunctory referral to the County's employee assistance program.

188. In or around the summer of 2022, Hutchinson's known associates and an anonymous individual sent communications to the County Board and County Administration making disparaging and defamatory statements about a number of Plaintiffs.

189. In a Facebook post in or around July 2022, Hutchinson warned that "the evil, selfish people will get theirs [sic]," and "Karma isn't fast but it will come at a time where you are hurting."

190. After seeing this Facebook post from Hutchinson, Stout contacted the Washington County Sheriff's Office about his fear that Hutchinson would violently confront him at his home. In response, Washington County sent deputies to sit outside Stout's home for multiple days.

King is Constructively Discharged.

191. Throughout the spring and summer of 2022, King regularly followed up with County leaders and the third-party investigator to request updates on the investigation and whether any corrective action would be taken against Hutchinson.

192. King was never given any substantive response or told how the County would respond.

193. On August 31, 2022, King left his employment with the County. King was devastated to leave public law enforcement but was forced to leave due to the County's continued inaction with respect to Hutchinson's discriminatory and retaliatory conduct, and the unsafe workplace.

194. After the County's failure to support King and his coworkers, or to take corrective

action, the work environment had become intolerable and King believed he could no longer work in the Sheriff's Office while Hutchinson remained Sheriff.

Hutchinson Further Retaliates Against Plaintiffs Following the Release of Kern's Investigation Report and Censure by the County Board.

195. Witt was elected Hennepin County Sheriff on November 8, 2022—the first woman and person of color to hold the office. Despite her success, Witt feared and continues to fear that becoming Sheriff has further angered Hutchinson.

196. Witt would formally take office in early January 2023. In the meantime, Hutchinson remained Sheriff until the conclusion of his term at the end of December 2022.

197. After the election, Hutchinson encouraged Witt to “get rid of them all,” referring to the Command Staff and Stout.

198. In or around November 2022, Kern issued a written report of the conclusions of her investigation (the “Investigation Report”).

199. The Investigation Report corroborated and confirmed Plaintiffs' allegations that Hutchinson engaged in “racist, sexist, harassing, bullying and retaliatory behavior” in the workplace.

200. Each of the Plaintiffs are identified by name in the Investigation Report as participating in the investigation and having been interviewed.

201. On or around December 15, 2022, Hutchinson was censured by the Hennepin County Board during its board meeting for violations of the County's Non-Discrimination and Respectful Workplace Policy “by engaging in disrespectful behavior toward staff, including harassment and workplace bullying. . .” The County Board referenced the findings of the Investigation Report, specifically that Hutchinson engaged in “racist, sexist, harassing, bullying and retaliatory behavior” in the workplace.

202. Plaintiffs were only notified a few days prior that a censure was forthcoming from the Board. County leaders did not notify Plaintiffs about any other steps that the County would be taking based on the serious findings of the Investigation Report and there was no mention that the Investigation Report would be released to the public.

203. Approximately two days prior to the Board's censure, Plaintiffs learned from other staff members that the County Board planned to release the Investigation Report following the meeting.

204. On December 15, 2022, following the Board Meeting and censure of Hutchinson, Kern's written Investigation Report became public.

205. The findings in the Investigation Report are detailed and highly specific. It would have been obvious to Hutchinson that a number of the comments in the Investigation Report came directly from Plaintiffs.

206. Several days after the Report became public, Hutchinson posted threatening messages on his public Facebook page that blatantly retaliated against Plaintiffs for participating in the Kern investigation.

207. In one post, dated December 18, 2022, Hutchinson wrote: "Ps-to the liars and the woke mob-SMD, you didn't break me-you made me even stronger! Y'all dumb-I'm a warrior. Watch your six." The phrase "watch your six" means to watch your back.

208. While this comment is concerning on its own, Hutchinson's history of violent comments and behavior made this threat even more concerning (e.g., asking, "Should we shoot [them]?" or "Should we kill [them]," referring to people who had upset him, and placing his hand on his gun).

209. In a Facebook posted from December 24, 2022, Hutchinson directly referenced the

Investigation Report as the “silly report my subordinates doctored up.” In the same post, referring to Plaintiffs, Hutchinson went on to publicly comment about alleged infidelity by the spouses or significant others of his “staffers.”

210. On December 29, 2022, Hutchinson posted the following message on Facebook directed at Kurtz, alleging that a friend—Kurtz—“betray[ed]” him and “s[old] [his] soul for a job,” that he was “weak” and “100% a coward,” and would “live the rest of [his] life knowing [he is] a coward and being a coward is much worse then [sic] being a guy with ptsd who made some dumb moves.”

211. Hutchinson, who was still the Hennepin County Sheriff during this time, sought to publicly embarrass and intimidate Plaintiffs in retaliation for their participation in the County’s investigation.

Hutchinson’s Retaliation Continues Following His Term as Sheriff.

212. After his term as Sheriff concluded at the end of December 2022, Hutchinson has perpetuated the hostile work environment for Plaintiffs by engaging in further retaliatory conduct.

213. Due to the retaliatory hostile work environment created by Hutchinson and his continued retaliation against Plaintiffs, Storms retired in February 2023, significantly earlier than he had otherwise planned. Storms contemplated resigning earlier in 2022 due to stress and the lack of morale in continuing to work for the Sheriff’s Office still led by Hutchinson, but in the interests of the public and his colleagues, waited to ensure Witt’s new administration was securely in place.

214. On April 19, 2023, Lonny Leitner, a known associate of Hutchinson, walked into the Sheriff’s Office and delivered a package addressed to Plaintiffs Kurtz, Martin, Stout, and Witt. A handwritten letter was enclosed stating that Leitner wanted to let Kurtz, Martin, Stout, and Witt know that he was “thinking” about them on the “traumatic” “one year anniversary of when you all

‘feared’ for your lives,” referring to the April 19, 2022 meeting with Hutchinson.

215. The letter went on: “Also a special thanks for really going after [Hutchinson], you helped secure his PTSD. Much appreciated,” referring to Hutchinson’s application for permanent disability. Included in the package was the County’s Notice of Intent to Deny Defense and Indemnity in this action, with the words “BULLSHIT! You should be ashamed” written across the Notice, as well as related correspondence to the Hennepin County Board Chair.

216. Upon information and belief, Leitner was doing this at the request of, or in collaboration with, Hutchinson. Indeed, Leitner could have only received the documents included in the package from Hutchinson.

217. Plaintiffs Baggett, Kurtz, Martin, Stout, and Witt were highly distressed about the bold attempt to retaliate against them at their place of work.

218. Upon receipt of the package, Witt authorized an outside law enforcement agency—the University of Minnesota Police Department—to begin an investigation.

219. On April 21, 2023, Witt notified Hough, Guzman, and Rossman about the disturbing package and sent related photos and video footage of Leitner delivering the package. Witt wrote: “Bringing this to our place of work and continuing this long pattern of harassment is very upsetting to me and my staff.” In response, Hough thanked Witt for bringing the matter to the County’s attention, but then placed the onus on Plaintiffs Kurtz, Martin, Stout, and Witt to suggest actions the County should take going forward.

220. Leitner has also targeted Plaintiffs Stout and Witt through disparaging text messages and posts on social media.

221. In the spring of 2023, Plaintiffs became aware that Hutchinson sent a text message to a third party encouraging the third party to tell Plaintiffs, “thanks for the fake report on his crazy

(sic) ness,” which Hutchinson apparently believes resulted in him receiving disability payments. In the same exchange, Hutchinson referred to Plaintiffs as “evil” and threatened, “karma gonna get them.”

222. Plaintiffs take Hutchinson’s threats seriously, fear for their safety, and remain distressed by his continued retaliation.

Plaintiffs Provided Hennepin County Notice of Their Claims in This Case.

223. On February 27, 2023, Plaintiffs provided formal written notice to the Hennepin County Board Chair and the County Attorney of their claims against Hennepin County, including, those under the Minnesota Human Rights Act, Minn. Stat. § 363A.01, *et seq.*, and the Minnesota Whistleblower Act, Minn. Stat. § 181.931, *et seq.* Plaintiffs followed up on July 10, 2023 providing additional written notice to Hennepin County of their negligent supervision claims.

224. Plaintiffs entered into a Tolling Agreement with Hennepin County on March 14, 2023.

225. On March 18, 2024, Hennepin County provided notice of its intention to end the Tolling Agreement, which formally terminated on April 1, 2024.

CAUSES OF ACTION

COUNT I

(As To Plaintiffs Baggett and Witt)

**RACE DISCRIMINATION
IN VIOLATION OF THE
MINNESOTA HUMAN RIGHTS ACT
Minn. Stat. § 363A.01, *et seq.***

226. Plaintiffs incorporate the above paragraphs of their Complaint by reference.

227. The Minnesota Human Rights Act (“MHRA”) declares that it is the policy of Minnesota “to secure for persons in this state, freedom from discrimination . . . in employment”

and recognizes the right to employment free of discrimination as a civil right. Minn. Stat. § 363A.02, subd. 1.

228. Under Section § 363A.08, subd. 2, of the MHRA, “it is an unfair employment practice for an employer, because of race . . . to: . . . (3) discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment.”

229. Defendant is an “employer” under the MHRA. Minn. Stat. § 363A.03, subd. 16.

230. Plaintiffs Baggett and Witt are each an “employee” of Defendant under the MHRA. Minn. Stat. § 363A.03, subd. 15.

231. Defendant discriminated against Plaintiffs Baggett and Witt based on their race in violation of the MHRA with respect to the terms, conditions, and privileges of their employment when it subjected to Plaintiffs to a hostile work environment and disparate treatment in the workplace based on race. Defendant’s discriminatory conduct was severe and/or pervasive such that it altered the conditions of their employment and created an abusive working environment.

232. The discrimination described herein was deliberate and intentional and committed with malice, reckless disregard and/or deliberate disregard for the rights and safety of Plaintiffs Baggett and Witt.

233. As a direct result of Defendant’s violation of Minn. Stat. § 363A.08, subd. 2, Plaintiffs Baggett and Witt have suffered and will continue to suffer damages, including, but not limited to, out-of-pocket damages, mental anguish, emotional distress, physical manifestations of emotional distress, humiliation, embarrassment, loss of reputation, discriminatory harm to dignity, other pain and suffering, and other equitable damages, all in an amount in excess of \$50,000.

234. Plaintiffs Baggett and Witt are also entitled to attorney’s fees and costs incurred in connection with this claim, as well as punitive damages and up to trebled damages. Plaintiffs Baggett and Witt are entitled to full relief under the MHRA.

COUNT II
(As To Plaintiff King)
SEXUAL ORIENTATION DISCRIMINATION
IN VIOLATION OF THE
MINNESOTA HUMAN RIGHTS ACT
Minn. Stat. § 363A.01, *et seq.*

235. Plaintiffs incorporate the above paragraphs of their Complaint by reference.

236. Pursuant to Section § 363A.08, subd. 2, of the MHRA, “it is an unfair employment practice for an employer, because of . . . sexual orientation . . . to: (2) discharge an employee; or (3) discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment.”

237. Under the MHRA, “sexual orientation” refers “to whom someone is, or is perceived of as being, emotionally, physically, or sexually attracted to based on sex or gender identity.” Minn. Stat. § 363A.03, subd. 44.

238. Defendant is an “employer” under the MHRA. Minn. Stat. § 363A.03, subd. 16.

239. Plaintiff King was an “employee” of Defendant under the MHRA. Minn. Stat. § 363A.03, subd. 15.

240. Defendant discriminated against Plaintiff King based on his perceived sexual orientation in violation of the MHRA with respect to the terms, conditions, and privileges of his employment when it subjected to him to a hostile work environment and disparate treatment in the workplace based on his perceived sexual orientation.

241. Defendant further discriminated against Plaintiff King when it constructively discharged King. Plaintiff King was forced to separate from his employment with the County due

to the County's failure to engage in timely corrective action with respect to the discriminatory hostile work environment created by Hutchinson based on King's perceived sexual orientation.

242. The discrimination described herein was deliberate and intentional and committed with malice, reckless disregard and/or deliberate disregard for Plaintiff King's rights and safety.

243. As a direct result of Defendant's violation of Minn. Stat. § 363A.08, subd. 2, Plaintiff King has suffered and will continue to suffer damages, including, but not limited to, past, present and future loss of income, lost benefits, out-of-pocket damages, mental anguish, emotional distress, physical manifestations of emotional distress, humiliation, embarrassment, loss of reputation, discriminatory harm to dignity, other pain and suffering, and other equitable damages, all in an amount in excess of \$50,000.

244. Plaintiff King is also entitled to attorney's fees and costs incurred in connection with this claim, as well as punitive damages and up to trebled damages. Plaintiff King is entitled to full relief under the MHRA.

COUNT III
(As To Plaintiffs King, Kurtz, Martin, Storms, Stout and Witt)
RETALIATION
IN VIOLATION OF THE
MINNESOTA WHISTLEBLOWER ACT
Minn. Stat. § 181.931, et seq.

245. Plaintiffs incorporate the above paragraphs of their Complaint by reference.

246. The Minnesota Whistleblower Act ("MWA"), Minn. Stat. § 181.932, subd. 1(1) provides that it is unlawful for an employer to "discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment" because the employee "in good faith, reports a violation, suspected violation, or planned violation of any federal or state law or common law or rule adopted pursuant to law to an employer or to any

governmental body or law enforcement official; (2) the employee is requested by a public body or office to participate in an investigation, hearing, inquiry;. . .”

247. The MWA defines “penalize” to mean “conduct that might dissuade a reasonable employee from making or supporting a report, including post-termination conduct by an employer or conduct by an employer for the benefit of a third party.” Minn. Stat. § 181.931, subd. 5.

248. Defendant is an “employer” under the MWA. Minn. Stat. § 181.931, subd. 3.

249. Each Plaintiff is and/or was an “employee” of Defendant under the MWA. Minn. Stat. § 181.931, subd. 2.

250. Plaintiffs King, Kurtz, Martin, Storms, Stout, and Witt, in good faith, reported violations and/or suspected violations of law to Hutchinson and Hennepin County leaders as described herein, including, but not limited to, violations of the data practices act, fraud, theft of government funds, misconduct of a public officer, and violations of statutes and/or ordinances relating to workplace safety.

251. Plaintiffs King, Kurtz, Martin, Storms, Stout, and Witt were requested by Hennepin County, a public body, to participate in an investigation that was reviewing, among other issues, Hutchinson’s retaliatory conduct against Plaintiffs for reporting concerns of inaccurate reporting on timecards and other violations or suspected violations of law.

252. Defendant’s conduct violated Minn. Stat. § 181.932 and might dissuade a reasonable person from engaging in protected activity. Because Plaintiffs King, Kurtz, Martin, Storms, Stout, and Witt reported violations and/or suspected violations of law to Hutchinson and Hennepin County leaders and participated in an investigation as requested by Hennepin County, Plaintiffs were penalized, threatened, and otherwise retaliated and discriminated against regarding the terms, conditions, and privileges of their employment, including, but not limited to, removal

of direct reports, removal of job responsibilities, threats of termination, threats of demotion, threats of subjecting them to an investigation for alleged insubordination, threats to their physical safety, public disclosure of private information, and disparagement and/or defamation.

253. Defendant further violated Minn. Stat. § 181.932 when it constructively discharged Plaintiff King. King was forced to separate from his employment with the County due to the County's failure to engage in timely corrective action with respect to the retaliation by Hutchinson.

254. The retaliation described herein was deliberate and intentional and committed with malice, reckless disregard and/or deliberate disregard for Plaintiffs' rights and safety.

255. As a result of Defendant's violations of Minn. Stat. § 181.932, Plaintiffs King, Kurtz, Martin, Storms, Stout, and Witt have suffered and will continue to suffer damages, including, but not limited to, past, present and future loss of income, lost benefits, out-of-pocket damages, mental anguish, emotional distress, physical manifestations of emotional distress, humiliation, embarrassment, loss of reputation, other pain and suffering, and other equitable damages, all in an amount in excess of \$50,000.

256. Plaintiffs are also entitled to attorneys' fees and costs incurred in connection with this claim. Plaintiffs are entitled to full relief under the MWA.

COUNT IV
(As To All Plaintiffs)
REPRISAL DISCRIMINATION
IN VIOLATION OF THE
MINNESOTA HUMAN RIGHTS ACT
Minn. Stat. § 363A.01, et seq.

257. Plaintiffs incorporate the above paragraphs of their Complaint by reference.

258. The MHRA provides that it is an "unfair discriminatory practice" for an employer "to intentionally engage in any reprisal against any person because that person (1) opposed a

practice forbidden under this chapter or has filed a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.” Minn. Stat. § 363A.15.

259. Under Minn. Stat. § 363A.15, reprisal includes, but is not limited to, “any form of intimidation, retaliation, or harassment,” and it is reprisal for an employer “depart from any customary employment practice; transfer or assign the individual to a lesser position in terms of wages, hours, job classification, job security, or other employment status . . .”

260. Defendant is an “employer” under the MHRA. Minn. Stat. § 363A.03, subd. 16.

261. Each Plaintiff is and/or was an “employee” of Defendant under the MHRA. Minn. Stat. § 363A.03, subd. 15.

262. Plaintiffs opposed discrimination based on race, sexual orientation, and other protected characteristics and engaged in protected activity under the MHRA when they took actions including requesting that Hutchinson stop his discrimination and retaliation, reporting discrimination to County leaders, and participating in the Kern investigation into Hutchinson’s conduct.

263. Defendant’s conduct violated Minn. Stat. § 363A.15. Because Plaintiffs opposed discrimination, Plaintiffs were subject to reprisal by Defendant, including, but not limited to, intimidation, harassment, a hostile work environment, multiple threats, public disclosure of private information, and disparagement and/or defamation.

264. Defendant further violated Minn. Stat. § 363A.15 when it constructively discharged Plaintiff King. King was forced to separate from his employment with the County due to the County’s failure to engage in timely corrective action with respect to reprisal by Hutchinson.

265. The reprisal described herein was deliberate and intentional and committed with malice, reckless disregard and/or deliberate disregard for Plaintiffs’ rights and safety.

266. As a result of Defendant's violations of Minn. Stat. § 363A.15, Plaintiffs have suffered and will continue to suffer damages, including, but not limited to, past, present and future loss of income, lost benefits, out-of-pocket damages, mental anguish, emotional distress, physical manifestations of emotional distress, humiliation, embarrassment, loss of reputation, other pain and suffering, and other equitable damages, all in an amount in excess of \$50,000.

267. Plaintiffs are also entitled to attorneys' fees and costs incurred in connection with this claim, as well as punitive damages. Plaintiffs are entitled to full relief under the MHRA.

COUNT V
(As To All Plaintiffs)
NEGLIGENT SUPERVISION

268. Under Minnesota common law, negligent supervision occurs when an employer becomes aware or should have become aware of problems with an employee that indicated the employee's unfitness, and the employer fails to take further action to prevent the foreseeable misconduct of its employee.

269. To maintain an action for negligent supervision, the existence of a threat, or reasonable apprehension of actual physical injury is required.

270. Despite complaints from Plaintiffs to Defendant that Hutchinson may be violent and engage in injurious conduct based on his past threatening comments and unsafe conduct with weapons in the Sheriff's Office, Defendant failed to take remedial action.

271. Defendant knew or should have known about Hutchinson's threatening conduct and propensity to engage in injurious, dangerous, and violent conduct.

272. Defendant failed to exercise ordinary care when supervising Hutchinson and failed to take steps to investigate or correct Hutchinson's threatening conduct. As a result, there was a threat and/or reasonable apprehension of actual physical injury to Plaintiffs.

273. Defendant's failure to exercise ordinary care in supervising Hutchinson resulted in the failure to prevent the foreseeable misconduct of Hutchinson from causing harm to Plaintiffs.

274. The negligent supervision described herein was deliberate and intentional and committed with malice, reckless disregard and/or deliberate disregard for Plaintiffs' rights and safety.

275. As a result of Defendant's negligent supervision, Plaintiffs have suffered and will continue to suffer damages, including, but not limited to, past, present and future loss of income, lost benefits, out-of-pocket damages, mental anguish, emotional distress, physical manifestations of emotional distress, humiliation, embarrassment, loss of reputation, other pain and suffering, and other equitable damages, all in an amount in excess of \$50,000.

276. Plaintiffs are also entitled to attorneys' fees and costs incurred in connection with this claim. Plaintiffs are entitled to full relief at common law.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury pursuant to Rule 38 of the Minnesota Rules of Civil Procedure.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs request that the Court issue an order for judgment against Defendant as follow:

A. For an Order adjudging the practices and conduct of Defendant complained of herein to be in violation of the rights guaranteed to Plaintiffs under the MHRA;

B. For an Order adjudging the practices and conduct of Defendant complained of herein to be in violation of the rights guaranteed to Plaintiffs under the MWA;

C. For an Order adjudging the practices and conduct of Defendant complained of herein to be in violation of the rights guaranteed to Plaintiffs under common law;

D. All relief recoverable under the MHRA, MWA and at common law, including, but not limited to past, present and future loss of income, lost benefits, out-of-pocket damages, mental anguish, emotional distress, physical manifestations of emotional distress, humiliation, embarrassment, loss of reputation, discriminatory harm to dignity, other pain and suffering and other equitable damages, all in an amount in excess of \$50,000;

E. For an award of punitive damages under the MHRA in an amount to be determined at trial;

F. Leave to amend to add a claim for punitive damages on Plaintiffs' MWA and common law claims;

G. For treble damages and a civil penalty as provided by the MHRA;

H. For an award to Plaintiffs of their attorneys' fees, disbursements, and the costs of this action as available at law or in equity;

I. For an award of interest on Plaintiffs' damages;

J. For all such other and further relief available by statute; and

K. For such other and further relief as the Court deems just and equitable.

Dated: April 8, 2024

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ACKNOWLEDGEMENT

I hereby acknowledge that, pursuant to Minn. Stat. § 549.211, subd. 3, sanctions may be imposed by this Court if it determines that Minn. Stat. § 549.211, subd. 2, has been violated.



Dated: April 8, 2024

Steven Andrew Smith, MN Bar No. 0260836