

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

MICHAEL TODD SNIPES,

Plaintiff,

Case No.:

v.

VOLUSIA COUNTY, a political  
subdivision of the state of Florida,

Defendant.

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COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff, Michael Todd Snipes, by and through his undersigned counsel, and hereby files his Complaint and Demand for Jury Trial against the Defendant, Volusia County, a political subdivision of the state of Florida, and states as follows:

INTRODUCTION

1. This is a seven (7) count action by Plaintiff, Michael Todd Snipes, against his former employer the Defendant, Volusia County, for violation of his right to Freedom of Speech pursuant to the First Amendment to the United States Constitution; violation of his right against unlawful search and seizure pursuant to the Fourth Amendment to the United States Constitution; violation of his constitutional right to Procedural Due Process pursuant to the Fourteenth Amendment to the United States Constitution; violation of the Law Enforcement Officers' and Correctional Officers' Rights pursuant to Section 112.532, Florida Statutes; deprivation of property interest in public employment, violation of the federal Fair Labor Standards Act, as

amended, 29 U.S.C. Section 201, et seq; and, intentional infliction of emotional distress.

### JURISDICTION

2. This case arises under the First, Fourth, and Fourteenth Amendments of the United States Constitution, 42 U.S.C. Sections 1983 and 1988, the Fair Labor Standards Act, as amended, 29 U.S.C. Section 201, et seq; and, Section 112.532, Florida Statutes. Jurisdiction is specifically conferred on this Court by 28 U.S.C. Section 1331, 28 U.S.C. Section 1367(a), and 29 U.S.C. Section 216(b).

### VENUE

3. This Court is an appropriate venue for this cause of action pursuant to 28 U.S.C. Sections 1391(b)(1) and (b)(2).

4. The actions complained of took place in DeLand, Volusia County, Florida.

5. Evidence and employment records relevant to the allegations are maintained in this Judicial circuit.

6. Plaintiff, Michael Todd Snipes, would be employed in this Judicial circuit had it not been for the unlawful actions and practices of the Defendant, Volusia County.

7. At all times material, Plaintiff, Michael Todd Snipes, resided in Port Orange, Volusia County, Florida.

8. The Defendant, Volusia County, a political subdivision of the state of Florida, is present and regularly conducts affairs in this Judicial circuit.

9. At all times material, David Vanis was, and continues, to be in the position of Captain within the Department of Public Protection, Internal Affairs Unit for the Defendant, Volusia County.

10. At all times material, Scott Dowling was a former Captain within the Beach Patrol department of the Defendant, Volusia County.

11. At all times material, Mark Swanson, was, and continues to be, a Beach Safety Chief employed by the Defendant, Volusia County.

12. At all times material James Dinneen, was, and continues to be, Volusia County Manager employed by the Defendant, Volusia County. James Dinneen had the final decision making authority over employment within Volusia County.

13. At all times material, Nancye Jones, Esquire, was, and continues to be an Assistant County Attorney employed by the Defendant, Volusia County.

#### FACTUAL ALLEGATIONS

14. In or about May 1989, the Defendant, Volusia County, hired Plaintiff, Michael Todd Snipes, for the position of Lifeguard.

15. In or about December 1995, the Defendant, Volusia County, promoted Plaintiff, Michael Todd Snipes, to the position of Beach Patrol Officer.

16. In or about March 19, 2011, the Defendant, Volusia County, promoted Plaintiff, Michael Todd Snipes, to the position of Captain.

17. Throughout his employment with the Defendant, Volusia County, Plaintiff, Michael Todd Snipes' exemplified professionalism; as such, his quality of work was held in the highest regard.

18. Plaintiff, Michael Todd Snipes, was nominated for Officer of the Year in: 2001, 2002, 2004, 2006, 2007, and 2008. In the year 2008, Michael Todd Snipes won Officer of the

Year.

19. Plaintiff, Michael Todd Snipes' employee evaluations with the Defendant, Volusia County, consistently reflected his excellent job performance.

20. On or about April 20, 2013, Plaintiff, Michael Todd Snipes, received a Citation of Commendation for his excellent work responding to the scene of a robbery and arresting the suspects.

21. On or about June 1, 2013, Plaintiff, Michael Todd Snipes, received a Citation of Commendation for his service while responding to a reported drowning. The Citation of Commendation states, "the quick actions of Captain Todd Snipes exemplify distinguished service and hold him above Volusia County Beach Safety's standard of care."

22. Throughout his twenty (20) plus year career with the Defendant, Volusia County, Plaintiff, Michael Todd Snipes, never received a written reprimand nor was he ever subject of an internal investigation.

23. At all times relevant to this action, the Defendant, Volusia County, was an enterprise covered by the Fair Labor Standards Act, as defined by 29 U.S.C. Sections 203(r) and 203(s).

24. The Defendant, Volusia County, has employees subject to the provisions of the Fair Labor Standards Act.

25. At all times relevant to this action, the Defendant, Volusia County, employed at least two (2) employees who handled goods such as products, supplies, parts and equipment that previously moved through commerce.

26. On July 14, 2013, Plaintiff, Michael Todd Snipes, engaged in a nine (9) person

private group text message from his personal cellular telephone.

27. During this private group text message, several satirical cartoons were exchanged, with the intent these pictures remain private among the participants who consisted solely of friends and family members.

28. The content of the satirical cartoons sent privately between the nine (9) member group text message alluded to the George Zimmerman trial, Trayvon Martin, and Paula Deen.

29. Plaintiff, Michael Todd Snipes, did not create nor alter any of the satirical cartoons.

30. Plaintiff, Michael Todd Snipes, retrieved the two (2) cartoons he sent on the private group text message from alternate sources.

31. Plaintiff, Michael Todd Snipes, forwarded cartoons previously created by others who were part of the private group.

32. Additionally, on or about July 14, 2013, Plaintiff, Michael Todd Snipes, posted on his private Facebook page a statement of opinion regarding the verdict in the George Zimmerman criminal trial.

33. Plaintiff, Michael Todd Snipes, was not on duty when he contributed to his personal, private Facebook page; he did not use a work computer or work telephone for this posting; nor, did his opinion make any reference to the Defendant, Volusia County.

34. On or about July 16, 2013, a former employee of the Defendant, Volusia County, in the private group text message contacted Mark Swanson regarding the satirical cartoon depicting Paula Deen.

35. That same day, Mark Swanson met with the former employee where he was shown the satirical cartoon depicting Paula Deen. During this meeting, the former employee indicated

to Mark Swanson that he wished to remain anonymous.

36. On July 17, 2013, the Defendant, Volusia County, directed David Vanis of Internal Affairs to conduct an Internal Affairs investigation of Plaintiff, Michael Todd Snipes, regarding the Paula Deen cartoon.

37. On or about July 17, 2013, without any good cause or to benefit the public at-large and as part of the Internal Affairs investigation, David Vanis instructed a subordinate employee who was a “Facebook friend”<sup>1</sup> with Plaintiff, Michael Todd Snipes, on Facebook to log into Facebook on a work computer; after which, David Vanis unlawfully snooped around Michael Todd Snipes’s private Facebook page looking for additional controversial postings.

38. At no time, during the Internal Affairs investigation did David Vanis notify Plaintiff, Michael Todd Snipes, of the identify of the original complainant was, or that he had been snooping on his private Facebook page.

39. But for the aforementioned actions of David Vanis as part of the Internal Affairs investigation, would the Defendant, Volusia County, or the general public have had access to view the postings on Plaintiff, Michael Todd Snipes, private Facebook page.

40. The Defendant, Volusia County, through David Vanis, took control of the subordinate employee’s computer and unlawfully snooped through Plaintiff, Michael Todd Snipes’s private Facebook page for postings which exceeded the scope of his Internal Affairs investigation.

41. Despite his opinion on a relevant social topic, the Defendant, Volusia County used

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<sup>1</sup>Since Plaintiff Michael Todd Snipes’ Facebook page was private, Captian Vanis could not view his page with the assistance of someone designated as a “Facebook friend.”

this unlawfully obtained posting regarding the George Zimmerman as grounds for a recommendation of termination.

42. On July 17, 2013, David Vanis contacted Plaintiff, Michael Todd Snipes, instructing him to immediately bring in his officer badge and gun for confiscation without any explanation.

43. On July 17, 2013, Plaintiff, Michael Todd Snipes, felt threatened by the prospect of being terminated and respectfully declined to meet David Vanis at the Defendant, Volusia County Beach Safety headquarters.

44. Subsequently, David Vanis, threatened to go to Plaintiff, Michael Todd Snipes's home in order to confiscate his officer badge and gun. Michael Todd Snipes once again respectfully declined.

45. Plaintiff, Michael Todd Snipes, offered to meet David Vanis, in public, at a grocery store near his home.

46. Thus, Plaintiff, Michael Todd Snipes, met David Vanis and another Captain at the grocery store where he complied with the request to return his officer badge and gun.

47. Additionally, during the grocery store meeting, David Vanis served Plaintiff, Michael Todd Snipes, with his Notice of Internal Investigation and Notice of Administrative leave.

48. On July 18, 2013, David Vanis, contacted and threatened things would "get worse" for Michael Todd Snipes if he did not cooperate.

49. On July 23, 2013, Plaintiff, Michael Todd Snipes, furnished to the Defendant, Volusia County, a Notice of Representation, Request for Investigative File, and Request for Continuance of Interview.

50. On July 23, 2013, David Vanis, deliberately and intentionally contacted Plaintiff, Michael Todd Snipes, with complete knowledge he was represented by legal counsel, instructing him to go to the beach patrol office in order to sign papers. David Vanis then stated, “if he [Michael Todd Snipes] did not come in and sign the papers it would get a lot worse.”

51. Plaintiff, Michael Todd Snipes, requested the presence of his legal counsel for this meeting. Both David Vanis and Mark Swanson denied his request to have legal counsel present.

52. Due to the threatening nature of this meeting and the denial to have counsel present, Plaintiff, Michael Todd Snipes, felt compelled to have counsel on speaker phone throughout the meeting with David Vanis, and subsequently, did so.

53. On July 23, 2013, Plaintiff, Michael Todd Snipes, met with David Vanis and was forced to sign the papers and while doing so the Defendant, Volusia County, stated, “they were glad he came in because it would have gotten a lot worse had he not.”

54. On July 23, 2013, the Defendant, Volusia County, responded to the above referenced Notice of Representation, Request for Investigative File, and Request for Continuance of Interview by rescheduling the interview.

55. On July 29, 2013, Plaintiff, Michael Todd Snipes, was interviewed by David Vanis in regards to the Internal Affairs investigation against Michael Todd Snipes.

56. Throughout the July 29, 2013, interview, David Vanis unnecessarily wore a holstered gun in a small conference room in an act of intimidation towards Plaintiff, Michael Todd Snipes.

57. Immediately prior to the July 29, 2013, interview Plaintiff, Michael Todd Snipes, was, for the first time, provided with a copy of the Internal Affairs investigation file containing



the “evidence” accumulated by David Vanis.

58. Moreover, during the above referenced interview, Plaintiff, Michael Todd Snipes, was denied the identity of the complainant who approached and disclosed the private group text message to Beach Safety Chief Mark Swanson, despite numerous requests for such.

59. On August 1, 2013, David Vanis furnished an Internal Affairs investigation report to Department of Public Protection Director George Recktenwald, stating he knew an individual provided the information to Beach Safety Director Mark Swanson yet continued to keep this complainant’s name confidential despite requests by Plaintiff, Michael Todd Snipes. A copy of Internal Affairs investigation report is attached hereto and incorporated herein as Exhibit “A.”

60. Additionally, in the August 1, 2013, report, David Vanis deliberately misrepresented how he retrieved Plaintiff, Michael Todd Snipes, Facebook posting, indicating the reporting person was also the source of the Facebook posting. According to David Vanis, “The reporting person also provided me with a facebook posting (item 10) Captain Snipes had posted on July 14, 2013. The posting read ‘Another thug gone! Pull up your pants and act respectful. Bye bye thug rip!’ This appeared to be a response to the State of Florida vs. George Zimmerman second degree murder trial verdict.” See, Exhibit “A”, page 2 of 6.

61. On August 2, 2013, the Defendant, Volusia County, deliberately and intentionally attempted to contact Plaintiff, Michael Todd Snipes, twice, with complete knowledge Michael Todd Snipes was represented by legal counsel. Michael Todd Snipes did not answer the telephone calls.

62. On August 2, 2013, the Defendant, Volusia County, provided Plaintiff, Michael Todd Snipes, with its Notice of Intent to Dismiss.

63. On August 6, 2013, Plaintiff, Michael Todd Snipes, pursuant to his rights stated in the Defendant, Volusia County's Notice of Intent to Dismiss, requested a meeting with George Recktenwald, Director, Department of Public Protection.

64. On August 9, 2013, the Defendant, Volusia County, through Director George Recktenwald, conducted the requested interview with Plaintiff, Michael Todd Snipes.

65. On August 9, 2013, subsequent to the interview, the Defendant, Volusia County, terminated the employment of Plaintiff, Michael Todd Snipes.

66. On August 9, 2013, the Defendant, Volusia County, forced Plaintiff, Michael Todd Snipes to meet Michael Berard at a local grocery store after 5 p.m. to serve Michael Todd Snipes his dismissal papers.

67. On August 13, 2013, Plaintiff, Michael Todd Snipes, formally requested an appeal of his dismissal through the County Personnel Board. The Defendant, Volusia County, failed to respond to this request.

68. On August 17, 2013, the Daytona Beach News-Journal published a reference attributed to James Dinneen, which he was quoted as stating he was, "angry and somewhat in disbelief over the messages."

69. On August 19, 2013, since James Dinneen had final decision-making authority to follow or disregard the recommendation of the Personnel Board as well as concern over his impartiality, Plaintiff, Michael Todd Snipes, formally requested, in writing, that James Dinneen recuse himself from any involvement with the administrative appeals process due to his biased remarks in the News-Journal. The Defendant, Volusia County, failed to respond to this request. A copy of the written request is attached hereto and incorporated herein as Exhibit "B."

69. On or about August 26, 2013, Plaintiff, Michael Todd Snipes, received an acknowledgment of his request to appeal from the Defendant, Volusia County, and was informed he would be contacted soon to schedule an appeal hearing.

70. On August 29, 2013, Plaintiff, Michael Todd Snipes, furnished a Second Request for Entire Investigative File/ Sunshine Law Request for Documents.

71. On September 3, 2013, Plaintiff, Michael Todd Snipes, furnished a second formal request, in writing, for the recusal of James Dinneen, again due to his biased remarks in an August 17, 2013, Daytona Beach News-Journal article. A copy of the written request is attached hereto and incorporated herein as Exhibit "C."

72. On or about September 3, 2013, Plaintiff, Michael Todd Snipes, received a denial from Nancye Jones, Esquire, with regards to both requests to recuse James Dinneen. A copy of the denial letter from Nancye Jones, Esquire, is attached hereto and incorporated herein as Exhibit "D."

73. On September 10, 2013, Plaintiff, Michael Todd Snipes, furnished a second Request for Appeal of Dismissal through County Personnel Board because he had not been contacted as promised by the Defendant, Volusia County, to schedule an appeal hearing date.

74. On or about September 18, 2013, Plaintiff, Michael Todd Snipes was furnished with a Volusia County Personnel Board Appeal Notification providing the date, time, and location of the hearing.

75. The Defendant, Volusia County's September 18, 2013, correspondence came sixteen (16) business days following their statement stating Plaintiff, Michael Todd Snipes would be contacted soon to schedule the appeal hearing.

77. On or about October 5, 2013, the Defendant, Volusia County, furnished a copy of Plaintiff, Michael Todd Snipes, Internal Affairs investigative file.

78. On October 9, 2013, Plaintiff, Michael Todd Snipes, revised his Sunshine Law request to include files for employees of the Defendant, Volusia County, besides Michael Todd Snipes, who have been alleged to violate Volusia County's HR Bulletin 19 - Social Media Policy and/or Volusia County Beach Safety Division, Departmental Standards Directive, Standards of Conduct 11.01.56: Derogatory Ethnic Remarks.

79. On October 10, 2013, Plaintiff, Michael Todd Snipes furnished a Sunshine Law Request for Documents to the Defendant, Volusia County, requesting an opportunity to inspect or obtain copies of public records for any employee of the City of Daytona Beach who has been alleged to have violated either HR Bulletin 19 - Social Media Policy and/or Volusia County Beach Safety Division, Departmental Standards Directive, Standards of Conduct 11.01.56: Derogatory Ethnic Remarks.

80. On October 22, 2013, Plaintiff, Michael Todd Snipes, furnished his Confirmation of Denial of October 9th Sunshine Law Request for Documents to the Defendant, Volusia County, for Volusia County's failure to provide any response to the October 9, 2013, request.

81. On October 23, 2013, the Defendant, Volusia County, furnished via telefax to Plaintiff, Michael Todd Snipes a letter stating Volusia County's willingness to postpone the November 5, 2013, hearing because of its failure to respond to Michael Todd Snipes Sunshine Law Request for Documents until this date.

82. On October 23, 2013, the Defendant, Volusia County, complied with Plaintiff, Michael Todd Snipes' Revised Sunshine Law Request. The response included public records on

only eight (8) Volusia County employees.

83. On November 1, 2013, Attorney Nancye Jones forwarded a correspondence to undersigned counsel confirming former Scott Dowling was the source of the text messages and Facebook posting showing to Mark Swanson in July 2013. A copy of Volusia County's November 1, 2013, correspondence is attached hereto and incorporated herein as Exhibit "E."

84. As previously stated in this Complaint, the source of the Facebook posting was actually David Vanis; thus, the representation by Attorney Nancye Jones in her November 1, 2013, correspondence was false.

85. On November 5, 2013, the Defendant, Volusia County's Personnel Board conducted an appeal hearing for Plaintiff, Michael Todd Snipes.

86. During said hearing, the Personnel Board had the opportunity to examine evidence and heard witness testimony from both sides regarding Plaintiff, Michael Todd Snipes' dismissal.

87. At the conclusion of the hearing, the Volusia County Personnel Board voted against termination for Plaintiff, Michael Todd Snipes.

88. On November 7, 2013, notwithstanding the unbiased Volusia County Personnel Board's recommendation Plaintiff, Michael Todd Snipes' termination should not be upheld and without attending any portion of the appeal hearing, James Dinneen, rejected the unbiased Volusia County Personnel Board's recommendation upholding Michael Todd Snipes' termination.

89. On or about November 11, 2013, the Defendant, Volusia County, furnished a letter directly to Plaintiff, Michael Todd Snipes, stating he needed to return all county issued property in his possession by November 22, 2013, or else he would not receive all of his accrued paid leave.

90. On or about November 12, 2013, the Defendant, Volusia County, deposited a portion, approximately twenty percent (20%) of Plaintiff, Michael Todd Snipes' accrued paid leave into his bank account.

91. On or about November 20, 2013, Plaintiff, Michael Todd Snipes, returned to the Defendant, Volusia County, all county property in his possession.

92. As of the date of this filing, Plaintiff, Michael Todd Snipes has not received the remainder of his accrued paid leave.

93. Plaintiff, Michael Todd Snipes, has retained The Harr Law Firm to represent him in this matter and has agreed to pay said firm a reasonable attorney's fee for their service.

94. All conditions precedent to the filing of this action have occurred or been waived.

## COUNT I

### VIOLATION OF FIRST AMENDMENT RIGHT TO FREEDOM OF SPEECH

95. Plaintiff, Michael Todd Snipes, re-alleges and incorporates herein the allegations contained in paragraphs one (1) through ninety-four (94).

96. Plaintiff, Michael Todd Snipes' contributions to a private group text message and his personal, private Facebook page constitute speech protected by the First Amendment to the United States Constitution.

97. Plaintiff, Michael Todd Snipes, never created, discussed, demonstrated, performed, or in other way referred to his contributions in a professional setting.

98. Plaintiff, Michael Todd Snipes, never used his postings or discussions of his outside of his private Facebook page; nor, did he ever reference the Defendant, Volusia County.

99. At all times, Plaintiff, Michael Todd Snipes's posting regarding the verdict in the George Zimmerman verdict on his private Facebook page was protected speech by a public employee regarding a relevant social issue.

100. Plaintiff, Michael Todd Snipes's right to freedom of speech regarding a relevant social issue outweighed any interest of the Defendant, Volusia County, in suppressing said private speech.

101. The Defendant, Volusia County, violated Plaintiff, Michael Todd Snipes's right to Freedom of Speech, pursuant to the First Amendment to the United States Constitution, when it terminated his employment due to a posting on a relevant social issue.

102. The actions described above taken by the Defendant, Volusia County, were unconstitutional, deliberate, intentional, and malicious, or in the alternative were undertaken with reckless disregard for the constitutionally protected right to Freedom of Speech of Plaintiff, Michael Todd Snipes.

103. As a direct and proximate result of the Defendant, Volusia County's violations of Plaintiff, Michael Todd Snipes's First Amendment constitutional rights, Michael Todd Snipes has suffered severe and substantial damages. These damages include lost salary, lost employee benefits, lost raises, diminished earnings capacity, lost career and business opportunities, public scorn, loss of reputation, humiliation, embarrassment, inconvenience, mental and emotional anguish and distress and other compensatory damages.

WHEREFORE, Plaintiff, Michael Todd Snipes, respectfully demands a trial by jury for all issues triable and judgment against the Defendant, Volusia County, for compensatory damages, reasonable attorney's fees and costs, and such other relief this Court deems just and proper.

COUNT II

VIOLATION OF FOURTH AMENDMENT RIGHT AGAINST

UNLAWFUL SEARCH & SEIZURE

104. Plaintiff, Michael Todd Snipes, re-alleges and incorporates herein the allegations contained in paragraphs one (1) through ninety-four (94).

105. At all times relevant to this action, Plaintiff, Michael Todd Snipes, maintained a personal, private Facebook account.

106. Plaintiff, Michael Todd Snipes, created his personal, private Facebook account with the security option of only permitting persons he accepts as friends to view his personal, private Facebook page.

107. David Vanis in the scope and course of his employment, violated Plaintiff, Michael Todd Snipes, Fourth Amendment right against unlawful searches when it instructed a subordinate employee to log in to their personal account and then under the disguise of the subordinate employee's account, Volusia County, unlawfully searched through Michael Todd Snipes personal, private Facebook page.

108. Subsequently, the Defendant, Volusia County, used information found on Plaintiff, Michael Todd Snipes personal, private Facebook page.

109. Plaintiff, Michael Todd Snipes's Fourth Amendment right against unlawful searches of his personal property outweigh any interest of the Defendant, Volusia County, in searching Michael Todd Snipes' personal, private Facebook page.

110. The Defendant, Volusia County, violated Plaintiff, Michael Todd Snipes's right against unlawful searches when it used a subordinate employee's Facebook account to unlawfully



searched through Michael Todd Snipes' personal, private Facebook page.

111. The actions described above taken by the Defendant, Volusia County, were deliberate, intentional, and malicious, or in the alternative were undertaken with reckless disregard for the constitutionally protected right against unlawful searches of Plaintiff, Michael Todd Snipes.

112. As a direct and proximate result of the Defendant, Volusia County's violations of Plaintiff, Michael Todd Snipes' constitutional rights, Michael Todd Snipes has suffered severe and substantial damages. These damages include lost salary, lost employee benefits, lost raises, diminished earnings capacity, lost career and business opportunities, public scorn, loss of reputation, humiliation, embarrassment, inconvenience, mental and emotional anguish and distress and other compensatory damages.

WHEREFORE, Plaintiff, Michael Todd Snipes, respectfully demands a trial by jury for all issues triable and judgment against the Defendant, Volusia County, for compensatory damages, reasonable attorney's fees and costs, and such other relief this Court deems just and proper.

### COUNT III

#### VIOLATION OF FOURTEENTH AMENDMENT RIGHT TO PROCEDURAL DUE PROCESS

113. Plaintiff, Michael Todd Snipes, re-alleges and incorporates herein the allegations contained in paragraphs one (1) through ninety-four (94).

114. Plaintiff, Michael Todd Snipes, as a United States citizen, is afforded a constitutionally protected right of procedural due process, pursuant to the Fourteenth Amendment to the United States Constitution, in regards to an internal affairs investigation and grievance appeals process relating to his employment.

115. Pursuant to the Fourteen Amendment of the United States Constitution, Michael Todd Snipes must be afforded a speedy resolution of all claims against him as well as have a fair and impartial final decision-maker.

116. The Defendant, Volusia County, unnecessarily prolonged the administration of the grievance appeals process by not responding to communications furnished by Plaintiff, Michael Todd Snipes, requesting Sunshine Law documents and Personnel Board hearing dates.

117. The Defendant, Volusia County, stated in a letter dated August 26, 2013, Plaintiff, Michael Todd Snipes, would be contacted soon to schedule an appeal hearing date.

118. On September 18, 2013, and only after Plaintiff, Michael Todd Snipes, furnished a second request for an appeals hearing and request for dates to the Defendant, Volusia County, Volusia County forwarded an appeal hearing date. This constitutes an unnecessary delay by Volusia County of twenty-four (24) days just to set a hearing date.

119. Furthermore, without regard to the rights of Plaintiff, Michael Todd Snipes, the Defendant, Volusia County, arbitrarily set the Personnel Board hearing date for almost a month and one-half after the September 18, 2013, notice. This constitutes an unnecessary delay in the administration of the grievance appeals process.

120. Additionally, Plaintiff, Michael Todd Snipes, requested twice for the recusal of James Dinneen, from the administrative appeals process due to biased comments attributed to James Dinneen in a Daytona Beach News-Journal article published shortly after Michael Todd Snipes was terminated. See paragraph 31, supra. As such, James Dinneen was not an impartial final decision-maker when he overruled the determination of the Personnel Board.

121. The actions described above taken by the Defendant, Volusia County, were

deliberate, intentional, and malicious, or in the alternative were undertaken with reckless disregard for the constitutionally protected right to procedural due process of Plaintiff, Michael Todd Snipes.

122. As a direct and proximate result of the Defendant, Volusia County's violations of Plaintiff, Michael Todd Snipes' constitutional rights, Michael Todd Snipes has suffered severe and substantial damages. These damages include lost salary, lost employee benefits, lost raises, diminished earnings capacity, lost career and business opportunities, public scorn, loss of reputation, humiliation, embarrassment, inconvenience, mental and emotional anguish and distress and other compensatory damages.

WHEREFORE, Plaintiff, Michael Todd Snipes, respectfully demands a trial by jury for all issues triable and judgment against the Defendant, Volusia County, in the form of compensatory damages, reasonable attorney's fees and costs, and such other relief this Court deems just and proper.

#### COUNT IV

#### VIOLATION OF LAW ENFORCEMENT OFFICERS' AND CORRECTIONAL OFFICERS' RIGHTS

123. Plaintiff, Michael Todd Snipes, re-alleges and incorporates herein the allegations contained in paragraphs one (1) through ninety-four (94).

124. The Law Enforcement Officers' and Correctional Officers' Rights, Section 112.536, Florida Statutes, states, in relevant part:

(1)(d) The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the

investigative interview of the accused officer. (Emphasis added).

(1)(f) The law enforcement officer or correctional officer under interrogation may not be subjected to offensive language or threatened with transfer, dismissal, or disciplinary action.

(1)(I) At the request of any law enforcement officer or correctional officer under investigation, he or she has the right to be represented by counsel or any other representative of his or her choice, who shall be present at all times during the interrogation whenever the interrogation relates to the officer's continued fitness for law enforcement or correctional service.

126. The Defendant, Volusia County, violated Section 112.536(1)(d), Florida Statutes, by refusing to provide the name of the complainant, Scott Dowling, to Plaintiff, Michael Todd Snipes, at any time prior to or during his investigation, despite numerous request to do so.

127. To the contrary, David Vanis, blatantly misrepresented his Internal Affairs investigation the actual source of the Facebook posting referencing the verdict in the George Zimmerman criminal trial by Plaintiff, Michael Todd Snipes. See, Exhibit "A."

128. Scott Dowling was not the source of the Facebook posting to Mark Swanson because the true source of the Facebook posting was David Vanis after he directed a secretary who was friends with Plaintiff, Michael Todd Snipes, on Facebook to bring up Michael Todd Snipes personal, private page so he could search through it.

129. The Defendant, Volusia County, blamed the private Facebook posting by Plaintiff, Michael Todd Snipes, as reason for his termination.

130 The Defendant, Volusia County, violated Section 112.536(1)(f), Florida Statutes, because during the internal affair interrogation of Plaintiff, Michael Todd Snipes, the interviewing officer, David Vanis, unnecessarily wore a holstered gun in an act of intimidation of Michael Todd

Snipes to cooperate with the interrogation.

130. Additionally, Attorney Nancye Jones misrepresented in a correspondence to undersigned counsel stated, “[p]urasant to you request, I have confirmed that former Beach Department Capt. Scott Dowling was the source of the text messages and Facebook posting provided to Beach Director Mark Swanson in July 2013.” See, Exhibit “E.

131. The actions described above taken by the Defendant, Volusia County, were deliberate, intentional, and malicious, or in the alternative were undertaken with reckless disregard for the rights afforded to Plaintiff, Michael Todd Snipes, under the Law Enforcement Officers’ and Correctional Officers’ Rights, as amended, Section 112.536, Florida Statutes.

132. As a direct and proximate result of the Defendant, Volusia County’s violations of Plaintiff, Michael Todd Snipes’ right under the Policeman Bill of Rights, as amended, Section 112.536, Florida Statutes, Michael Todd Snipes has suffered severe and substantial damages. These damages include lost salary, lost employee benefits, lost raises, diminished earnings capacity, lost career and business opportunities, public scorn, loss of reputation, humiliation, embarrassment, inconvenience, mental and emotional anguish and distress and other compensatory damages.

WHEREFORE, Plaintiff, Michael Todd Snipes, respectfully demands a trial by jury for all issues triable and judgment against the Defendant, Volusia County, in the form of compensatory damages, reasonable attorney’s fees and costs, and such other relief this Court deems just and proper.

COUNT V

DEPRIVATION OF PROPERTY INTEREST IN PUBLIC EMPLOYMENT

133. Plaintiff, Michael Todd Snipes, re-alleges and incorporates herein the allegations contained in paragraphs one (1) through ninety-four (94).

134. As a public employee, Plaintiff, Michael Todd Snipes had a genuine property interest in his position based on a legitimate expectation of continued employment.

135. Plaintiff, Michael Todd Snipes, had a property interest and desire to continue employment with Defendant, Volusia County, due in part, to his exemplary service to Volusia County for over twenty (20) years.

136. The Defendant, Volusia County, decision to terminate Plaintiff, Michael Todd Snipes, was willful, wanton, and outrageous and without regard for the rights or feelings and resulted in deprivation of Michael Todd Snipes' property interest.

137. As a result of the Defendant, Volusia County, Plaintiff, Michael Todd Snipes, has suffered emotional and economic damages.

WHEREFORE, Plaintiff, Michael Todd Snipes, respectfully demands a trial by jury for all issues triable and judgment against the Defendant, Volusia County, in the form of compensatory damages, reasonable attorney's fees and costs, and such other relief this Court deems just and proper.

COUNT VI

UNPAID WAGES UNDER THE FAIR LABOR STANDARDS ACT

138. Plaintiff, Michael Todd Snipes, re-alleges and incorporates herein the allegations contained in paragraphs one (1) through ninety-four (94).

139. During his tenure with the Defendant, Volusia County, Plaintiff, Michael Todd Snipes, accrued approximately Three Hundred and Eighty (380) hours of paid leave.

140. Paid leave is considered compensatory time under 29 U.S.C. 207(o), and Plaintiff, Michael Todd Snipes, is entitled to this compensatory time accrued through his termination.

141. At the time of filing, Plaintiff, Michael Todd Snipes has only received compensation of approximately twenty percent (20%) of his paid leave.

142. The Defendant, Volusia County, has failed to compensate Plaintiff, Michael Todd Snipes his full compensation for his total accrued paid leave.

143. The Defendant, Volusia County's actions were deliberate and intentional, and with knowledge Plaintiff, Michael Todd Snipes, is due compensation for his total accrued paid leave.

144. As a direct and proximate result of the wrongful acts by the Defendant, Volusia County, Plaintiff, Michael Todd Snipes, has in the past suffered damages in the amount of the unpaid accrued paid leave which amount to loss of earnings.

WHEREFORE, Plaintiff, Michael Todd Snipes, respectfully demands a trial by jury for all issues triable and judgment against the Defendant, Volusia County, in the form of compensatory damages, liquidated damages equal to the amount of wages owed, reasonable attorney's fees and costs, and such other relief this Court deems just and proper.

## COUNT VII

### INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

145. Plaintiff, Michael Todd Snipes, re-alleges and incorporates herein the allegations contained in paragraphs one (1) through ninety-four (94).

146. The above-described actions by the Defendant, Volusia County, brought extreme emotional distress upon Plaintiff, Michael Todd Snipes.

147. The Defendant, Volusia County's actions were willful, wanton, and outrageous, and without regard to the rights or feelings of Plaintiff, Michael Todd Snipes.

148. As a direct and proximate result of the wrongful acts of the Defendant, Volusia County, Plaintiff, Michael Todd Snipes, has in the past suffered and in the future will continue to suffer extreme emotional distress.

WHEREFORE, Plaintiff, Michael Todd Snipes, respectfully demands a trial by jury for all issues triable and judgment against the Defendant, Volusia County, in the form of compensatory damages, reasonable attorney's fees and costs, and such other relief this Court deems just and proper.

JURY TRIAL

150. Plaintiff, Michael Todd Snipes, demands a trial by jury for all issues triable.

Dated: March 14, 2014.

Respectfully submitted,

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ATTORNEY FOR PLAINTIFF  
MICHAEL TODD SNIPES

ATTACHMENTS:

- Exhibit "A" - Internal Affairs investigation report, dated August 1, 2013
- Exhibit "B" - Recusal letter to Attorney Nancye Jones, dated August 19, 2013
- Exhibit "C" - Second recusal letter to Attorney Nancye Jones, dated September 3, 2013
- Exhibit "D" - Response to recusal letter from Attorney Nancye Jones, dated September 3, 2013
- Exhibit "E" - Correspondence from Attorney Nancye Jones, dated November 1, 2013