

Jennifer J. Middleton, OSB No. 071510

jmiddleton@justicelawyers.com

Caitlin V. Mitchell, OSB No. 123964

cmitchell@justicelawyers.com

JOHNSON JOHNSON LUCAS & MIDDLETON PC

975 Oak Street, Suite 1050

Eugene, OR 97401

Tel: 541-484-2434

Fax: 541-484-0882

Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION**

Brian Bryson

Case No.: 1:24-cv-1160

Plaintiff,

COMPLAINT

v.

**Klamath County, by and through the
Klamath County Sheriff's Office; Chris
Kaber in his Individual Capacity**

**29 U.S.C. § 2615; ORS 659A.183; ORS
659A.171; ORS 659A.199; ORS
659A.203; ORS 659A.040; ORS
659.043.**

Defendants.

Demand for Jury Trial

INTRODUCTORY STATEMENT

1.

Defendants Klamath County Sheriff's Office and Sheriff Chris Kaber retaliated against Captain Brian Bryson for reporting Sheriff Kaber's unethical and unlawful activities. The retaliation was so severe that Captain Bryson began having anxiety attacks and had to go out on protected medical leave. When his doctor cleared him to return to work, Defendants refused to reinstate Captain Bryson, instead placing him on administrative leave. Defendants subsequently

demoted Captain Bryson; then changed their minds and placed him back on administrative leave; then demoted him again. After months of uncertainty, Defendants' retaliatory conduct compelled Captain Bryson to resign from a nearly 30-year career serving the Klamath County Sheriff's Office. This is an action arising out of 29 U.S.C. § 2615; ORS 659A.183; ORS 659A.171; ORS 659A.199; ORS 659A.203; ORS 659A.040; and ORS 659.043.

PARTIES

2.

Brian Bryson is a resident of Klamath County, Oregon, and a former employee of the Klamath County Sheriff's Office. He was at all relevant times an eligible employee for purposes of the FMLA, as defined by 29 U.S.C. § 2611(2). He was at all relevant times an eligible employee for purposes of the OFLA, as defined by ORS 659A.156.

3.

Defendant Klamath County, by and through the Klamath County Sheriff's Office, is a political subdivision of the State of Oregon. It is a public employer as defined by ORS 659A.200. It is an employer for purposes of the FMLA, as defined by 29 U.S.C. § 2611(4). It is a covered employer for purposes of the OFLA, as defined by ORS 659A.153.

4.

Defendant Chris Kaber is the Sheriff of Klamath County. He is a public employer, as defined by ORS 659A.200.

5.

This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367(a).

6.

Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because the events and

omissions giving rise to the claims occurred in Klamath County, Oregon.

FACTS

7.

The Klamath County Sheriff's Office hired Captain Brian Bryson as a corrections deputy on November 18, 1996. He held various positions in the Sheriff's Office over the years, becoming Operations Captain (second in command) in 2022.

8.

As Operations Captain, Brian Bryson served as commanding officer of both Patrol and Corrections, the two major operational divisions of the Sheriff's Office. His job duties included supervising the work of deputies and other subordinate law enforcement personnel; developing policies and procedures for the Sheriff's Office; monitoring budgetary controls; and overseeing investigations into misconduct.

9.

Defendant Chris Kaber was elected Klamath County Sheriff in 2017. At that time one of his sons, Ryan Kaber, worked for the Sheriff's Office as a patrol officer. Chris Kaber's other son, Erick Kaber, was in the process of applying for a job as a corrections deputy when Chris Kaber was elected.

10.

To address potential conflicts of interest and violations of Oregon law, the Klamath County Board of Commissioners passed Resolution 2018-016, which required Sheriff Kaber to delegate all authority for the supervision and management of Ryan and Erick Kaber to other people, including Captain Bryson.

11.

Almost immediately after becoming Operations Captain, Captain Bryson saw that Sheriff Kaber was violating Resolution 2018-016 on a regular basis. In February 2022, Erick Kaber was placed under investigation based on allegations that he had used excessive force against an Adult in Custody (AIC). Notwithstanding that Resolution 2018-016 prohibited Sheriff Kaber from taking action to affect discipline over his son, Sheriff Kaber told Captain Bryson “not to dig up unnecessary stuff” against Erick Kaber. Sheriff Kaber then became angry at Captain Bryson when Bryson referred Erick Kaber’s investigation to an external reviewer (Deschutes County) and placed Erick Kaber on modified duty with no AIC contact. Captain Bryson held his ground and attempted to ignore the Sheriff’s improper attempts to influence the investigation of his son.

12.

In approximately May 2023, Sheriff Kaber began pressuring Captain Bryson to promote Ryan Kaber to Lieutenant, telling Bryson that he needed to “show [his] allegiance to the sheriff’s office.” Captain Bryson told Sheriff Kaber that his son was not eligible for the promotion, that doing as Sheriff Kaber asked would violate Resolution 2018-016, and that he (Captain Bryson) could be fired. Sheriff Kaber ordered Captain Bryson to promote Ryan Kaber multiple times; each time, Captain Bryson refused.

13.

The following month, on approximately June 8, 2023, Sheriff Kaber informed Captain Bryson that he intended to promote Ryan Kaber to Detective Sergeant – again, ignoring Resolution 2018-016’s prohibition on taking actions that would impact his son’s employment. Captain Bryson expressed concern that Sheriff Kaber’s action would violate the Resolution and Oregon Law. Sheriff Kaber told Captain Bryson: “Downtown is not going to tell me how to run

my office.” He pressured Captain Bryson to claim responsibility for Sheriff Kaber’s decision to promote Ryan Kaber to Detective Sergeant, even though Bryson opposed the transfer.

14.

Also in June 2023, Captain Bryson received reports that Ryan Kaber had used excessive force during a patrol stop, which ultimately precipitated a criminal investigation by the Oregon Department of Justice. Pursuant to County policy and practice, Captain Bryson placed Ryan Kaber on administrative leave pending the investigation.

15.

Sheriff Kaber was furious at Captain Bryson for following County policy and placing Ryan Kaber on leave. He accused Captain Bryson of traumatizing his grandchildren when Captain Bryson went to Ryan Kaber’s house to retrieve KCSO equipment. In fact, Captain Bryson did not interact at all with Ryan Kaber’s children.

16.

Captain Bryson refused all of Sheriff Kaber’s unlawful orders to stop investigations and to promote, transfer, or otherwise give preferential treatment to his sons.

17.

On June 13, 2023, after learning that Sheriff Kaber had instated Ryan Kaber as Detective Sergeant, Captain Bryson contacted Human Resources and reported that Sheriff Kaber had violated Resolution 2018-016 and County policy.

18.

On June 20, 2023, Klamath County Commissioner Derrick DeGroot submitted a complaint to the Oregon Governmental Ethics Commission, informing them of his concern that Sheriff Kaber had violated ORS Chapter 244 by instating Ryan Kaber as Detective Sergeant. The Board of County Commissioners (BOCC) also initiated its own investigation, conducted by Carroll Consulting LLC.

19.

After Captain Bryson refused to engage in unlawful activity and reported Sheriff Kaber's law and policy violations to HR, Sheriff Kaber began to retaliate against Captain Bryson. He began assigning internal affairs investigations and hiring decision-making tasks—normally handled by Captain Bryson—to other employees, including Bryson's subordinates. He revised the Sheriff Office's organizational chart to place other employees in positions of authority over Captain Bryson and to remove Bryson's supervisory role over at least one position. He became unfriendly and cold, and rarely spoke to Captain Bryson.

20.

Even as Sheriff Kaber was retaliating against him, Captain Bryson played a critical role in providing the Board of County Commissioners information it needed to conduct its investigation into Sheriff Kaber's unethical and unlawful practices. Captain Bryson created a timeline of events with HR director Amanda Van Riper to aid in the investigation and provided documentation, including emails and his own personal notes. On September 13, Captain Bryson provided an extensive verbal account to the Carroll Consulting investigator, reporting that Sheriff Kaber was consistently involved in employment-related dealings with his sons; that Sheriff Kaber suggested that Captain Bryson's job would be in jeopardy if he did not support

Kaber's actions; and the specifics of what had occurred between himself and Sheriff Kaber on June 8 and the days that followed.

21.

On September 22, Carroll Consulting LLC issued a report finding that Sheriff Kaber had violated Klamath County Resolution 2018-016. The report explicitly referenced Captain Bryson as having provided important evidence of ongoing violations: "Sheriff Kaber did not conform to the intent and content of the Klamath County Resolution 2018-016 as detailed in the complaint made by Klamath County Board of County Commissioner's Chair Derrick DeGroot," the Report found. "It is noted that this may have been an ongoing violation according to conversation with Captain Bryson and his notes."

22.

On September 27, the BOCC voted to rescind Resolution 2018-016. Sheriff Kaber was instructed that, as long as he was Sheriff, his two sons could not work for the Klamath County Sheriff's Office.

23.

By the time Carroll Consulting issued its report, Sheriff Kaber's retaliation had created such a toxic environment that it was impacting Captain Bryson's mental health. He became extremely anxious and began experiencing symptoms including flashbacks, hyper-vigilance, insomnia, and elevated blood pressure, heart rate, and respiration rate. In early October 2023 Captain Bryson sought medical help and was diagnosed with depression and anxiety. He went on protected medical leave (FMLA and OFLA) on approximately October 6, 2023.

24.

Captain Bryson gave notice that he was taking FMLA leave as soon as was practicable.

25.

On approximately October 6, 2023, Captain Bryson applied for workers' compensation. The claim was accepted.

26.

Captain Bryson intended to return to his job as Operations Captain as soon as he was cleared by his medical provider. But while on leave, he learned that Sheriff Kaber had told multiple people, including HR director Amanda Van Riper, that he intended to bar Captain Bryson from returning to his former position. Sheriff Kaber accused Captain Bryson of having lied about his health condition on his FMLA paperwork. He also disclosed Captain Bryson's private, protected health information to his colleagues and friends.

27.

On March 18, 2024, Captain Bryson emailed HR Director Amanda Van Riper medical release forms authorizing his return to work. That same day, Ms. Van Riper called to tell him that he was being placed on administrative leave pending an investigation.

28.

Captain Bryson was given no information concerning the nature of any allegations against him, nor was he told how long the leave would last. He sat at home under instructions from the Sheriff's Office to remain available during normal business hours. Yet no one from the Sheriff's Office ever contacted him. He became increasingly frustrated and confused.

29.

On April 9, Sheriff Kaber sent Captain Bryson a letter placing him on "modified duty" as

a “Forest/BLM contract position,” a deputy level position. The Forest/BLM contract position was not supervisory or managerial in nature, and it stripped Brian Bryson of all the significant job authority and responsibility he had held as Operations Captain. The modified duty assignment was a clear demotion.

30.

Even after the Klamath County Commission’s investigation found Sheriff Kaber in violation of Resolution 2018-016, Kaber continued to promote the interests of his sons and to conceal their wrongdoing. Captain Bryson continued to report these activities as he became aware of them. On April 14, he reported to Ms. Van Riper that Ryan Kaber was actively working for the United States Military while he was on paid administrative leave with Klamath County, which “would constitute Theft, Official Misconduct as well as numerous KCSO and Klamath County policy violations.” “I also fully believe,” Captain Bryson wrote, “there is no way Sheriff Kaber was not aware of Ryan working at the Air Base while on Administrative Leave for the County and collecting both checks.”

31.

On April 19, just a few days before Captain Bryson was supposed to report to his demoted position, Sheriff Kaber sent him a letter placing him back on administrative leave. As before, the Sheriff provided no information regarding any allegations against Captain Bryson and did not specify the duration of the leave.

32.

On April 24, 2024, Captain Bryson gave the Klamath County Sheriff’s Office notice of

his intent to pursue claims pursuant to ORS 30.275.

33.

On May 15, 2024, Sheriff Kaber sent Captain Bryson yet another letter, informing him he was being placed back on “modified duty” as a Project Manager for Search and Rescue. As before, the re-assignment was a demotion: Among other things, Captain Bryson would no longer hold executive level decision making authority, hiring / firing authority, or command and control over the jail and operations. He would also no longer have law enforcement duties, which had been the core of his professional identity for nearly 30 years.

34.

On May 15, 2024, Captain Bryson sent a letter to Klamath County Human Resources stating that Sheriff Kaber’s retaliation and hostility had compelled him to resign from the Klamath County Sheriff’s Office. He wrote: “The last couple years of supervising my boss’s children have been exhausting to say the least. I held them accountable for their poor behavior, as well as spoke out against the Sheriff’s violations of policy and unethical behavior. All of this has resulted in ongoing retaliation by Sheriff Kaber, culminating in him placing me on administrative leave for nearly two months without any explanation.” Bryson explained that, in light of the enforced demotion that Sheriff Kaber was now imposing, he had no choice but to quit his job: “I have unfortunately come to the realization that I cannot return to work under these conditions of being harassed, retaliated against, and humiliated by Sheriff Kaber.”

**FIRST CLAIM FOR RELIEF
29 U.S.C. § 2615
FMLA INTERFERENCE
AGAINST THE KLAMATH COUNTY SHERIFF’S OFFICE**

Plaintiff repeats and realleges paragraphs 1 through 34 as though fully restated herein.

35.

Plaintiff Brian Bryson was entitled to take medical leave under the FMLA because he was suffering from a serious health condition that made him unable to perform the functions of his job. He provided sufficient notice of his intent to take leave.

36.

By the acts and omissions described above, including but not limited to refusing to allow Plaintiff to return to his job or an equivalent job after Plaintiff had used FMLA leave, demoting Plaintiff, and constructively discharging him, Defendant Klamath County Sheriff's Office interfered with Plaintiff's FMLA rights, in violation of 29 U.S.C. § 2615(a).

37.

Plaintiff is entitled to economic damages, liquidated damages, and reinstatement to his former position as Operations Captain, pursuant to 29 U.S.C. § 2617(a)(1).

38.

Plaintiff is also entitled to reasonable attorney fees and costs. 29 U.S.C. § 2617(a)(3).

**SECOND CLAIM FOR RELIEF
ORS 659A.183; ORS 659A.171
OFLA RETALIATION / DISCRIMINATION
AGAINST THE KLAMATH COUNTY SHERIFF'S OFFICE**

Plaintiff repeats and realleges paragraphs 1 through 38 as though fully restated herein.

39.

Plaintiff Brian Bryson was entitled to take medical leave under the Oregon Family Leave Act because he was suffering from a serious health condition that made him unable to perform the functions of his job. He provided sufficient notice of his intent to take leave.

40.

By the acts and omissions described above, including but not limited to refusing to allow Plaintiff to return to his job or an equivalent job after Plaintiff had used OFLA leave, demoting Plaintiff, and constructively discharging him, Defendant Klamath County Sheriff's Office discriminated and retaliated against Plaintiff for invoking provisions of ORS 659A.150-ORS 659A.186, and violated his right to job protection under ORS 659A.171.

41.

Plaintiff is entitled to backpay, and to reinstatement to his position as Operations Captain.

42.

Pursuant to ORS 659A.885, Plaintiff is also entitled to reasonable attorney fees and costs.

**THIRD CLAIM FOR RELIEF
ORS 659A.199
WHISTLEBLOWER RETALIATION
AGAINST BOTH DEFENDANTS**

Plaintiff repeats and realleges paragraphs 1 through 42 as though fully restated herein.

43.

By the acts and omissions described above, including but not limited to refusing to allow Plaintiff to return from FMLA leave, demoting Plaintiff, and constructively discharging him, Defendant Klamath County Sheriff's Office discriminated and retaliated against Plaintiff because he reported in good faith information that he believed to be evidence of a violation of a state law, rule or regulation, in violation of ORS 659A.199.

44.

By the acts and omissions described above, including but not limited to assigning Plaintiff's job responsibilities to other people; stripping Plaintiff of his supervisory authority; making threats that Plaintiff's job was in jeopardy; making false accusations against Plaintiff; and influencing / compelling the Defendant Klamath County Sheriff's Office to bar Plaintiff from returning from FMLA leave, demote Plaintiff, and constructively discharge him, Defendant Chris Kaber aided and abetted the Klamath County Sheriff Office's discrimination and retaliation against Plaintiff, in violation of ORS 659A.030(g).

45.

Plaintiff has lost valuable wages and benefits because of Defendants' discrimination and retaliation. His professional reputation has been harmed. He has suffered from emotional distress including anxiety, depression, mental anguish, shame, humiliation, and loss of enjoyment of life.

46.

Plaintiff is entitled to backpay, compensatory damages in an amount to be determined by a jury, and reinstatement to his position as Operations Captain.

47.

Pursuant to ORS 659A.885, Plaintiff is also entitled to reasonable attorney fees and costs.

**FOURTH CLAIM FOR RELIEF
ORS 659A.203
WHISTLEBLOWER RETALIATION
AGAINST BOTH DEFENDANTS**

Plaintiff repeats and realleges paragraphs 1 through 47 as though fully restated herein.

48.

By the acts and omissions described above, including but not limited to refusing to allow Plaintiff to return from FMLA leave, demoting Plaintiff, and constructively discharging him, Defendant Klamath County Sheriff's Office discriminated and retaliated against Plaintiff because he reported in good faith information that he believed to be evidence of a violation of a state law, rule or regulation, in violation of ORS 659A.203.

49.

By the acts and omissions described above, including but not limited to assigning Plaintiff's job responsibilities to other people; stripping Plaintiff of his supervisory authority; making threats that Plaintiff's job was in jeopardy; making false accusations against Plaintiff; and influencing / compelling Defendant Klamath County Sheriff's Office to bar Plaintiff from returning from FMLA leave, demote Plaintiff, and constructively discharge him, Defendant Chris Kaber committed unlawful employment practices in violation of ORS 659A.203.

50.

Plaintiff has lost valuable wages and benefits because of Defendants' discrimination and retaliation. His professional reputation has been harmed. He has suffered from emotional distress including anxiety, depression, mental anguish, shame, humiliation, and loss of enjoyment of life.

51.

Plaintiff is entitled to backpay, compensatory damages in an amount to be determined by a jury, and reinstatement to his position as Operations Captain.

52.

Pursuant to ORS 659A.885, Plaintiff is also entitled to reasonable attorney fees and costs.

FIFTH CLAIM FOR RELIEF
ORS 659A.040
DISCRIMINATION AGAINST WORKER SEEKING WORKERS' COMPENSATION BENEFITS
AGAINST KLAMATH COUNTY SHERIFF'S OFFICE

Plaintiff repeats and realleges paragraphs 1 through 52 as though fully restated herein.

53.

Plaintiff utilized the procedures provided for in ORS Chapter 656 to obtain compensation for an on-the-job injury, sustained while he was employed by Defendant Klamath County Sheriff's Office.

54.

By the acts and omissions described above, including but not limited to barring Plaintiff from returning from FMLA leave, demoting Plaintiff, and constructively discharging him, Defendant unlawfully discriminated against Plaintiff for invoking his rights to obtain workers' compensation benefits.

55.

Plaintiff has lost valuable wages and benefits because of Defendant's discrimination and retaliation. His professional reputation has been harmed. He has suffered from emotional distress including anxiety, depression, mental anguish, shame, humiliation, and loss of enjoyment of life.

56.

Plaintiff is entitled to backpay, compensatory damages in an amount to be determined by the jury, and reinstatement to his position as Operations Captain.

57.

Pursuant to ORS 659A.885, Plaintiff is also entitled to reasonable attorney fees and costs.

SIXTH CLAIM FOR RELIEF
ORS 659A.043
FAILURE TO REINSTATE
AGAINST KLAMATH COUNTY SHERIFF'S OFFICE

Plaintiff repeats and realleges paragraphs 1 through 57 as though fully restated herein.

58.

Plaintiff sustained a compensable injury and was medically restricted from performing his job as Operations Captain of the Klamath County Sheriff's Office.

59.

After Plaintiff was medically released to return to work, he asked to be reinstated to his former position.

60.

Through the acts and omissions described above, Defendant unlawfully refused to reinstate Plaintiff to his former position, despite the position remaining available and Plaintiff no longer being disabled from performing the duties of the position. Instead, Defendant placed Plaintiff on administrative leave, demoted him, and constructively discharged him.

61.

Plaintiff has lost valuable wages and benefits because of Defendant's discrimination and retaliation. His professional reputation has been harmed. He has suffered from emotional distress including panic attacks, anxiety, depression, mental anguish, shame, humiliation, and loss of enjoyment of life.

62.

Plaintiff is entitled to backpay, compensatory damages in an amount to be determined by the jury, and reinstatement to his position as Operations Captain.

63.

Pursuant to ORS 659A.885, Plaintiff is also entitled to reasonable attorney fees and costs.

WHEREFORE, Plaintiff requests that this Court enter judgment in his favor and award the following relief:

- (a) Reinstatement Plaintiff to his former position as Operations Captain, with the full authority and job duties of that position;
- (b) Award damages against Defendants in an amount to be established at trial, including, without limitation, damages for lost past wages, benefits, and other economic loss; and damages for past, present, and future emotional pain and suffering, past and ongoing mental anguish, and loss of past, present, and future enjoyment of life;
- (c) An award of pre- and post-judgment interest;
- (d) An award of costs and attorney fees, and
- (e) Such other relief as is just and equitable.

Respectfully submitted this 16th day of July, 2024.

JOHNSON JOHNSON LUCAS & MIDDLETON PC

/s/ Caitlin V. Mitchell

Caitlin V. Mitchell, OSB No. 123964

cmitchell@justicelawyers.com

Jennifer J. Middleton, OSB No. 071510

jmiddleton@justicelawyers.com

975 Oak Street, Suite 1050

Eugene, OR 97401

Tel: (541) 484-2434

Fax: (541) 484-0882

Attorneys for Plaintiff