

1 Steven J. Serbalik, Bar #028191
2 **STEVEN J. SERBALIK, P.L.C.**
3 4925 E. Desert Cove Ave #116
4 Scottsdale, Arizona 85254
5 Telephone: (480) 269-1529
6 steveserbalik@gmail.com
7 *Attorney for Plaintiffs Aaron Minor, POSA,*
8 *Inc. and the Arizona Conference of Police*
9 *and Sheriffs, Inc.*

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF ARIZONA**

9 Aaron Minor, individually, POSA, Inc., an
10 Arizona nonprofit corporation, and the Arizona
11 Conference of Police and Sheriffs, an Arizona
12 nonprofit corporation,

Plaintiffs,

v.

13 The City of Scottsdale, a municipal
14 corporation; Alan Rodbell, in his official
15 capacity as Chief of Police of the Scottsdale
16 Police Department; and Donna Brown, in her
17 official capacity as the Human Resources
18 Executive Director of the City of Scottsdale,

Defendants.

NO.

**VERIFIED COMPLAINT AND
PETITION FOR A TEMPORARY
RESTRAINING ORDER,
PRELIMINARY INJUNCTION,
AND PERMANENT INJUNCTION**

(Jury Trial Demanded)

18 Plaintiffs Aaron Minor, POSA, Inc., (“POSA”) and the Arizona Conference of
19 Police and Sheriffs (“AZCOPS”) (collectively where appropriate the “Plaintiffs”) for their
20 Complaint against the City of Scottsdale, Alan Rodbell and Donna Brown, (collectively
21 where appropriate the “Defendants”) allege as follows:

22 **JURISDICTIONAL ALLEGATIONS**

23 1. Jurisdiction is appropriate pursuant to 28 U.S.C. §1331 because Plaintiffs
24 bring this action pursuant to 42 U.S.C. §1983 and the Fourth, Fifth and Fourteenth
25 Amendments of the United States Constitution. This Court also has supplemental and/or
26 pendent jurisdiction over state common law and statutory claims pursuant to 28 U.S.C.
27 §1367.
28

1 2. This Court has jurisdiction of Plaintiffs' federal law claims pursuant to 28
2 U.S.C. §1331 and 42 U.S.C. §1988. Additionally, this Court had jurisdiction over
3 Plaintiffs' state and federal claims pursuant to Article 6, Section 14 of the Arizona
4 Constitution. Plaintiffs seek injunctive relief in addition to financial damages, and the
5 amount in controversy exceeds the minimum jurisdictional limits of this Court.

6 3. Venue is proper in this Court pursuant to A.R.S. §12-401 and 28 U.S.C.
7 §1391 as the parties are residents and entities of Maricopa County and Pima County and
8 the events underlying this lawsuit occurred in Maricopa County, an area wholly within the
9 District of Arizona. All parties are residents of and/or are doing business in Arizona.

GENERAL ALLEGATIONS

11 4. Plaintiffs reallege and incorporate, by this reference, their claims, facts and
12 allegations in the paragraphs above as if set forth fully herein.

13 5. Defendant City of Scottsdale is a governmental entity that acts through its
14 employees, agents and independent contractors, including Defendants Alan Rodbell and
15 Donna Brown.

16 6. Defendant Alan Rodbell is the duly-appointed Police Chief of the City of
17 Scottsdale and the head of the Scottsdale Police Department ("Scottsdale PD"), with
18 ultimate authority and responsibility to establish policy, practices, customs, procedures,
19 protocols and training for the Scottsdale PD as an official policymaker. His actions and/or
20 inactions in his official capacity constitute actions of the Scottsdale PD and the City of
21 Scottsdale is vicariously and directly liable for his wrongful conduct as alleged herein. As
22 the appointed Police Chief, Rodbell has official, vicarious, direct and supervisory liability
23 for the Scottsdale PD's officers, agents and employees.

24 7. Defendant Donna Brown is the duly-appointed Human Resources Executive
25 Director of the City of Scottsdale and the head of the Human Resources Department of the
26 City of Scottsdale, with authority and responsibility to establish policy, practices,
27 customs, procedures, protocols and training for the City of Scottsdale as an official
28 policymaker. Her actions and/or inactions in his official capacity constitute actions of the

1 City of Scottsdale and the City of Scottsdale is vicariously and directly liable for her
2 wrongful conduct as alleged herein.

3 8. Plaintiff POSA, Inc. (d/b/a the Police Officers of Scottsdale Association) is
4 a membership organization dedicated to fair representation of law enforcement officers
5 and other eligible employees of the Scottsdale Police Department. Certain supervisors,
6 including Plaintiff Minor, are members of POSA, and POSA has a direct interest in
7 securing and defending the due process rights of its supervisor members.

8 9. Plaintiff AZCOPS is a statewide organization dedicated to fair
9 representation of law enforcement officers located around the State of Arizona. Plaintiff
10 Minor is an AZCOPS member, and AZCOPS therefore provides Plaintiff Minor with
11 legal representation and incurs costs and fees associated with this representation.

12 **ALLEGATIONS COMMON TO ALL COUNTS**

13 **Aaron Minor's Employment with the Scottsdale Police Department**

14 10. Plaintiff Aaron Minor is a state-certified peace officer.

15 11. Approximately 22 years ago, Plaintiff Minor became one of the few black
16 police officers with the Scottsdale Police Department.

17 12. In approximately 2005, Plaintiff Minor became one of the first black
18 sergeants with the Scottsdale Police Department.

19 13. In approximately 2011, Plaintiff Minor became the first black lieutenant
20 with the Scottsdale Police Department.

21 14. In approximately 2014 Plaintiff Minor became the first black commander
22 with the Scottsdale Police Department.

23 15. On or about May 9, 2019, Plaintiff Minor attended a
24 Commanders/Lieutenants Bi-Monthly Ops Meeting led by Scottsdale Assistant Chief
25 Richard Slavin (the "Ops Meeting").

26 16. During the Ops Meeting, Assistant Chief Slavin made multiple homophobic
27 remarks.

28 17. Specifically, immediately prior to making the homophobic comments,

1 Assistant Chief Slavin led a discussion related to a police incident that was supervised by
2 Lt. Palopoli, the only openly gay supervisor at the Scottsdale Police Department.

3 18. After discussing the police incident led by Lt. Palopoli, Assistant Chief
4 Slavin attempted to lighten the mood by making homophobic remarks.

5 19. The first homophobic remark made by Assistant Chief Slavin related to a
6 training that he had attended related to a terrorist attack in France. Assistant Chief Slavin
7 remarked that the training was led by a French police supervisor – and so therefore the
8 police supervisor was “probably gay.”

9 20. The second homophobic remark made by Assistant Chief Slavin occurred
10 when a meeting attendee (Lt. Myers) laughed, and Assistant Chief Slavin turned towards
11 him and asked “are you gay?”

12 21. Scottsdale City AR333 – the Anti-Discrimination and Non-Harassment
13 Policy – prohibits the types of homophobic remarks made by Assistant Chief Slavin. A
14 copy of AR333 that was in effect at the time of the Ops Meeting is attached to this
15 complaint as Exhibit 1 and incorporated as if fully set forth herein.

16 22. Multiple Ops Meeting attendees, including Plaintiff Minor, recognized that
17 Assistant Chief Slavin’s homophobic remarks were offensive and violated AR333.

18 23. Specifically, Lt. Bonnette, a meeting attendee, took contemporaneous notes
19 of Assistant Chief Slavin’s comments, and Lt. Bonnette reported to Plaintiff Minor (Lt.
20 Bonnette’s direct supervisor) that Lt. Bonnette was concerned by Assistant Chief Slavin’s
21 comments.

22 24. Shortly after the Ops Meeting, Plaintiff Minor reported Assistant Chief
23 Slavin’s inappropriate remarks to Assistant Chief Popp (Assistant Chief Popp was not
24 present at the Ops Meeting). Assistant Chief Popp was Plaintiff Minor’s direct supervisor.

25 25. Plaintiff Minor relayed to Assistant Chief Popp that he and Lt. Bonnette
26 were both present at the Ops Meeting, and that they were both shocked by Assistant Chief
27 Slavin’s homophobic remarks.

28 26. In addition to reporting Assistant Chief Slavin’s homophobic remarks to

1 Assistant Chief Popp, Plaintiff Minor also directly confronted Assistant Chief Slavin
2 regarding the inappropriateness of the homophobic remarks.

3 27. On or about May 10, 2019 (the day after the Ops Meeting), Assistant Chief
4 Slavin wrote an email to the meeting attendees, copying Defendant Rodbell, saying the
5 following – *“Hello All, It was brought to my attention today that I made an inappropriate
6 comment in yesterday’s meeting. I do remember making the comment, and I am truly
7 sorry for doing so. It was a failed attempt at a joke, but was certainly unprofessional. For
8 anyone who was offended, please accept my sincere apology. Thank you.”*

9 28. AR333 requires that any investigation into a violation of the anti-
10 discrimination/Non-harassment policy be reported to the City of Scottsdale Human
11 Resources.

12 29. Assistant Chief Slavin spoke with Defendant Rodbell and admitted to
13 conduct that would constitute a violation of AR333.

14 30. Upon information and belief, Assistant Chief Slavin provided a false and
15 misleading recount of what had occurred at the Ops Meeting.

16 31. Upon information and belief, Assistant Chief Slavin failed to inform
17 Defendant Rodbell that Assistant Chief Slavin had asked another Scottsdale police
18 supervisor if he was “gay” during the Ops Meeting.

19 32. Upon information and belief, neither Assistant Chief Popp nor Defendant
20 Rodbell reported Assistant Chief Slavin’s violation of AR333 to Human Resources as
21 required by City policy.

22 33. Upon information and belief, neither Defendant Brown nor any other
23 member of Defendant City of Scottsdale’s Human Resources Department conducted an
24 investigation or otherwise addressed Assistant Chief Slavin’s violation of AR333.

25 34. Instead of ordering any type of investigation into Assistant Chief Slavin’s
26 violation of AR333, Defendant Rodbell issued a “verbal counseling” to Assistant Chief
27 Slavin.

28 **The Internal Investigation**

1 35. After six weeks of no formal investigation occurring, Plaintiff POSA's
2 President sent an email to Defendant Rodbell advising Defendant Rodbell that numerous
3 POSA members brought forward an allegation that Assistant Chief Slavin had made
4 homophobic remarks at the Ops Meeting and requested a formal investigation into the
5 matter.

6 36. Defendant Rodbell responded that he would "begin to look into the matter."
7 A copy of this email exchange is attached to this Complaint as Exhibit 2, and incorporated
8 by reference as if it was fully set forth herein.

9 37. Defendant Rodbell's subsequent referral resulted in IA2019-048 (the
10 "AR333 Investigation")

11 38. Multiple witnesses were interviewed as part of the AR333 Investigation,
12 including Plaintiff Minor.

13 39. Most of the witness interviews for the AR333 Investigation lasted less than
14 5 minutes.

15 40. Despite the fact that standard IA practice is to interview the subject of the
16 investigation last, Assistant Chief Slavin was interviewed as part of the AR333
17 Investigation on the first day.

18 41. During his interview as part of the AR333 Investigation, Assistant Chief
19 Slavin failed to disclose the fact that he had asked another Ops Meeting attendee if the
20 attendee was "gay" – even though this was specifically referenced in the Notice of
21 Investigation.

22 42. The AR333 Investigation revealed that Lt. Bonnette had taken
23 contemporaneous notes at the Ops Meeting, those notes documented an AR333 violation
24 by Assistant Chief Slavin, and Lt Bonnette had also reported his concerns to his direct
25 supervisor, Plaintiff Minor.

26 43. The AR333 Investigation failed to determine if Assistant Chief Slavin was
27 honest in his conversation with Defendant Rodbell about Assistant Chief Slavin's
28 homophobic remarks.

1 44. Specifically, the AR333 Investigation did not include an interview of
2 Defendant Rodbell, nor did the AR333 Investigation personnel ask Assistant Chief Slavin
3 what was reported to Defendant Rodbell.

4 45. The AR333 Investigation included multiple witnesses who provided false
5 and/or misleading statements to internal affairs investigators.

6 46. The AR333 Investigation investigators did not follow-up on any
7 inconsistencies in witness statements – nor did they re-interview Assistant Chief Slavin to
8 resolve all alleged instances of misconduct.

9 47. The AR333 Investigation investigators asked Plaintiff Minor different
10 questions than those posed to any other witnesses.

11 48. Upon information and belief, the scope of the AR333 Investigation was set
12 by Defendant Rodbell.

13 49. During the AR333 Investigation, numerous questions were asked regarding
14 whether witnesses were “offended” by Assistant Chief Slavin’s homophobic remarks.

15 50. Whether witnesses were “offended” by a violation of AR333 is not relevant
16 to determining if a violation of Defendant Scottsdale’s policies occurred.

17 51. AR333 specifically states “The legal standard used to determine if the
18 conduct is inappropriate or objectionable is whether a reasonable person, as a member of
19 the protected class, would view it that way.”

20 52. Neither the AR333 Investigation investigators, Defendant Rodbell,
21 Defendant Brown, nor any other responsible agent of Defendant Scottsdale analyzed
22 whether a member of the protected class (alternative sexual orientation) would find
23 Assistant Chief Slavin’s conduct objectionable.

24 53. Upon information and belief, the AR333 Investigation was not supervised or
25 conducted by Defendant Brown or any other Human Resources personnel employed by
26 Defendant City of Scottsdale.

27 54. Despite significant deficiencies in the AR333 Investigation, the allegations
28 that Assistant Chief Slavin both violated AR333 and engaged in unprofessional conduct

1 were sustained.

2 55. Per AR333, violations of Defendant Scottsdale's Anti-Discrimination and
3 Non-Harassment policy could result in discipline up to and including termination.

4 56. Despite this language, Defendant Rodbell decided to take no further
5 disciplinary action against Assistant Chief Slavin.

6 57. Instead, Defendant Rodbell ordered a new internal investigation into
7 Plaintiff Minor.

8 **Plaintiff Minor is Targeted**

9 58. Plaintiff Minor had reported Assistant Chief Slavin's misconduct at the Ops
10 Meeting through his chain of command.

11 59. Plaintiff Minor also reported Assistant Chief Slavin's misconduct directly to
12 Assistant Chief Slavin himself.

13 60. Upon information and belief, only Plaintiff Minor, Lt. Bonnette (whose
14 concerns Plaintiff Minor promptly relayed to Plaintiff Minor's supervisor) and POSA
15 President Mendoza actually brought forward allegations of misconduct, even though there
16 were more than a dozen meeting attendees present during Assistant Chief Slavin's
17 homophobic remarks.

18 **The Internal Investigation into Plaintiff Minor**

19 61. On or about October 1, 2019, Plaintiff Minor received notice from his
20 supervisor, Assistant Chief Popp, that Plaintiff Minor would face an internal investigation
21 alleging that Plaintiff Minor did not respond with integrity during the AR333
22 Investigation.

23 62. Assistant Chief Popp explained to Plaintiff Minor that Assistant Chief Popp
24 had explained to Defendant Rodbell that he did not believe there was a sufficient basis to
25 proceed with an internal investigation into Plaintiff Minor, but Defendant Rodbell
26 proceeded anyway.

27 63. Assistant Chief Popp explained to Plaintiff Minor that Defendant Rodbell
28 only wanted a few questions answered, and that if Plaintiff Minor answered the questions

1 “right,” that Plaintiff Minor would be “fine.”

2 64. Plaintiff Minor believed that the new internal investigation into him was
3 retaliatory and represented mismanagement and an abuse of authority.

4 65. Pursuant to A.R.S. §38-531 *et. seq.* Plaintiff Minor prepared a written
5 presentation disclosing various instances of mismanagement and abuses of authority.

6 66. On or about October 3, 2019, Plaintiff Minor submitted his written
7 allegations, and provided a compelled interview to discuss his documented concerns.

8 67. Plaintiff Minor was subsequently directed to provide additional, written
9 information related to allegations of mismanagement and abuse of authority related to the
10 supervisors at the Scottsdale Police Department, and violations of law, including
11 Scottsdale City Code Section 14-2 – Equal employment opportunity.

12 68. Plaintiff Minor, through counsel, provided additional information pursuant
13 to A.R.S. §38-531 *et. seq.* identifying, in writing, additional instances of mismanagement
14 and abuses of authority, and violations of law, including Scottsdale City Code Section 14-
15 2 – Equal employment opportunity.

16 69. In his written submissions, Plaintiff Minor specifically accused Defendant
17 Rodbell of mismanagement and abuses of authority, and requested that his concerns be
18 reviewed by Defendant Scottsdale’s City Manager.

19 70. Shortly after providing his supplemental written submission, Plaintiff Minor
20 once again spoke with Assistant Chief Popp.

21 71. Assistant Chief Popp told Plaintiff Minor that Defendant Rodbell was “not
22 happy” with Plaintiff Minor’s answers to unspecified “questions.”

23 72. Assistant Chief Popp told Plaintiff Minor that Plaintiff Minor’s responses to
24 the unspecified “questions” would not have the effect that Plaintiff Minor desired.

25 73. Assistant Chief Popp told Plaintiff Minor that he believed that, as a result of
26 Plaintiff Minor’s answers to questions, that Plaintiff Minor would be terminated.

27 **Plaintiff Minor is Terminated with No Due Process**

28 74. On the morning of October 21, 2019, Plaintiff Minor received a call from

1 Human Resources informing Plaintiff Minor that he must report to Defendant Rodbell's
2 office at 1pm.

3 75. Plaintiff Minor did not receive a copy of the "new" internal investigation,
4 nor did Plaintiff Minor receive any response to his written submissions alleging
5 mismanagement, abuses of authority, and violations of Scottsdale City Code.

6 76. Defendants Rodbell and Brown were present at the October 21, 2019
7 meeting.

8 77. Plaintiff Minor received a pre-signed, single page paper purporting to
9 terminate his employment, stating "Effective immediately, we are removing you from the
10 position of Police Commander as we have lost trust and confidence in your ability to
11 fulfill the duties and expectations of this position." A copy of this letter is attached as
12 Exhibit 3 and incorporated as if it is fully set forth herein.

13 78. Plaintiff Minor asked if he could see the investigation that served as the
14 basis of his purported termination, and Defendant Rodbell responded that Plaintiff Minor
15 would need to make a public records request.

16 79. Neither Defendant Rodbell nor Defendant Brown offered Plaintiff Minor the
17 opportunity to be heard regarding the purported reasons supporting Plaintiff Minor's
18 termination.

19 80. Plaintiff Minor did not have an opportunity to tell Defendant Rodbell nor
20 Defendant Brown any reasons why they should not move forward with the intended
21 termination.

22 **No "Appeals Process"**

23 81. The "Letter of Dismissal" that Plaintiff Minor received alleges that Plaintiff
24 Minor is not entitled to any appeal of his termination.

25 82. The Arizona Peace Officers' Bill of Rights (A.R.S. §38-1101 *et. seq.*)
26 specifically states that a non-probationary regularly employed police officer in a city or
27 town is not subject to disciplinary action except for just cause.

28 83. The only law enforcement officers that are not protected by the "just cause"

1 standard are those employed by an agency of the state (i.e. the Arizona Department of
2 Public Safety) as an at-will employee.

3 84. Defendant City of Scottsdale and the Scottsdale Police Department are not
4 agencies of the state.

5 85. State law holds that a non-probationary peace officer is entitled to an appeal
6 process with a hearing officer, administrative law judge, or personnel board, with the
7 appellant entitled to “strike” a hearing officer if he so chooses (A.R.S. §38-1106F).

8 86. The “Letter of Dismissal” and the Scottsdale City Code purporting to deny
9 Plaintiff Minor appeal rights violate state law and Plaintiff Minor’s right to due process.

10 **Damages to Plaintiffs**

11 87. Plaintiff Minor suffered mental health issues including but not limited to
12 depression, anxiety, insomnia and emotional distress.

13 88. Plaintiff AZCOPS spent thousands of dollars in legal costs and fees to
14 represent Plaintiff Minor in a procedurally deficient internal affairs investigation.

15 89. Plaintiff POSA suffers damages to its reputation if its members are not
16 afforded the statutory protections outlined in state law.

17 90. Plaintiffs fear that, without this Court’s intervention, Defendants will
18 continue to inflict harm upon them by wrongfully terminating Plaintiff Minor without
19 providing him with the due process right to defend himself (or to even know the
20 allegations against him).

21 **COUNT I**

22 **42 U.S.C. §1983 – Violation of Procedural Due Process Rights**

23 91. Plaintiffs reallege each and every allegation set forth in the paragraphs
24 above and incorporate each allegation by this reference.

25 92. Plaintiff Minor has the constitutional right to be free from a deprivation of a
26 protected interest (his employment as a government employee) without due process of
27 law.

28 93. Unless otherwise specified, Defendants were at all material times acting

1 under the color of law and in their capacity as officials and agents of their respective
2 government agencies.

3 94. Defendant Rodbell intentionally or recklessly ordered an investigation
4 against Plaintiff Minor that deprived Plaintiff Minor of the ability to respond to the factual
5 allegations against him for the purposes of ending Plaintiff Minor employment without
6 proper procedural protections.

7 95. Defendant Brown intentionally or recklessly permitted an investigation
8 against Plaintiff Minor without ensuring that Plaintiff Minor received proper procedural
9 protections.

10 96. The City of Scottsdale intentionally or recklessly permitted an investigation
11 against Plaintiff Minor without ensuring that Plaintiff Minor received proper procedural
12 protections.

13 97. Plaintiffs Minor, POSA and AZCOPS have no meaningful opportunity to
14 review the actual allegations of misconduct against Plaintiff Minor as Plaintiffs still have
15 not been provided with the actual allegations of misconduct, and Defendants purport to
16 terminate Plaintiff Minor without an opportunity to be heard.

17 98. The denial of any appeals process contemplated in the Letter of Dismissal
18 violates Plaintiff Minor's right to appeal contemplated under the Arizona Peace Officers'
19 Bill of Rights (A.R.S. §38-1101 *et. seq.*).

20 99. The lack of any appeals process will cause actual damages to Plaintiffs in
21 the form of time and money that will be expended to defend against a procedurally
22 deficient process and investigative result.

23 100. Defendants wrongful conduct as referenced in this Complaint constitute
24 violations of the United States Constitution including, but not limited to, Amendments IV,
25 V and XIV, in that Plaintiffs were deprived of privileges and immunities guaranteed to all
26 citizens of the United States by being deprived of non-probationary public employment
27 without proper cause, with an unconstitutional motive and malice, without equal
28 protection and without substantive and procedural due process.

1 101. Defendants’ wrongful conduct both actually and proximately caused
2 damage to Plaintiffs in an amount to be determined at trial.

3 **COUNT II**

4 **42 U.S.C. §1983 – Substantive Due Process Violations**

5 102. Plaintiffs reallege each and every allegation set forth in the paragraphs
6 above and incorporate each allegation by this reference.

7 103. Defendants’ blatant violation of Plaintiff Minor’s due process rights “shock
8 the conscience” as they deliberately proceeded in a manner that violates any semblance of
9 reasonable governmental action and are directly contrary to the requirements established
10 under state law.

11 104. Unless otherwise specified, Defendants Rodbell and Brown were at all
12 material times acting under the color of law and in their capacity as officials and agents of
13 their respective government agencies.

14 105. Defendant Rodbell ordered or recklessly permitted an internal investigation
15 to occur that was designed from the beginning to deprive Plaintiff Minor of his due
16 process rights by proceeding in a manner that shocks the conscience and otherwise
17 violates state law.

18 106. Defendant Brown recklessly permitted an internal investigation to occur that
19 had the purpose and effect of depriving Plaintiff Minor of his due process rights by
20 proceeding in a manner that shocks the conscience and otherwise violates state law.

21 107. The lack of an appeals process contemplated in the Letter of Dismissal
22 shocks the conscience in the sense that it contemplates Plaintiff Minor having no right to
23 appeal in direct conflict with state law.

24 108. The lack of a meaningful appeals process will cause actual damages to
25 Plaintiffs in the form of time and money that will be expended to defend against a
26 procedurally deficient process and investigative result.

27 109. Defendants’ wrongful conduct as referenced in this Complaint constitutes
28 violations of the United States Constitution including, but not limited to, Amendments IV,

1 V and XIV, in that Plaintiffs were deprived of privileges and immunities guaranteed to all
2 citizens of the United States by being deprived of non-probationary governmental
3 employment without proper cause, with an unconstitutional motive and malice, without
4 equal protection and without substantive and procedural due process.

5 110. Defendants' wrongful conduct both actually and proximately caused
6 damage to Plaintiffs in an amount to be determined at trial.

7 **COUNT III**

8 **Arizona State Law – Violation of the Peace Officers' Bill of Rights**

9 111. Plaintiffs reallege each and every allegation set forth in the paragraphs
10 above and incorporate each allegation by this reference.

11 112. Unless otherwise specified, Defendants Rodbell and Brown were at all
12 material times acting under the color of law and in their capacity as officials and agents of
13 their respective government agencies.

14 113. Defendants Rodbell and Brown initiated and took part in the internal
15 investigation against Plaintiff Minor.

16 114. The lack of any appeals process outlined in the Letter of Dismissal fails to
17 permit a hearing before a state or local merit board, a civil service board, an
18 administrative law judge or a hearing officer as required under A.R.S. §38-1101.

19 115. Plaintiff Minor was unable to respond to the allegations made against him in
20 the manner contemplated under state law due to Defendants' knowing or reckless
21 disregard for the requirements guaranteed under state law.

22 116. Defendants wrongful conduct as referenced in this Complaint constitute
23 violations of the Peace Officers' Bill of Rights, with an unlawful motive and malice,
24 without equal protection and without substantive and procedural due process.

25 117. Plaintiffs seek declaratory and injunctive relief to vindicate the rights
26 guaranteed to them under state law.

27 **COUNT IV**

28 **42 U.S.C. §1983 and State Law – Unconstitutional and/or Unlawful Customs, Policies**

1 **and Failure to Train**

2 118. Plaintiffs reallege each and every allegation set forth in the paragraphs
3 above and incorporate each allegation by this reference.

4 119. Unless otherwise specified, Defendants Rodbell and Brown were at all
5 material times acting under the color of law and in their capacity as officials and agents of
6 their respective government agencies.

7 120. Defendants Scottsdale and Brown failed to train Defendant Rodbell in the
8 appropriate, lawful and constitutional policies, procedures and protocols for investigating,
9 processing, handling and managing internal investigations under his control.

10 121. Defendants Scottsdale and Brown provided either no training or such
11 inadequate training that the lack of training was the moving force behind Plaintiffs'
12 injuries.

13 122. Defendants Scottsdale and Brown's failure to train Defendant Rodbell
14 amounted to a deliberate indifference to the rights of persons with whom Defendant
15 Rodbell came into contact with, including Plaintiff Minor.

16 123. Defendants' wrongful conduct as referenced in this Complaint constitute
17 violations of the United States Constitution and the laws of the State of Arizona,
18 including, but not limited to, Amendments IV, V and XIV, in that Plaintiffs were deprived
19 of privileges and immunities guaranteed to all citizens of the United States by being
20 subjected to an unlawful investigation, with an unconstitutional motive and malice,
21 without equal protection and without substantive and procedural due process.

22 124. Defendants' wrongful conduct both actually and proximately caused
23 damage to Plaintiffs in an amount to be determined at trial as to the constitutional claims,
24 and Plaintiffs seek declaratory and injunctive relief to vindicate the rights guaranteed to
25 them under state law.

26 **COUNT V**

27 **Retaliation under the Arizona Public Employee Whistleblower Act**

28 125. Plaintiffs reallege each and every allegation set forth in the paragraphs

1 above and incorporate each allegation by this reference.

2 126. Plaintiff Minor submitted written documentation to Defendant Scottsdale
3 related to the violation of law, mismanagement, and abuse of authority.

4 127. Defendants Rodbell, Brown and Scottsdale retaliated against Plaintiff Minor
5 by terminating his employment without just cause.

6 128. Despite the fact that Plaintiff Minor alleged reprisal based upon his
7 reporting of misconduct, Defendants failed to provide him with a copy of the Arizona
8 Public Employee Whistleblower Act as required by A.R.S. §38-532(G).

9 129. Pursuant to A.R.S. §38-532(K), Plaintiff Minor seeks injunctive relief, to
10 wit, restoring him to his prior position as a Scottsdale Police Department Commander, and
11 an award of attorneys fees.

12 **PETITION FOR A TEMPORARY RESTRAINING ORDER**

13 130. Plaintiffs reallege each and every allegation set forth in the paragraphs
14 above and incorporate each allegation by this reference.

15 131. Defendants purported to terminate Plaintiff Minor on October 21, 2019,
16 even though Plaintiff Minor has not seen the actual allegations made against him and
17 despite the fact that Defendants have deprived Plaintiff Minor of any opportunity to
18 provide reasons why he should not be terminated.

19 132. Plaintiff Minor has been on administrative leave (at-home assignment) since
20 October 2, 2019, and an injunction from this Court would preserve the status quo to
21 ensure that Plaintiffs' Constitutional and statutory rights are preserved.

22 133. Without an immediate relief, Plaintiffs would incur substantial hardship,
23 including additional costs, the exposure of legal strategies, and a deficient appeal process
24 that would materially harm their protected interests.

25 134. For these reasons, Plaintiffs respectfully request that the Court enjoin
26 Defendants from taking any further adverse actions against Plaintiff Minor until the Court
27 can address the procedural, substantive, and statutory concerns raised in this Complaint,
28 and consider further interim relief after both parties have the opportunity to be heard.

1 RESPECTFULLY SUBMITTED this 22nd day of October, 2019.

2

3

STEVEN J SERBALIK, P.L.C.

4

5

By: /s/Steven J. Serbalik

6

Steven J. Serbalik

7

4925 E. Desert Cove Ave #116

8

Scottsdale, Arizona 85254

9

*Attorney for Plaintiffs Aaron Minor and the
Arizona Conference of Police and Sheriffs, Inc.*

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
1
0
1
1
1
2
1
3
1
4
1
5
1
6
1
7
1
8
1
9
2
0
2
1
2
2
2
3
2
4
2
5
2
6
2
7
2
8


VERIFICATION OF AARON MINOR

I, Aaron Minor, declare as follows:

1. I am a Plaintiff in the present case, a resident of the State of Arizona, and a non-probationary certified peace officer in the State of Arizona.

2. I have personal knowledge of myself, my activities, and my intentions, including those set in the foregoing *Verified Complaint and Petition for a Temporary Restraining Order, Preliminary Injunction and Permanent Injunction*, and if called on to testify I would competently testify as to the matters stated herein.

3. Pursuant to 28 U.S.C. §1746, I verify under penalty of perjury under the laws of the United States of America that the factual statements in this *Complaint* concerning myself, my activities, and my intentions are true and correct.



Aaron Minor

10-22-19
Date