

CAUSE NO. D-1-GN-18-002752

MARCUS STOKKE	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
TEXAS ALCOHOLIC BEVERAGE	§	
COMMISSION	§	
Defendant.	§	<u>126TH</u> JUDICIAL DISTRICT

PLAINTIFF’S ORIGINAL PETITION

Plaintiff Marcus Stokke (“Plaintiff”) submits the following Original Petition against the Texas Alcoholic Beverage Commission (the “Commission”):

Discovery

1. Discovery in this suit is appropriate under Rule 190.2 as a Level 2 case.

Parties

2. Plaintiff is an individual and a public employee within the meaning of Section 554.001(4) of the Texas Government Code. The Commission is an agency of the State of Texas subject to a claim under Section 554.001(2)(B). It may be served with citation through Kevin J. Lilly, Presiding Officer of the Commission, 5806 Mesa Drive, Austin, Texas 78731.

Jurisdiction, Amount of Claims and Venue

3. Damages sought by this suit are within the jurisdictional limits of this Court. Plaintiff seeks monetary relief over \$200,000.00. Pursuant to Rule 47, Plaintiff is uncertain as to the maximum amount claimed by this suit. Venue is proper under Section 5.17 of the Texas Alcoholic Beverage Code.

Facts

4. Prior to October 31, 2017, Plaintiff held a Texas peace officer license for 21 years, and, between March 18, 2001 and October 31, 2017, was employed by the Commission. Beginning no later than July 2008, Plaintiff held the position of enforcement sergeant for twenty four counties in Northeast Texas, and as such, held the position of supervisor of the Commission's investigative agents assigned to Northeast Texas.

5. On or about May 10, 2017, Plaintiff reported violations of federal law to James Noble, an Assistant United States District Attorney for the Eastern District of Texas ("U.S. Attorney"), and Bart Ladecca, special agent of the Federal Bureau of Investigation ("FBI") in Tyler, Texas, and, on or about May 17, 2017, reported the same violations of law and additional violations of state law to Pete Heller, a lieutenant within the Commission's office of professional responsibility ("OPR").

6. The nature of the violations of law which Plaintiff reported to the U.S. Attorney, FBI and OPR consisted, in the most general terms, of public corruption and obstruction of justice by a state legislator and obstruction of justice and falsification of government documents by employees of the Commission relating to an investigation of a Longview, Texas bar named Graham's Central Station subject to the Commission's jurisdiction owned at least in part by Keith Lawyer ("Lawyer"), the husband of Joanne Huffman, a Texas state senator ("Huffman"), and also believed to be owned in part by Huffman, or be community property of Lawyer and Huffman. The public corruption and obstruction of justice by Lawyer, Huffman, or both, took the form of apparent interference by Lawyer, Huffman, or both, in the decision by the Commission whether to investigate the lawfulness of the operation of the bar, including its serving alcoholic beverages to a customer who raped a female customer on or immediately in front of its premises and its failure to give the Commission or other law enforcement authorities prompt notice of multiple aggravated

breaches of the peace required under the Commission's regulations. Plaintiff was instructed to discontinue an investigation of the bar for up to 15 violations of applicable statutes and regulations administered by the Commission, including specifically the failure of the bar to disclose, as required by law, multiple (11 out of 13) aggravated breaches of the peace which had occurred on or near its premises. Plaintiff was actually told to dismiss, and delete from the Commission's records, by other employees of the Commission, being Victor Kuykendall and Mark Decatur, digital or paper documentation of the suspected violations. Kuykendall and Decatur thereby themselves compounded the public corruption and obstruction of justice by Lawyer, Huffman, or both.

7. Plaintiff's reports referred to in paragraphs 5 of the matters referred to in paragraph 6 became known to the Commission through the OPR.

8. Plaintiff's reports referred to in paragraph 5 were protected under Chapter 554 of the Texas Government Code. Specifically, under Section 554.002(a), it is illegal for a state or local government entity to suspend or terminate the employment of, or take any adverse personnel action against, a public employee who in good faith reports a violation of law by the employing governmental entity or another public employee to an appropriate law enforcement authority. Under Section 554.002(b), a report is made to an appropriate law enforcement authority if the authority is part of a state or local government entity or of the federal government that the employee in good faith believes is authorized to regulate under or enforce the law alleged to be violated in the report or investigate or prosecute a violation of criminal law.

9. Notwithstanding the prohibition of Section 554.002(a), on account of Plaintiff's protected reports, Defendant, after Plaintiff made such reports and before October 31, 2017, engaged in multiple adverse personnel actions. On October 31, 2017, the Commission terminated Plaintiff's employment by written notice of the same date. The termination of Plaintiff's

employment with the Commission was an adverse personnel action based on the definition of personnel action under Section 554.001(3) and actionable under Section 554.002(a) as an adverse personnel action. The reasons given for Plaintiff's termination by the notice dated October 31, 2017 were false. Since Plaintiff's termination on October 31, 2017, Plaintiff has been subject to another personnel action actionable under Section 554.002(a), the Commission's threat to deny him the right to continue to hold a license as a peace officer without any valid legal grounds for doing so. Specifically, on or about November 9, 2017, the Commission sought to terminate his peace officer's commission by reporting his termination as a dishonorable discharge in connection with separation of license documentation provided to the Texas Commission on Law Enforcement, which regulates the licensing of peace officers within the State of Texas.

10. As required by Section 554.006(a), Plaintiff initiated grievance proceedings with respect to the October 31, 2017 termination of employment referred to in paragraph 9. Specifically, Plaintiff and his lawyer delivered separate grievances of the termination (together, the "grievance") on November 7, 2017 and November 10, 2017, both within the ten days provided under the Commission's rules and within the 90 days of the adverse personnel action of termination, as required under Section 554.006(b). The Commission did not notify Plaintiff of any final decision with respect to the termination of Plaintiff's employment prior to the sixty-first day after the date his grievance was filed. Plaintiff did not thereafter elect to terminate the grievance proceedings pursuant to Section 554.006(d)(2). Plaintiff was first notified of the decision terminating his grievance proceedings, and so exhausting Defendant's grievance procedures, on May 29, 2018 and is initiating this suit within 29 days after May 29, 2018. Accordingly, this suit is timely under Section 554.006(d)(1), as applicable in light of Section 554.005.

Claims

11. Plaintiff, for his first cause of action, would show that he has been subjected to one or more violations of Chapter 554 of the Texas Government Code. Under Section 554.003(a), Plaintiff is accordingly entitled to seek recovery of injunctive relief, actual damages, court costs and reasonable attorney's fees, and he is also entitled under Section 554.003(b) to reinstatement to his former or an equivalent position. Under Section 554.003(c), Plaintiff is also entitled to recover compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and other nonpecuniary losses.

WHEREFORE, Plaintiff prays for all relief to which he is entitled.

Respectfully submitted,

/s/ Robert E. Goodman, Jr.
Robert E. Goodman, Jr.
State Bar No. 08158100
Kilgore & Kilgore, PLLC
3109 Carlisle Street
Dallas, Texas 75204
reg@kilgorelaw.com
(214)379-0823
(214)379-0840 Fax

COUNSEL TO PLAINTIFF

CIVIL CASE INFORMATION SHEET

6/5/2018 6:36 PM

CAUSE NUMBER (FOR CLERK USE ONLY): _____

COURT (FOR CLERK USE ONLY): _____

Velva L. Price
District Clerk
Travis County
D-1-GN-18-002752
Victoria Benavides

STYLED MARCUS STOKKE V. TEXAS ALCOHOLIC BEVERAGE COMMISSION
 (e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:		Person or entity completing sheet is:		
Name: <u>Robert E. Goodman, Jr</u> Address: <u>3109 Carlisle St</u> City/State/Zip: <u>Dallas, Texas 75204</u> Signature: <u>/s/ Robert E. Goodman, Jr.</u>		Email: <u>reg@kilgorelaw.com</u> Telephone: <u>214-379-0823</u> Fax: <u>214-379-0840</u> State Bar No: <u>08158100</u>		Plaintiff(s)/Petitioner(s): <u>Marcus Stokke</u> Defendant(s)/Respondent(s): <u>Texas Alcoholic Beverage Commission</u> [Attach additional page as necessary to list all parties]		<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____
2. Indicate case type, or identify the most important issue in the case (select only 1):						
<i>Civil</i>			<i>Family Law</i>			
Contract	Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)		
<input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <i>Malpractice</i> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: _____ <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <i>Product Liability</i> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <i>Divorce</i> <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocal (UIFSA) <input type="checkbox"/> Support Order Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Paternity/Parentage <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____		
Employment	Other Civil					
<input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input checked="" type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____					
Tax	Probate & Mental Health					
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax: _____	<i>Probate/Wills/Intestate Administration</i> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings		<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____			
3. Indicate procedure or remedy, if applicable (may select more than 1):						
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover		
4. Indicate damages sought (do no select if it is a family law case):						
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorneys fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000						

C I T A T I O N
T H E S T A T E O F T E X A S
C A U S E N O . D-1-GN-18-002752

MARCUS STOKKE

, Plaintiff

vs.

TEXAS ALCOHOLIC BEVERAGE COMMISSION

, Defendant

TO: TEXAS ALCOHOLIC BEVERAGE COMMISSION
BY SERVING THROUGH KEVIN J LILLY
5806 MESA DRIVE
AUSTIN, TEXAS 78731

Defendant, in the above styled and numbered cause:

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Attached is a copy of the PLAINTIFF'S ORIGINAL PETITION of the PLAINTIFF in the above styled and numbered cause, which was filed on JUNE 5, 2018 in the 126TH JUDICIAL DISTRICT COURT of Travis County, Austin, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at office, June 06, 2018.

REQUESTED BY:
ROBERT EDWARD GOODMAN JR
3109 CARLISLE ST FL 2
DALLAS, TX 75204-1318
BUSINESS PHONE: (214) 379-0823 FAX: (214) 379-0840



Velva L. Price
Travis County District Clerk
Travis County Courthouse
1000 Guadalupe, P.O. Box 679003 (78767)
Austin, TX 78701

PREPARED BY: VICTORIA BENAVIDES

R E T U R N

Came to hand on the ____ day of _____, _____ at _____ o'clock ____ M., and executed at _____ within the County of _____ on the ____ day of _____, _____, at _____ o'clock ____ M., by delivering to the within named _____, each in person, a true copy of this citation together with the PLAINTIFF'S ORIGINAL PETITION accompanying pleading, having first attached such copy of such citation to such copy of pleading and endorsed on such copy of citation the date of delivery.

Service Fee: \$ _____

Sheriff / Constable / Authorized Person

Sworn to and subscribed before me this the

By: _____

____ day of _____, _____.

Printed Name of Server

Notary Public, THE STATE OF TEXAS

County, Texas

D-1-GN-18-002752

SERVICE FEE NOT PAID

P01 - 000065368

Original

Service Copy