

COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA

JUSTIN GROSS

vs.

BRISTOL BOROUGH

NO. 2020-01402

CIVIL COVER SHEET

State Rule 205.5 requires this form be attached to any document commencing an action in the Bucks County Court of Common Pleas. The information provided herein is used solely as an aid in tracking cases in the court system. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Name of Plaintiff/Appellant's Attorney: Robert P. Maizel, Esq., ID: 88670

Self-Represented (Pro Se) Litigant

Class Action Suit Yes No

MDJ Appeal Yes No

Money Damages Requested

Commencement of Action:

Amount in Controversy:

Complaint

More than \$50,000

Case Type and Code

Miscellaneous:

Other

Other: WRONGFUL TERMINATION

Case# 2020-01402-0 - JUDGE:51 Received at County of Bucks Prothonotary on 02/27/2020 5:12 PM. Fee = \$258.50. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

SAFFREN & WEINBERG
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P: (215) 576-0100

MAJOR NON-JURY

Attorney for Plaintiff, Justin Gross

JUSTIN GROSS
1358 School Lane
Bensalem, PA 19020

:
: COURT OF COMMON PLEAS
: BUCKS COUNTY
:

vs.

:
: DOCKET NO.:

BRISTOL BOROUGH
250 Pond Street
Bristol, PA 19007

and

BRISTOL BOROUGH POLICE DEPARTMENT
250 Pond Street
Bristol, PA 19007

and

STEVEN R. HENRY, CHIEF OF POLICE
c/o Bristol Borough Police Department
250 Pond Street
Bristol, PA 19007

and

JAMES DILLON, BOROUGH MANAGER
c/o Bristol Borough
250 Pond Street
Bristol, PA 19007

and

JOSEPH A. SAXTON, MAYOR
c/o Bristol Borough
250 Pond Street
Bristol, PA 19007

CIVIL ACTION COMPLAINT
WRONGFUL TERMINATION

Plaintiff, Justin Gross, by and through his attorneys, Saffren & Weinberg, by Robert P. Maizel, Esquire, demands judgment against Defendants, Bristol Borough, Bristol Borough Police Department, Steven R. Henry, Chief of Police, James Dillon, Borough Manager, and Joseph A.

Saxton, Mayor, individually, jointly, severally and for their fair share, and states in support thereof as follows:

PARTIES

1. Plaintiff, Justin Gross (“Plaintiff”) is an adult male, and a resident of the Commonwealth of Pennsylvania, residing at the above-referenced address.
2. Upon information and belief, Defendant, Bristol Borough is a borough, located within Bucks County, Pennsylvania at the above-captioned address.
3. Upon information and belief, Defendant, Bristol Borough Police Department is a policing and public safety entity, located within and operated by Defendant Bristol Borough, located within Bucks County, Pennsylvania at the above-captioned address.
4. Upon information and belief, Defendant, Steven R. Henry, is an adult individual, and is employed by the Defendants as the Chief of Police, of the Bristol Borough Police Department, at the above-captioned address.
5. Upon information and belief, Defendant, James Dillon, is an adult individual, and is employed by the Defendant, Bristol Borough, as Township Manager, at the above-captioned address.
6. Upon information and belief, Defendant, James A. Saxton, is an adult individual, and is employed by the Defendant, Bristol Borough, as Mayor, at the above-captioned address.
7. At all times relevant hereto Defendants, Bristol Borough and Bristol Borough Police Department, Steven R. Henry, James Dillon and Joseph A. Saxton, (collectively “Defendants”) were responsible for the hiring, discipline and suspension of employees, including Plaintiff, at Bristol Borough Police Department.
8. At all times relevant hereto, Defendants were responsible for providing Worker’s

Compensation benefits to Bristol Borough Police Officers, such as Plaintiff, who were injured during the course of their employment.

9. At all times relevant hereto, Plaintiff was supervised by Chief Henry, the Police Chief, and an employee of Defendants.

10. At all times relevant hereto, Plaintiff was supervised by Sergeant Peter Faight, an employee of the Defendants.

11. At all times relevant hereto, Plaintiff was supervised by Segeant Alan Hankinson, an employee of the Defendants.

12. At all times relevant hereto, Plaintiff was supervised by James Dillon, an employee of Defendant, Bristol Borough.

13. Jurisdiction is proper as Plaintiff is a resident of Bucks County, and Defendants operations and headquarters are located within Bucks County.

FACTS

14. Plaintiff incorporates all preceding paragraphs as if fully set forth at length herein.

15. On or about March 8, 2014, Plaintiff was involved in a motor vehicle assault, during the course of his employment, when a perpetrator repeatedly rammed her vehicle into the Plaintiff's vehicle.

16. Plaintiff was injured in the motor vehicle accident, suffering traumatic injuries including but not limited to: a traumatic brain injury, major depression, post-traumatic stress disorder, cervical disc herniation, high groin sprain, injury to his right meniscus, and lumbar disc protrusion at L4-5 with radiculopathy.

17. Plaintiff was provided worker's compensation benefits by the Defendants.

18. At all times relevant hereto, Plaintiff's workers compensation proceedings were

ongoing and continuous.

19. Plaintiff returned to work following his injury in or about October, 2017.

20. Upon his return to work, Plaintiff was stationed in the Police Department squad room, and was working on a computer clearing duplicate records.

21. Plaintiff continued to seek treatment for his work-related injuries following his return to work, namely, by continuing to seek treatment for his post-traumatic stress disorder and was prescribed a service dog to assist with his panic attacks and anxiety.

22. When Plaintiff expressed his wish to bring his service dog to work, Defendant Henry made derogatory comments about service dogs, calling them “ridiculous” and saying that he disliked service dog “nonsense.”

23. In or about November, 2017, Plaintiff was prescribed and provided ergonomic equipment, including a one-hundred (100) pound chair, which Plaintiff was forced to assemble himself, despite his doctor having placed restrictions on his bending and lifting activities.

24. In or around September, 2018, Plaintiff began work on a confidential audit project.

25. In or about early November, 2018, Plaintiff was moved to the supervisor’s area within the Police Department, where a locked drawer was available for Plaintiff to store confidential documents for the audit project.

26. Upon information and belief, at a November 19, 2018 Borough Council meeting, Plaintiff’s worker’s compensation, and related leave, was discussed.

27. After his move, issues developed with the removal of Plaintiff’s workspace equipment by other employees.

28. Sergeants Hankinson and Faight told the Plaintiff he did not belong in the

supervisor's area.

29. Sergeants Hankinson and Faight harassed Plaintiff by: continuously moving his chair back to his old desk, taking his personal items (i.e. jacket and media devices) back to his old desk area, unplugging his ethernet cable so Plaintiff could not access his work computer, throwing trash on his desk and by removing and logging into Plaintiff's phone.

30. Sergeant Faight further harassed Plaintiff by tampering with Plaintiff's "Alexa" device, which was on Plaintiff's desk, by accessing it, and ordering condoms.

31. On or about January, 2019, Plaintiff observed that his locked desk drawer had been broken into and files containing sensitive information had been removed.

32. On or about January 7, 2019, Plaintiff alerted Defendant Henry about the missing files.

33. On or about January 9, 2019, Plaintiff reported to Defendant Henry that he felt harassed in the work place, to which Defendant Henry responding by cutting the Plaintiff off and comparing Plaintiff to a "fucking sixth grader."

34. Due to the ongoing harassment, Plaintiff's post-traumatic stress disorder and depression worsened, and Plaintiff was unable to return to work which was certified by his treating physicians.

35. Plaintiff's treating physician rendered him unable to return to work as a result of his work-related injuries, specifically, his Plaintiff's post-traumatic stress disorder and depression, on January 15, 2019.

36. On or about March 14, 2019, Defendant Dillon sent Plaintiff a memorandum stating that he had used all of his leave time as of March 10, 2019 and was placed in a "no-pay" status.

37. In or about August, 2019, Defendants contact the Plaintiff claiming that Defendant's IME doctor had cleared him to return to work on August 11, 2019, and at that time, attempted to relocate the Plaintiff, by offering him a job as a plain-clothes police officer in the Borough administrative offices, away from the police department. Ultimately Plaintiff's return to work date was determined to be August 22, 2019.

38. Defendant Dillon harassed Plaintiff by offering him a job, which, in essence, isolated Plaintiff from all his fellow police officers, and had the force and effect of removing the Plaintiff from the police department.

39. Upon information and belief, Defendant Dillon made a determination that the Plaintiff was not permitted to have flexible hours to attend scheduled doctor/treatment appointments in order to obtain the necessary treatment for his work-related injuries.

40. On or about August 14, 2019, Plaintiff's treating doctor wrote to the Defendants and stated that the Plaintiff was not authorized to return to work as a plain-clothes police officer in the Borough administrative offices.

41. Plaintiff provided this note from his doctor to the Defendants prior to the August 22, 2019 return-to-work date.

42. On or about August 21, 2019, Plaintiff filed an EEOC Charge relating to his work-place harassment, which was based upon Plaintiff's disabilities.

43. On or about October 1, 2019, another job offer was made, by Defendant Saxton, without any Notice of Ability to Return to Work.

44. On or about November 20, 2019, Defendants sent the Plaintiff a letter, from Defendant Dillon, stating that Defendant Dillon was recommending that the Council of Defendant, Bristol Borough vote to honorably discharge the Plaintiff stating that documentation

which was obtained during the course of Plaintiff's workers compensation proceedings indicated Plaintiff had a mental disability, which affected his ability to continue to work.

45. Plaintiff was terminated from his position as a Bristol Borough Police Officer directly related to his claims made for Workers Compensation, the fact that he was injured on the job, the retaliation the Plaintiff suffered for filing an EEOC Charge, and the retaliation the Plaintiff suffered for making a Workers Compensation claim.

COUNT I - WRONGFUL TERMINATION
PLAINTIFF V. DEFENDANTS

46. Plaintiff incorporates the foregoing paragraphs as though fully set forth herein at length.

47. At all times relevant hereto, the Defendants were acting by and through their respective agents, workmen, supervisors, directors and/or employees.

48. As detailed above, Defendants acted unlawfully and in direct contravention of laws and statutes of the Commonwealth of Pennsylvania, including but not limited to the Workers' Compensation Statutes.

49. Said laws and statutes were put into place to insure the protection of persons in the workplace and in the public at large.

50. Defendants have at all times material hereto acted willfully and with malice towards the Plaintiff.

51. Plaintiff's termination was for the reasons stated herein above and under violation of public policy.

52. Defendants knew or reasonably should have known that the aforementioned conduct was in violation of public policy and the laws of the Commonwealth of Pennsylvania

53. As a direct result of the actions by Defendants discussed herein, Plaintiff

has sustained loss of wages and earnings, loss of benefits, loss of future earning power, loss of back pay, front pay, interest due therein, as well as mental anguish, emotional distress, humiliation and damage to his reputation.

54. Plaintiff was wrongfully terminated pursuant to the Common Law of Pennsylvania and protected under *Shick v. Shirey*, 716 A.2d 1231 (Pa. 1998) as enumerated *supra*.

WHEREFORE, Plaintiff, Justin Gross demands judgment against Defendants, Bristol Borough, Bristol Borough Police Department, Steven R. Henry, Chief of Police, and James Dillon, Borough Manager, and Joseph A. Saxton, Mayor, jointly, severally and for their fair share, plus costs of this action and delay damages pursuant to PA R.C.P. 238 in excess of fifty thousand dollars.

COUNT II **RETALIATION**

55. Plaintiff incorporates the foregoing paragraphs as though fully set forth herein at length.

56. As detailed above, Defendants acted unlawfully and in direct contravention of laws and statutes of the Commonwealth of Pennsylvania, including but not limited to the Workers' Compensation Statutes and in retaliation for pursuing an action for Workers' Compensation.

57. The purpose of the Workers' Compensation Statute is to permit workers who were injured on the job to recover from their sustained injuries and return to their pre-injury job.

58. Defendants acted unlawfully and in contravention of express public policy of the Commonwealth of Pennsylvania in the actions it took toward Plaintiff.

59. The Defendants retaliated against the Plaintiff for exercising his rights under the

Workers' Compensation Statue and terminated him.

60. As a direct result of the actions of retaliation by Defendants discussed herein, Plaintiff was terminated and has sustained loss of wages and earnings, loss of benefits, loss of future earning power, loss of back pay, front pay, interest due therein, as well as mental anguish, emotional distress, humiliation and damage to his reputation.

WHEREFORE, Plaintiff, Justin Gross demands judgment against Defendants, Bristol Borough, Bristol Borough Police Department, Steven R. Henry, Chief of Police, James Dillon, Borough Manager, and Joseph A. Saxton, Mayor, jointly, severally and for their fair share, plus costs of this action and delay damages pursuant to PA R.C.P. 238 in excess of fifty thousand dollars.

Respectfully submitted,

SAFFREN & WEINBERG

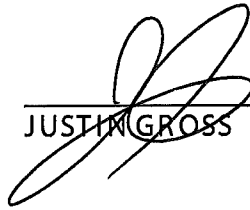
BY:


ROBERT P. MAIZEL, ESQUIRE

DATED: 2/27/2020

VERIFICATION

I, JUSTIN GROSS, hereby state that I am the Plaintiff in the foregoing action and that the facts in the foregoing Civil Action-Complaint are true and correct to the best of my knowledge, information and belief; and that the statements therein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.



JUSTIN GROSS