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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

JAMES M. CLEAVENGER,

Case No. 6:13-cv-01908-DOC

Plaintiff,

**DEFENDANTS' AMENDED WITNESS
LIST**

vs.

**UNIVERSITY OF OREGON (an Agency and
Instrumentality of the State of Oregon), et al.,**

Defendants.

Defendants submit the following amended witness list to supplement the testimony descriptions of their witnesses. Supplemental testimony is in italics.

Defendants may call some or all of the following witnesses at trial. Defendants reserve the right to call additional witnesses for impeachment.

All witnesses will testify briefly about their professional background and the specific circumstances giving them the knowledge forming the basis for their testimony.

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1. Kent Abbott
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony – 30 min.

Kent Abbott may testify about his observations of Plaintiff's performance as a PSO. He may also testify regarding his interactions with Plaintiff and other UOPD employees on political issues. *He may also testify regarding his observations of conversations and conduct that occurred prior to or during briefings, his observation of football video(s) at the UOPD station, his experiences with and opinions of the individual defendants and one or more of Plaintiff's witnesses, as developed based on personal experience and observation.*

2. Lt. Andrew Bechdolt
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony - 1 hour.

Lt. Bechdolt was one of Plaintiff's direct supervisors. He will testify about Plaintiff's performance as a public safety officer while under his supervision and concerns regarding Plaintiff's officer safety tactics. He will also testify about his investigation into reports of Plaintiff's use of UOPD radio during September 2012. He will testify about his role in and concerns regarding disclosure of possible *Brady* materials that were provided to the Lane County District Attorney's Office in 2014. *He will also testify about the job functions and authority of public safety officers at UOPD, the training and certification requirements for Oregon police officers and reserves, reserve programs, and his experience at the Coburg Police Department. He will also testify about his personal experiences, observations and opinions of the individual defendants and one or more of Plaintiff's witnesses.*

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3. Larry Black
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony – 30 min.

Officer Black will testify about his experience working with Plaintiff and personal observations regarding his performance as a public safety officer. He will also testify about statements Plaintiff has made relevant to the issues in this lawsuit. He will testify about his personal relationship with Plaintiff and activities with Plaintiff outside of work. He will testify about Plaintiff's performance and credibility as a public safety officer. *He may also testify regarding his observations of conversations and conduct that occurred prior to or during briefings, his observation of football video(s) at the UOPD station, his experiences with and opinions of the individual defendants and one or more of Plaintiff's witnesses, as developed based on personal experience and observation.*

4. Chelsea Brandenburg
328 W. Broadway
Eugene, OR 97401
Phone: 541-239-3558

Testimony – 45 min.

Ms. Brandenburg will testify about her observations of Plaintiff while an employee of UOPD, Plaintiff's stated opinions of UOPD, her observations regarding how Plaintiff reacted to criticism, Plaintiff's job searches, and medication Plaintiff was taking while working at UOPD that she observed had impairing impacts on his safety capabilities. She will also testify about incidents bearing on Plaintiff's credibility, the affair Plaintiff had that resulted in the ending of their marriage, times where Plaintiff lied, and the time that Plaintiff was arrested for throwing bottles.

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5. Sgt. Scott Cameron
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony - 2 hours.

Sgt. Cameron will testify about Plaintiff's performance as a public safety officer while under his supervision. He will testify about concerns regarding Plaintiff's officer safety tactics, decision-making ability, appropriate judgment, and credibility. He will testify about the reprimand that was issued to Plaintiff. He will testify about his role in the preparation and issuance of Plaintiff's annual performance evaluation, the reasons why Plaintiff received the scores that he did, and the reasons why Plaintiff received the comments he did. *He may also testify regarding his experiences with and opinions of the individual defendants and one or more of Plaintiff's witnesses, as developed based on personal experience and observation.*

6. Mark Chase, Chief of Police
Junction City Police Department
680 Greenwood
Junction City, OR 97448
Phone: 541-998-1245

Testimony – 30 min.

Chief Chase will testify about his experience with Plaintiff as an employee of the Junction City Police Department and the reasons Plaintiff was not hired for a position as a full time officer for Junction City. He may also testify about a complaint Plaintiff made against him for not hiring Plaintiff as a police officer and his opinion regarding Plaintiff's credibility. He may also testify about conversations he had with Lt. Lebrecht and/or Chief McDermed regarding concerns of Plaintiff's officer safety tactics and credibility as a public safety officer. *He will also testify about his understanding of Brady reporting obligations and the basis for that understanding.*

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7. Nicole Commissiong
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony – 30 min

Nicole Commissiong may testify regarding her interaction with Plaintiff during his April 1, 2012 traffic stop of her and her personal observations regarding his conduct during that stop. This stop was one of the incidents investigated by Lt. Morrow in the internal affairs investigation. *She will also testify regarding the conversations she had with Chief McDermed and Lt. Morrow about Plaintiff's stop of her.*

8. Capt. Pete Deshpande
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony – 1 hour.

Captain Deshpande will testify about Plaintiff being placed on administrative leave. He will testify about the circumstances surrounding the disclosure of possible *Brady* information that was provided to the Lane County District Attorney's Office, and his role, observations and opinions regarding the reasons for providing those materials. *He will also testify regarding his experiences with and opinions of the individual defendants and one or more of Plaintiff's witnesses, as developed based on personal experience and observation.*

9. Alex Gardner
Oregon State Police
Forensic Services Division
255 Capitol Street NE, 4th Floor
Salem, OR 97310

Testimony – 1 hour.

Mr. Gardner will testify about *Brady v. Maryland*, the duties that case places on a district attorney and police department officials regarding disclosure of materials to criminal

defendants, and how application of that case to the disclosure of materials has developed in Oregon from 2010 to 2014. He will testify about communications he and the Lane County District Attorney's Office have had with supervisory staff at police departments regarding the duty to provide a district attorney with *Brady* materials, the extent of that duty, and policies and practices regarding providing those materials to a district attorney. He will testify about the Brady Work Group, its development of policies and practices regarding police department officials providing *Brady* material to a district attorney. He will testify about the possible *Brady* material UOPD submitted to his office, his role and obligation to review of that material, communications he has had with UOPD officials regarding the material, and his investigation of the materials and his opinion regarding whether or not UOPD had an obligation under *Brady v Maryland* to disclose the information to his office.

10. Thomas "Zack" Hermens
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony – 1.5 hours.

Officer Hermens will testify about his experience working with Plaintiff. He will testify about his observations of Plaintiff's performance as a public safety officer and concerns he had about working with Plaintiff. He will testify about discussions with UOPD command staff regarding the department's policy and Oregon law regarding recording contacted subjects and traffic stops.

Officer Hermens will testify about the Spencer View incident on April 1, 2012, which formed the basis of Plaintiff's written reprimand. He will testify about an incident on May 6, 2012, where Plaintiff transported an armed woman in his patrol vehicle and later reported to Sgt. Cameron that the woman had been armed. He will testify about his involvement in an incident on or around May 6, 2012, where Plaintiff contacted a subject who was collecting cans and improperly ran a records check on the subject. He will testify about an incident on

October 29, 2011, involving Plaintiff and a subject who identified himself as “Jesus Christ.” He will testify about one of Plaintiff’s call-outs on September 3, 2012, involving Plaintiff’s report of a suspicious subject. He will testify about an incident on September 20, 2012, involving a subject with a knife and about Plaintiff’s subsequent call-out related to that incident. *He will also testify regarding his observations of conversations and conduct that occurred prior to or during briefings, his observation of football video(s) at the UOPD station, his experiences with and opinions of the individual defendants and one or more of Plaintiff’s witnesses, as developed based on personal experience and observation.*

11. Linda King
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony – 30 min.

Ms. King is University of Oregon’s Human Resources Manager. She will testify about her role in the process of disciplining or terminating a UO employee. She will testify about Plaintiff’s personnel and disciplinary record. She will testify about her predissmissal meeting with Plaintiff and her decision to terminate his employment. *She may also testify about the requirements of the collective bargaining agreement and the scope of evidence presented to the arbitrator and the reason for that limitation.*

12. Lt. Brandon Lebrecht
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony – 1.5 hours.

Lt. Lebrecht will testify about Plaintiff’s performance as a public safety officer while under his supervision and concerns regarding Plaintiff’s officer safety tactics, decision-making ability, appropriate judgment, and credibility. He will testify about the corrective and

disciplinary measures that were considered, proposed, and taken in response to concerns regarding Plaintiff's conduct as a public safety officer.

He will testify he had no knowledge of complaints Plaintiff allegedly made to Chief McDermed and Brian Smith prior to his involvement in the submission of information to the Lane County District Attorney's Office for Brady consideration. *He will testify about his role in assembling and providing those materials, and the reasons why the materials were assembled and provided. Lt. Lebrecht will testify about any other matter relevant to the claims against him and the other defendants. He may also testify regarding his observations of conversations and conduct that occurred prior to or during briefings, his observation of football video(s) at the UOPD station, his experiences with and opinions of the individual defendants and one or more of Plaintiff's witnesses, as developed based on personal experience and observation.*

13. Eric LeRoy
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony – 30 min.

Officer LeRoy may testify about his experience working with Plaintiff. He will testify about his observations of Plaintiff's performance as a public safety officer and concerns he had about working with Plaintiff. He will testify about a list of names he compiled on his personal cell phone. *He may also testify regarding his observations of conversations and conduct that occurred prior to or during briefings, his observation of football video(s) at the UOPD station, his experiences with and opinions of the individual defendants and one or more of Plaintiff's witnesses, as developed based on personal experience and observation. His knowledge of the facts alleged in Plaintiff's complaint. He may also testify about the basis for his opinion that Plaintiff participated in preparing the anonymous letter about him that was sent to the District Attorney.*

14. Adam Lillengreen
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony – 30 min.

Adam Lillengreen may testify regarding his personal observations of Plaintiff's performance as a PSO and his role in assisting to supervise Plaintiff and assist in his development of needed safety practices at the request of Sgt. Cameron and Lt. Lebrecht.

15. Carolyn McDermed, Chief of Police
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony – 2.5 hours.

Chief McDermed will testify about her position at UOPD. She will testify about her interactions with Plaintiff. She will testify about her observations and reports made to her by others regarding Plaintiff's performance as a public safety officer. She will testify about concerns that she had regarding Plaintiff's officer safety tactics, decision-making ability, appropriate judgment, and credibility. She will testify about Plaintiff's personnel and disciplinary record. She will testify about the corrective measures she and other command staff took in response to their concerns regarding Plaintiff's conduct.

She will testify about the contents of the August 13, 2012, meeting with Plaintiff. She will testify about the investigation and performance review that were conducted of Plaintiff, the reasons why those were conducted, and the results of the investigations. She will testify about Plaintiff's reassignment to parking enforcement and why he was reassigned. She will testify about Plaintiff's suspension and the reasons why he was placed on administrative leave. She will testify about her decision to recommend termination of Plaintiff's employment. She will testify she had no knowledge of Plaintiff's alleged complaints to Brian Smith in a meeting on October 2, 2012 prior to making the decision to submit possible Brady information to the

Lane County District Attorney's Office. She will testify about the circumstances leading up to that decision and her role in assembling and providing those materials, and the reasons why the materials were assembled and provided. *She may also testify regarding her experiences with and opinions of the individual defendants and one or more of Plaintiff's witnesses, as developed based on personal experience and observation. She will testify about any other matter relevant to the claims against her or the other defendants.*

16. Mike Morrow
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony – 2 hours.

Lt. Morrow will testify about his observations of Plaintiff's performance as a public safety officer. He will testify about his internal affairs investigation of Plaintiff, including the outcome of that investigation. *He will testify about his involvement in decisions made regarding Mr. Cleavenger, and his experiences with and opinions of the individual defendants and one or more of Plaintiff's witnesses, as developed based on personal experience and observation.*

17. Christopher "Chris" D. Phillips
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony – 30 min.

Officer Phillips will testify about his personal experience working with Plaintiff as a PSO. He will testify about his observations of Plaintiff's performance as a public safety officer and a request made to him by Sgt. Cameron and Lt. Lebrecht to assist Plaintiff in learning how to properly perform his duties as a PSO while in the field. *He will testify about conversations he had with Plaintiff, his response to Spencer View Apartments, his involvement at other calls,*

and his observations of conversations and conduct that occurred prior to or during briefings, and his experiences with and opinions of the individual defendants and one or more of Plaintiff's witnesses, as developed based on personal experience and observation.

18. Randy Wardlow
c/o Harrang Long Gary Rudnick P.C.
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Phone: 541-485-0220

Testimony – 30 min.

Mr. Wardlow was Assistant Director of Human Resources at UO during the times relevant to Plaintiff's claims. He will testify about his role in Plaintiff's written reprimand and the reason that reprimand was issued. He may also testify on other matters consistent with his deposition testimony. *He will testify about the collective bargaining agreement and its requirements, his role in developing a retraining plan for Plaintiff, his communications with the union regarding Plaintiff, his concerns regarding Plaintiff's performance, and his experiences with and opinions of the individual defendants and one or more of Plaintiff's witnesses, as developed based on personal experience and observation.*

19. Lois Yoshishige
225 E 34th Pl
Eugene, OR 97405
Phone: 541 343-7795

Testimony – 30 min.

Lois Yoshishige will testify regarding statements to her by Plaintiff regarding his meeting with Carolyn McDermed on August 13, 2012 and circumstances surrounding the purpose for the October 2, 2012 meeting with Brian Smith and the disclosures she and Plaintiff

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planned to make at that meeting. *She will testify regarding her communications with Plaintiff and the other union stewards about Plaintiff and his employment related matters.*

DATED this 6th day of September, 2015.

HARRANG LONG GARY RUDNICK P.C.

By: s/ Andrea D. Coit
Andrea D. Coit, OSB #002640
Jonathan M. Hood, OSB #133872
Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that on September 6, 2015, I served or caused to be served a true and complete copy of the foregoing **DEFENDANTS' AMENDED WITNESS LIST** on the party or parties listed below as follows:

- Via CM / ECF Filing
- Via First Class Mail, Postage Prepaid
- Via Email
- Via Personal Delivery

Mark McDougal
Gregory Kafoury
Jason Kafoury
Grand Stable & Carriage Building
411 SW Second Avenue, Suite 200
Portland, OR 97204
Attorneys for Plaintiff

HARRANG LONG GARY RUDNICK P.C.

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CERTIFICATE OF SERVICE