Filing # 42117559 E-Filed 05/31/2016 11:34:46 AM

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA**

**DOUG GLISSON, and
JOHN ULM**

Plaintiffs,

v. **CASE NO.:**

**FLORIDA DEPARTMENT OF
CORRECTIONS,**

Defendant.
_____/

**PLAINTIFFS' PETITION FOR TEMPORARY REINSTATEMENT
PURSUANT TO SECTION 112.3187(9)(f), FLORIDA STATUTES**

COMES NOW, Plaintiffs, DOUG GLISSON (hereinafter "Glisson"), and JOHN ULM (hereinafter "Ulm") by and through their undersigned counsel, and files *Plaintiffs' Petition for Temporary Reinstatement* under the Florida Public Whistle-blowers' Act (hereinafter the "Act"), pursuant to Section 112.3187(9)(f), Florida Statues, and states as follows:

1. Plaintiff Glisson is a resident of Leon County, Florida.

2. Plaintiff Ulm is a resident of the State of Georgia.

3. Plaintiff Glisson has suffered adverse personnel action, and was demoted on May 2, 2016, by the Florida Department of Corrections (hereinafter "Defendant" or "DOC"), in retaliation for engaging in protected activity in violation of the Act.

4. Plaintiff Ulm has suffered adverse personnel action, and was demoted on May 2, 2016, by DOC, in retaliation for engaging in protected activity in violation of the Act.

5. Section 112.3187(9), Florida Statutes provides that, "[i]n any action brought under this section, the relief must include:

> (f) Temporary reinstatement to the employee's former position or to an equivalent position, pending the final outcome on the complaint, ***if an employee complains of being discharged in retaliation for a protected disclosure and if a court of competent jurisdiction*** or the Florida Commission on Human Relations, as applicable under *s. 112.31895*, ***determines that the disclosure was not made in bad faith or for a wrongful purpose*** or occurred after an agency's initiation of a personnel action against the employee which includes documentation of the employee's violation of a disciplinary standard or performance deficiency ***[Emphasis added]***.

Fla. Stat. § 112.3187(9). It is well settled in Florida that, in order to receive the remedy of temporary reinstatement under the Act, a plaintiff employee must demonstrate the following:

> a) prior to adverse employment action he made a disclosure protected by the statute;
>
> b) he was discharged or demoted; and
>
> c) the disclosure was not made in bad faith or for a wrongful purpose, and did not occur after an agency's personnel action against the employee.

Fla. Stat. § 112.3187(9), see also DOT v. Fla. Comm'n on Human Rels., 842 So. 2d 253 (Fla. Dist. Ct. App. 1st Dist. 2003) *citing* Lindamood v. Office of the State Attorney, Ninth Judicial Circuit of Florida, 731 So. 2d 829, 831 (Fla. 5th DCA 1999).

6. Defendant is an agency as defined by Section 112.3187(3)(a), Florida Statutes, with its principal place of business in Tallahassee, Leon County, Florida.

7. On approximately April 18, 2016, prior to filing this Action and within sixty (60) days of the Plaintiffs' actual demotion which occurred on May 2, 2016, Plaintiffs filed whistle-blowers' charges of discrimination with the Florida Commission on Human Relations ("FCHR"). Plaintiffs have filed multiple whistleblower charges of discrimination which are still being reviewed by FHCR. As of the date of filing this petition, the 15-day deadline in which the FCHR was to make a determination as to whether temporary reinstatement is appropriate, as required

pursuant to Section 112.31895, Florida Statues, has expired. As such, Plaintiffs have satisfied all conditions precedent to the filing of this petition, and this Court has specific statutory jurisdiction over these claims and the relief requested pursuant to Section, 112.3187(9)(f), Florida Statutes.

8. Additionally, by serving a copy of this petition upon the State of Florida Department of Financial Services on even date, Plaintiff has satisfied the requirement of Section 284.30, Florida Statutes.

9. As outlined *infra*, prior to termination, Glisson made protected disclosures in writing and engaged in protected activity as defined by the Act. Further, at all times material hereto, DOC had not initiated personnel action against Glisson which was not of a pretextual nature. Finally, Ulm's protected activity and protected disclosures were not made in bad faith or for a wrongful purpose. Glisson has suffered continuous retaliation from approximately April of 2013, to the present date[1]. Glisson was demoted in response to DOC IA investigations 15-1631 and 15-1642.

10. As outlined *infra*, prior to termination, Ulm made protected disclosures in writing and engaged in protected activity as defined by the Act. Further, at all times material hereto, DOC had not initiated personnel action against Ulm which was not of a pretextual nature. Finally, Ulm's protected activity and protected disclosures were not made in bad faith or for a wrongful purpose. Plaintiff Ulm has suffered continuous retaliation from approximately April of 2013, to the present date. Plaintiff Ulm was demoted in response to DOC IA investigations 15-1631 and 15-13778.

DISCLOSURES AND ACTIVITIES PROTECTED BY THE ACT

[1] Evidence of prior acts of retaliation commencing from approximately April of 2013 are relevant to prove motive, lack of good faith, intent, preparation and plan. *See* Fla. Stat. § 90.404(2)(a). Similar fact evidence showing wrongs or illegal acts are admissible to prove motive, intent, lack of good faith, plan, absence of mistake, knowledge that the retaliatory acts complained of herein were part of an ongoing and continuous pattern and practice of retaliation against Glisson and Ulm leading up to the pretextual conduct of DOC.

A. Nature of Information Disclosed:

11. Section 112.3187(5), Florida Statutes, titled "*Nature of information disclosed*," provides that, "[t]he information disclosed under this section must include:

> (a) Any violation or ***suspected violation*** of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor which creates and presents a substantial and specific danger to the public's health, safety, or welfare.
>
> (b) Any act or ***suspected act*** of gross mismanagement, ***malfeasance***, ***misfeasance***, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of duty committed by an employee or agent of an agency or independent contractor ***[Emphasis added]***.

Fla. Stat. § 112.3187(5).

12. As outlined *supra*, "the Act provides that an employee may bring an action when the whistle-blowing concerns '[a]ny … ***suspected*** violation of any … law, rule, or regulation committed by an employee or agent of an agency,' or with respect to '[a]ny . . . ***suspected*** act of . . . ***misfeasance*** . . . or gross neglect of duty committed by an employee or agent of an agency ***[Emphasis Added]***." Irven v. Dep't of Health and Rehabilitative Servs., 790 So. 2d 403, 406 (Fla. 2001); *see* also King v. Florida, 650 F. Supp. 2d 1157, 1163 (N.D. Fla. 2009)(holding that "a potential complainant is not required to use formal legalistic language in order to lodge a complaint that invokes whistle-blower protection").

13. In Irven, the issue before the Supreme Court of Florida was whether the Whistle-Blower's Act should be strictly or liberally construed. In overturning the circuit court's ruling, the Florida Supreme Court in Irven found that "the broad language in the Act . . . establishes a wide scope of activity that may give rise to its protections," and that the protections afforded

under the Act "could not have been more broadly worded." *Id.* at 406. Further, the Florida Supreme Court goes on to explain in *Irven* that:

> "[i]f the plain meaning of this section leaves any doubt as to the inclusiveness of this right of action and the broad protections afforded, the Legislature also provided that it is 'the intent of the Legislature to prevent agencies . . . from taking retaliatory action against any person who discloses information to an appropriate agency alleging improper use of governmental office . . . or any other abuse . . . on the part of an agency, public officer, or employee."

Id. (*quoting* § 112.3187(2), Fla. Stat.); *see* also, *DOT v. Fla. Comm'n on Human Rels.*, 842 So. 2d 253 (Fla. Dist. Ct. App. 1st Dist. 2003)(finding that "[t]he legislative intent of the Whistle-blower's Act is to prevent retaliatory action against employees who disclose misconduct on the part of public officials"). Furthermore, the Supreme Court of Florida noted in *Irven* that "[m]isfeasance is defined as the 'improper doing of an act which a person might lawfully do; and 'malfeasance' is the doing of an act which a person ought not do at all.'" *Id.* at 407 n.3 (*quoting* Black's Law Dictionary 1000 (6th ed. 1990)); *see* also *Kimmons v. Crawford*, 92 Fla. 652, 109 So. 585, 587 (Fla. 1926)(defining misfeasance as "the performance of an act in a unlawful, injurious, or negligent manner").

14. Finally, in *Rosa v. Dep't of Children & Families*, the First District Court of Appeals, in considering the rulings from the Florida Supreme Court, found that ***"misfeasance" includes "negligent acts committed by an employee of an agency***." *Rosa v. Dep't of Children & Families*, 915 So. 2d 210, 212 (Fla. Dist. Ct. App. 1st Dist. 2005) ***[Emphasis Added]***. In essence, *Irven* stands for the proposition that senior employees who take improper action in violation of the Act give rise to vicarious liability to the agency.

B. To Whom Information Disclosed:

15. Section 112.3187(6), Florida Statutes, titled "*To whom information disclosed*," provides in pertinent part as follows:

> [t]he information disclosed under this section must be disclosed to any agency or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act, including, but not limited to, the Office of the Chief Inspector General, an agency inspector general or the employee designated as agency inspector general under § 112.3189(1) or inspectors general under § 20.055, the Florida Commission on Human Relations, and the whistle-blower's hotline created under § 112.3189. . .

Fla. Stat. § 112.3187(6).

C. Employees and Persons Protected:

16. Finally, Section 112.3187(7), Florida Statutes, titled "*Employees and persons protected*," provides in pertinent part as follows:

> [t]his section protects employees and persons who disclose information on their own initiative in a written and signed complaint; ***who are requested to participate in an investigation, hearing, or other inquiry conducted by any agency or federal government entity***; who refuse to participate in any adverse action prohibited by this section; or who initiate a complaint through the whistle-blower's hotline or the hotline of the Medicaid Fraud Control Unit of the Department of Legal Affairs; or ***employees who file any written complaint to their supervisory officials*** or employees who submit a complaint to the Chief Inspector General in the Executive Office of the Governor, ***to the employee designated as agency inspector general under § 112.3189(1)***, or to the Florida Commission on Human Relations. . . ***[Emphasis added]***

Fla. Stat. § 112.3187(7).

GLISSON AND ULM'S DISCLOSURES AND ACTIVITIES PROTECTED BY THE ACT, AS WELL AS ACTS OF RETALIATION

DEATH OF RANDALL JORDAN APARO AT FRANKLIN CI

17. On approximately September 19, 2010, an inmate at Franklin Correctional Institute, Randall Jordan Aparo was gassed to death by DOC employees.[2] Several DOC employees were terminated as a result of the death, however, DOC reported that Aparo died of "natural causes" despite the fact that, upon information and belief, the medical examiner included in her pathological findings that Aparo had been gassed with pepper spray. The main DOC investigator on this case in 2010-2011 was Debbie Arant-Carter. During the Aparo investigation, Ms. Carter determined that it was unnecessary to interview inmates who may have been eyewitnesses to the gassing of Aparo. In fact, no inmate eyewitnesses were interviewed concerning the illegal administration of CNS gas and pepper spray on Aparo, contrary to DOC rules and regulations.

18. The Aparo investigation was initially shut down in approximately late 2010, early 2011. The Aparo death investigation was closed until approximately April of 2013 the Kassidy Hill investigation was opened.

KASSIDY HILL CRIMINAL INVESTIGATION AT FRANKLIN CORRECTIONAL INSTITUTE

19. In approximately April of 2013, Plaintiffs Glisson and Ulm were assigned an investigation into whether former DOC employee Kassidy Hill (hereinafter "Kassidy Hill Criminal Investigation") was having sexual relations with inmates.

20. During the Kassidy Hill Criminal Investigation, Glisson and Ulm were informed by other inmates that instead of investigating Kassidy Hill, they should be investigating the cover up of "the murder of the inmate who was gassed to death," i.e., the Aparo death.

21. Glisson and Ulm reported to then DOC Inspector General Jeff Beasley (hereinafter "IG Beasley") what they were told about the suspicious death, and that they felt that

[2] http://www.miamiherald.com/news/politics-government/article1985286.html

several inmates, including all of the eyewitness inmates, should have been interviewed during the Aparo investigation regarding the repeated gassing of Aparo on the day of his death. Glisson and Ulm advised IG Beasley that Debbie Arant-Carter, the DOC Inspector in charge of the Aparo death investigation, made major mistakes in her investigation, and should be considered a target/subject for assisting in the cover-up of the suspicious death of Aparo.

22. IG Beasley stated "don't worry about the death of some inmate[3], focus on the low hanging fruit."

23. Following Beasley's instruction, Glisson and Ulm proceeded with the Kassidy Hill Criminal investigation, which resulted in Hill's arrest, resignation, and subsequent prosecution.

24. After Hill's arrest, an investigation was opened against Glisson and Ulm (hereinafter "The Kassidy Hill IA Investigation") by DOC as it relates to their investigation of Kassidy Hill. IG Beasley assigned Debbie Arant-Carter to investigate Glisson and Ulm. The Kassidy Hill IA Investigation was pretextual, and retaliation for prior disclosures made by Glisson and Ulm concerning the death of inmate Aparo.

25. Employees in the DOC Office of the Inspector General routinely complete investigations which result in the termination and arrest of a DOC employee. If and when the arrested former employee makes a complaint against the inspectors who investigated that employee as to violations of procedure during the investigation, it is common practice for DOC to open an investigation, but do nothing until the criminal investigation of the former employee is terminated. This practice is common because if DOC was to inform the inspectors that they were under investigation, at the criminal trial of the terminated employee, they would have to testify that they were under IA investigation for their work which led to the arrest of the former

[3] Randall Jordan Aparo had approximately 90 days left on his prison sentence at the time of his death.

employee. Obviously, this would undercut the entire criminal prosecution. By immediately beginning the investigation prior to resolution of the criminal prosecution of Kassidy Hill, DOC deviated from its normal practice in retaliation for Glisson and Ulm's Aparo disclosures.

26. In direct violation of this common practice, IG Beasley assigned Debbie Arant-Carter to the Kassidy Hill IA Investigation, and told her to begin investigating Glisson and Ulm's investigative procedures immediately. Glisson and Ulm subsequently were informed of the pending IA investigation in the fall of 2013 shortly after they disclosed to IG Beasley the Aparo death cover-up and their intent to reopen the Aparo investigation and list Debbie Arant-Carter as a subject/target.

27. Glisson and Ulm went to IG Beasley and stated that it was not appropriate for Debbie Arant-Carter to be investigating Glisson and Ulm in connection with the Kassidy Hill IA investigation because they had recently advised IG Beasley that Carter should be a subject/target in the suspicious death of Aparo and DOC's cover-up of his death. IG Beasley assignment Debbie Arant-Carter to investigate Glisson and Ulm regarding their investigative procedures in the Kassidy Hill Criminal Investigation was particularly inappropriate and retaliatory in that Glisson and Ulm were interviewing inmates in the summer and fall of 2013. The inmates were implicating Debbie Arant-Carter in the cover-up of the Aparo death. Thus, it was inappropriate for Carter to investigate Glisson and Ulm's investigative procedures they employed in the Kassidy Hill Criminal investigation.

28. Despite the obvious conflict, IG Beasley refused to remove Debbie Arant-Carter as the lead investigator of Kassidy Hill IA Investigation against Glisson and Ulm. In light of the conflict, there was no legitimate reason to keep Debbie Arant-Carter on the investigation as the lead investigator, unless it was to control the outcome of the investigation.

29. Glisson and Ulm then went to Former DOC Secretary Michael Crews' office and made the same complaint to Secretary Crews regarding Debbie Arant-Carter.

30. Crews agreed that it was obviously improper for Debbie Arant-Carter to be assigned as the investigator, and told Glisson and Ulm[4] to speak with Melinda Miguel, the Chief Inspector General of the State of Florida (hereinafter "CIG Miguel").

31. When Aubrey Land met with CIG Miguel in March of 2014, he recorded his interview. A transcript of the interview is attached hereto as **Exhibit A.**

32. CIG Miguel recused DOC, Debbie Arant-Carter, and IG Beasley, and assigned the Kassidy Hill IA Investigation out to Florida Fish and Wildlife Conservation Commission (hereinafter "FWC").

33. Despite the FWC investigator completing her investigation in three months, CIG Miguel kept the investigation open for approximately 18 months. *See infra*.

IN OCTOBER OF 2014, CHIEF INSPECTOR GENERAL OF THE STATE OF FLORIDA MELINDA MIGUEL REFUSED TO ISSUE THE COMPLETED FINAL REPORT OF THE KASSIDY HILL IA INVESTIGATION CONCERNING THE PETITIONERS AT THE REQUEST OF THE THEN GENERAL COUNSEL TO THE EXECUTIVE OFFICE OF THE GOVERNOR

34. On or about October 15, 2014, CIG Miguel intended to issue the completed final report on the Kassidy Hill IA Investigation against Glisson, Ulm, Land, and Padgett.

35. CIG Miguel was told by "BO" in the general counsel's office for the Executive Office of the Governor that he had spoken with the then General Counsel for the Executive Office of the Governor, and that they wanted to wait until after the 2014 election cycle. See

[4] DOC Office of Inspector General Employees Aubrey Land and James Padgett were also under the same investigation, and were also told to speak with Melinda Miguel about Beasley's obvious mistake in judgment.

handwritten note by CIG Miguel, attached hereto as **Exhibit B**. CIG Miguel was concerned that an "outsider"[5] would "only construe that she is sitting on this pending the election."

36. Subsequently, CIG Miguel was advised by another individual with the Executive Office of the Governor that this report "needed to be issued the week of Thanksgiving." *See* Exhibit B.

37. CIG Miguel complied with the directives of the Executive Office of the Governor, i.e., the report was released after the 2014 gubernatorial election and during the week of Thanksgiving 2014.

38. When the Kassidy Hill IA Investigation final report was released, the allegations were not sustained as to Glisson, Ulm, Land, and Padgett. In other words, FWC found that these individuals did not violate any statutes, rules, policies, or procedures in the Kassidy Hill Criminal Investigation.

DOC INSPECTOR GENERAL EMPLOYEES KEVIN DEAN, BRIAN FALSTROM, AND KEN SUMPTER FAILED TO ENTER AN INCIDENT REPORT IN IGIIS[6] FOR OVER TWO YEARS REGARDING PLAINTIFF GLISSON

39. During an Inspector General's Supervisor Training Conference in Orlando on April 2, 2014, Inspector Supervisor Kevin Dean reported to Brian Falstrom, Assistant Chief in the DOC Office of the Inspector General, that he (Dean) had a discussion with Glisson regarding rumored conduct of IG Beasley which, if true, could have been cause for termination.

40. On approximately April 9, 2014, Kevin Dean was ordered by Brian Falstrom to document the details of his conversation with Glisson in an incident report. All incident reports in DOC are required to be filed in IGIIS.

[5] I.e., voters.
[6] IGIIS is the system that DOC uses to track all Office of Inspector General investigations, incident reports, violations of statutes, rules, policies, procedures, etc.

41. In approximately April of 2016, a public records request was made to DOC for a copy of the incident report.

42. A DOC employee was tasked with locating the incident report within DOC, and had difficulty locating the document. This employee searched the IGIIS system where this document should have been located, however, this document had not been entered into the IGIIS system by at least April 27, 2016. In other words, over two years had passed since Dean had authored the incident report as ordered by Falstrom, however, neither had entered the report in IGIIS. The employee went to Interim Inspector General Ken Sumpter's office and asked if he knew anything about the requested report that she could not find in IGIIS. Sumpter opened his desk drawer and out of a confidential folder, provided the employee with a copy of the incident report.

43. Despite Dean, Falstrom, and Sumpter having a mandatory duty to enter the report in IGIIS, none of these three employees entered the report into IGIIS. Upon information and belief, none of these three employees have been investigated by DOC for violations of statutes, rules, policies, or procedures. Falstrom hasn't been investigated, even though, upon information and belief, he has recently had allegations of misconduct sustained against him, resulting in counseling.

44. This requirement of entering incident reports into IGIIS and purported violations of this requirement are selectively enforced by DOC and its Office of the Inspector General.

45. IG Beasley went to CIG Miguel to complain about the substance of Glisson's conversation and incident report, and CIG Miguel suggested he open an IA investigation. However, upon information and belief, IG Beasley declined, telling CIG Miguel that he would handle this one "in-house."

46. The then highest-ranking individual in the DOC Inspector General's Officer, IG Beasley, was aware of this incident report, and he also failed to enter the incident report into IGIIS. In other words, two different inspector generals for DOC, IG Beasley and Sumpter, both violated statutes, rules, policies, and/or procedures by having actual knowledge of this controversial incident report, yet failing to enter or ensure that it was entered into IGIIS. The comparison in discipline between IG Beasley, Sumpter, and Falstrom on the one hand (no discipline), and Glisson and Ulm on the other (demotion and reduction in pay), is evidence of clear retaliation.

47. Upon information and belief, IG Beasley ordered that the report not be entered into IGIIS. By giving this order, IG Beasley used his position and power as the Inspector General for DOC for his own personal benefit and personal gain.

48. Ulm was also questioned by Crews and Cannon over the rumors contained in the Glisson/IG Beasley incident report.

49. Lastly, Glisson's statements would amount to a protected disclosure. The discussion of the topics contained in the incident report should have resulted in the opening of an IA investigation against IG Beasley.

BEASLEY RETALIATES AGAINST GLISSON AND ULM AFTER APARO INVESTIGATION REOPENED BY AUBREY LAND IN SUMMER OR FALL OF 2013

50. During the Kassidy Hill Criminal Investigation and what Glisson, Ulm, and Land learned about the death of Aparo, Land reopened the Aparo death investigation in approximately the late summer, early fall of 2013.

51. During the 2013 DOC Office of Inspector General Christmas Party, and after the conclusion of the Kassidy Hill Criminal Investigation, IG Beasley stated to Glisson and Ulm that they had "f'ed up" in the Kassidy Hill Criminal Investigation and that it better not happen again.

However, as stated *infra*, FWC did not sustain the allegations as to Glisson, Ulm, Land, or Padgett. It is clear that if IG Beasley had it his way, he would have sustained the allegations through Debbie Arant-Carter, even though a neutral third party did not sustain the allegations.

52. Further, at the same Christmas Party, IG Beasley ordered Ulm to "water down" a memorandum concerning abuse of inmates, hand walk the memorandum to IG Beasley, and "absolutely do not email the memorandum" to him.

53. On approximately July 2, 2014, Glisson and Ulm requested whistleblower protection from CIG Miguel regarding the death of Aparo, and false internal affairs complaints concerning Shawn Gooden and Kassidy Hill.

IN RESPONSE TO IG BEASLEY'S TESTIMONY BEFORE THE SENATE CRIMINAL JUSTICE COMMITTEE, IG BEASLEY FURTHER RETALIATED AGAINST GLISSON AND ULM BY PLACING THEM UNDER SEVERAL IA INVESTIGATIONS THE NEXT DAY

54. On approximately February 2, 2015, IG Beasley testified before to the Senate Committee on Criminal Justice regarding inmate deaths, retaliation against employees for reporting violations of statutes, rules, policies, and procedures, and interference with investigations.

55. Before the Chairman of the Committee dismissed IG Beasley on February 2, 2015, IG Beasley was asked if he had ever heard the terms "capital connections" or "low hanging fruit." IG Beasley stated that he had heard those terms. The Chairman asked IG Beasley if he had ever said those words. IG Beasley responded that he had not said those words. When asked by the Chairman if his answer would be the same if he testified under oath, IG Beasley paused, and stated that his answers would be the same.

56. However, IG Beasley was known for using the words "capital connection" and "low hanging fruit." In fact, it is a common expression that he has used around the State of Florida.

IG BEASLEY PUTS GLISSON UNDER THE FIRST OF 6 IA INVESTIGATIONS ON FEBRUARY 3, 2015, LESS THAN 24 HOURS AFTER HIS TESTIMONY BEFORE THE SENATE CRIMINAL JUSTICE COMMITTEE

57. Less than 24 hours after IG Beasley's testimony before the Senate Criminal Justice Committee, Doug Glisson was placed under 6 IA investigations.[7]

58. This was no coincidence, and in direct retaliation for Glisson disclosures regarding Aparo. Further, IG Beasley believed the source of the Committee's questions were Glisson and Ulm.

59. However, it was improper for Falstrom to be assigned these cases against Glisson and Ulm because in early 2015, Falstrom stated to DOC Inspector Stacy Harris that "We (DOC OIG Management) know who these whistleblowers are. They are all f**king liars and will be dealt with." Pursuant to DOC policies and procedures, as well as the Officer's Bill of Rights, these statements should have disqualified Falstrom as the investigator against Glisson and Ulm. However, IG Beasley had a history of ignoring proper protocols to achieve his own agenda, especially people who gave a "black eye" to the Department for exposing the cover-up of inmate abuse and deaths.

DESPITE DOC'S POLICY REQUIRING THE SUBJECT OF AN IA INVESTIGATION BE INTERVIEWED, DOC SUSTAINED ON AT LEAST 3 IA INVESTIGATIONS

[7] At DOC, when an individual is placed under an IA investigation, he is only informed that he or she is under investigation, but is not provided any substantive allegations regarding the investigation. Generally, the subject is provided the facts of the investigation at the subject interview. However, when a subject interview is not conducted, the employee can only find out the facts of the underlying IA investigation after the case is closed, for example, after the allegations have been sustained against the employee.

AGAINST GLISSON, WITHOUT INTERVIEWING Glisson, AND ONE IA INVESTIGATION AGAINST ULM, WITHOUT INTERVIEW, IN VIOLATION OF DOC RULES, POLICIES, PROCEDURES, AND CLEAR DIRECTIVES FROM CIG MIGUEL

60. Florida Statutes, Chapter 112, DOC policies and procedures, and rules generally require that DOC interview the subject of an IA investigation before closing the investigation and sustaining the allegations. Additionally, CIG Miguel's issued directives that all subjects be investigated prior to sustaining allegations against the subject.

61. Further, DOC Assistant Chief Kathleen Harrell testified by deposition in Leon County Circuit Case No: 2015 CA 001593, that it would violate DOC policies and procedures to sustain against a subject without interviewing the subject.

62. However, as further detailed herein, Harrell sustained against Glisson and Ulm without interviewing them. Harrell sustained against Glisson and Ulm approximately 6 months after her testimony under oath that it would violate DOC policies and procedures to sustain against a subject without interviewing the subject.

63. By intentionally failing to interview the subject prior to sustaining the charges against Glisson and Ulm, DOC violated Florida Statutes Chapter 112. Further, DOC violated Glisson and Ulm's due process rights by preventing both Plaintiffs from presenting evidence, testimony, or any other kind of information to defend or explain the actions that were being reviewed by DOC.

DOC IA INVESTIGATION 15-1631 AGAINST DOUG GLISSON (PRETEXTUAL AND RETALIATORY)

64. On February 3, 2015, IG Beasley required Falstrom to open an investigation against Glisson, investigation 15-1631.

65. Falstrom falsely reported that a complaint against Glisson was received on February 3, 2015. IG Beasley and Sumpter had actual knowledge of the falsity that the complaint was received on February 3, 2015, however, neither IG Beasley nor Sumpter reported this falsity or investigated Falstrom for this falsity. On approximately October 15, 2014, IG Beasley and Sumpter first received notice of the facts concerning the February 3, 2015, charge against Glisson. In fact, IG Beasley, Sumpter, and another employee met specifically to discuss the underlying allegations of IA Investigation 15-1631 on approximately October 15, 2014. Approximately four months (October 2014-February 2015) passed before an investigation was opened. Obviously, IG Beasley and Sumpter did not believe Glisson had violated any statutes, rules, policies, or procedures in October of 2014, until after IG Beasley testified before the Florida Senate Criminal Justice Committee on February 2, 2015. The following day the IA investigation 15-1631.

66. DOC's investigation into Glisson under case 15-1631 was entirely pretextual for the following reasons:

a. Unbeknownst to Glisson, his name was forged on the chain of custody document, which became part of the case file, despite DOC's knowledge that Glisson's name had been forged on the chain of custody receipt;

b. Unbeknownst to Glisson, DOC caused to be submitted a false chain of custody report to FDLE in connection with the DNA swab, falsely attesting that Glisson had in fact submitted the evidence to FDLE, when in fact, Glisson's name had knowingly been forged by unknown persons at DOC to falsely indicate the chain custody was accurate.

67. This investigation (15-1631) was initially assigned to Falstrom. However, on Approximately July 7, 2015, Falstrom was removed from the investigation for perceived intentional violations of Glisson's Officer's Bill of Rights. Upon information and belief, DOC sustained its investigation against Falstrom[8], finding that he did violate statutes, rules, policies or procedures. However, instead of being demoted like Glisson and Ulm, Falstrom only received a letter of counseling. Case 15-1631 was reassigned to Kathleen Harrell.

68. Falstrom was "gunning" for Glisson so badly during this time period that, upon information and belief, he was conducting an off the books investigation of Glisson for which there was no documented complaint or underlying case number.[9] In other words, the investigation against Glisson was sanctioned by Beasley to occur off the books. Upon information and belief, DOC Chief of Investigation Doug Wiener discovered Falstrom's off the books investigation. Further, upon information and belief, Wiener failed to write an incident report regarding Falstrom's misconduct, failed to enter any information into IGIIS regarding Falstrom's misconduct, and failed to open an IA investigation into Falstrom. Wiener's failure to write an incident report, failure to enter any information in IGIIS, and failure to open an investigation against Falstrom was evidence of the ongoing and unabated retaliation against Glisson and Ulm. Wiener's failures outlined herein violated established DOC policy and procedure.

69. Harrell committed perjury in her final report for IA Investigation 15-1631 when she stated in the Summary of Investigative Findings that she used the subject officer's (Glisson) statements to determine the facts and conclusions of the investigation. Harrell did not interview

[8] DOC's failure to interview Glisson and Ulm in its investigation against Brian Falstrom was an act of retaliation against Glisson and Ulm.

[9] During the time period that Falstrom was conducting this off the books investigation, Falstrom had already been removed from investigating Glisson on other IA cases for his perceived intentional violations of Glisson's Officer's Bill of Rights.

Glisson for this investigation. In fact, Harrell states that after discussing Investigation 15-1631 with Management in the DOC Office of Inspector General (i.e., IG Beasley and/or Sumpter), that she would not be conducting a subject interview. In other words, she was ordered not to interview Glisson, and then lied about it. Chief of Investigations Wiener was fully aware of the perjury, and still signed off approving the investigative findings.

70. Glisson was not interviewed during this investigation prior to Kathleen Harrell sustaining the allegations against him. This intentional act by Harrell violated Glisson's due process.

DOC IA INVESTIGATION 15-1642 AGAINST DOUG GLISSON (PRETEXTUAL AND RETALIATORY)

71. IG Beasley assigned Falstrom as the investigator for DOC IA Investigation 15-1642. Glisson was the subject of this investigation.

72. As explained herein, Falstrom should have not been assigned as the investigator in this case, and also should have recused himself due to his obvious bias.

73. This investigation was also assigned on February 3, 2015, the day after IG Beasley testified before the Florida Senate Criminal Justice Committee.

74. After Glisson filed his writ of mandamus against DOC, Falstrom was removed from this case and Assistant Chief Kathleen Harrell was assigned to the investigation.

75. According to Glisson's demotion, he was demoted because, in case number 15-1642, he was ordered by IG Beasley to have someone contact Jefferson Correctional Institute Correctional Officer Tim Butler with regards to a complaint Butler filed. In other words, IG Beasley wanted to ensure that Butler had given a documented interview with regards to his complaint.

76. When Glisson followed up, it was clear that Butler had already given a recorded statement to DOC Inspector Erika Williams. In fact, Erika Williams had stated that she had conducted a recorded interview.

77. Butler was interviewed on July 17, 2015, by Kathleen Harrell, and stated twice that he gave a recorded interview to Erika Williams. Apparently, Erika Williams "lost" the recorded statement. Butler stated that he was sworn in for the recorded statement he gave to Erika Williams.

78. Kathleen Harrell had actual knowledge that Glisson had followed through with IG Beasley's request and that Butler gave a recorded statement to Erika Williams. Despite actual knowledge of this fact, Harrell failed to interview Glisson as the subject of the investigation, and closed the investigation, sustaining allegations against Glisson she knew to be untrue. This is not the only allegation that Harrell attested to as true, despite its obvious falsity.

79. Harrell committed perjury in her final report for IA Investigation 15-1642 when she stated in the Summary of Investigative Findings that she used the subject officer's (Glisson) statements to determine the facts and conclusions of the investigation. Harrell did not interview Glisson for this investigation. In fact, Harrell states that after discussing Investigation 15-1631 with Management in the DOC Office of Inspector General (i.e., IG Beasley and/or Sumpter), that she would not be conducting a subject interview. In other words, she was ordered not to interview Glisson, and then lied about it. Chief of Investigations Wiener was fully aware of the perjury, and still signed off approving the investigative findings.

80. By failing to interview Glisson, Harrell violated his due process.

6 MONTHS PRIOR TO SUSTAINING AGAINST GLISSON ON CASE NUMBERS 15-1631 AND 15-1642, HARRELL TESTIFIED THAT IT WOULD BE A VIOLATION OF DOC POLICY AND PROCEDURE TO SUSTAIN AGAINST A SUBJECT WITHOUT A SUBJECT INTERVIEW

81. Brian Falstrom served another IA Investigation letter, Investigation 14-10462, on Glisson on approximately February 3, 2015.

82. During this investigation, Falstrom violated Glisson's rights in multiple ways.

83. With clear intent to retaliate against Glisson and Ulm, the day after IG Beasley testified before the Florida Senate Criminal Justice Committee, IG Beasley decided to open up this investigation as well.

84. DOC was so indifferent to the violations committed by Falstrom, the Department failed to convene a complaint review board or compliance review hearing despite Glisson's compliance with Florida Statutes, Chapter 112. Glisson was required to retain counsel, and file a lawsuit against DOC to simply seek a determination as to whether Falstrom was intentionally violating his rights, and whether it was in fact at the direction of IG Beasley.

85. By way of example, Falstrom questioned Glisson about this IA investigation without Glisson's representative present and despite Glisson's request for his representative to be present. This violated the Officer's Bill of Rights. Falstrom was yelling at and threatening Glisson so loudly, that Stephanie Land, a DOC employee who was in the office next door to Glisson became scared that Falstrom was going to physically attack Glisson. Stephanie Land was so nervous and scared, without prompting, she wrote down the events so that she could recall them later if she needed to. *See* Hearing Transcript, attached hereto as **Exhibit C**.

86. Ms. Land also testified that after Glisson was reassigned to the main DOC office in Tallahassee, Florida,[10] he was moved from a standard office to a broom closet. *See* Exhibit C. Even worse, Ms. Land testified that she feared retaliation by DOC in response to her truthful testimony given at the hearing on Glisson's writ of mandamus against DOC. *See* Exhibit C.

[10] He was reassigned approximately thirty days after all of the IA investigations were opened on him the day after IG Beasley was grilled before the Florida Senate Criminal Justice Committee.

87. On May 26, 2016, Glisson prevailed in his lawsuit against DOC, DOC Secretary Julie Jones, and IG Beasley, when the circuit court in Leon County, Florida, entered a Writ of Mandamus against the DOC, Secretary Julie Jones, and IG Beasley. See Final Order and Writ of Mandamus, attached hereto as **Exhibit D**. In essence, the court found that DOC, Secretary Julie Jones, and IG Beasley violated Glisson's due process rights by failing to convene a complaint review board (hereinafter "complaint review board") and a compliance review hearing (hereinafter a "Glisson Hearing"). The relief afforded to Glisson at a Glisson Hearing is paramount, as the panel of five DOC employees review evidence, hear testimony from Glisson and other witnesses, and determines whether Falstrom and/or DOC intentionally violated Glisson's Officer's Bill of Rights. Should the Glisson Hearing panel find that Falstrom intentionally violated Glisson's rights, Falstrom could ultimately be referred to the Criminal Justice Standards and Training Commission for a review of his actions as an act of official misconduct or misuse of position.

DOC IA INVESTIGATION 15-1631 AGAINST JOHN ULM (PRETEXTUAL AND RETALIATORY)

88. On February 3, 2015, IG Beasley required Falstrom to open an investigation against Glisson, investigation 15-1631. This investigation was subsequently amended to add Ulm as a subject, approximately one month before the investigation was closed.

89. Falstrom falsely reported that a complaint against Ulm was received on February 3, 2015.[11] IG Beasley and Sumpter had actual knowledge of the falsity that the complaint was received on February 3, 2015, however, neither IG Beasley nor Sumpter reported this falsity or investigated Falstrom for this falsity. On approximately October 15, 2014, IG Beasley and Sumpter first received notice of the facts concerning the February 3, 2015, charge against

[11] Ulm was not made a subject until much later on in the investigation.

Glisson, and ultimately Ulm, who was made a subject in late 2015. In fact, IG Beasley, Sumpter, and another employee met specifically to discuss the underlying allegations of IA Investigation 15-1631 on approximately October 15, 2014. Approximately four months (October 2014-February 2015) passed before an investigation was opened. Obviously, IG Beasley and Sumpter did not believe Glisson had violated any statutes, rules, policies, or procedures in October of 2014, until after IG Beasley testified before the Florida Senate Criminal Justice Committee on February 2, 2015. The following day the IA investigation 15-1631.DOC's investigation into Ulm under case 15-1631 was entirely pretextual because DOC failed to investigate two employees on a chain of custody document who falsified the chain of custody that those individuals submitted to the Florida Department of Law Enforcement.

90. This investigation (15-1631) was initially assigned to Falstrom. However, on Approximately July 7, 2015, Falstrom was removed from the investigation for perceived intentional violations of Glisson's Officer's Bill of Rights. Upon information and belief, DOC sustained its investigation against Falstrom[12], finding that he did violate statutes, rules, policies or procedures. However, instead of being demoted like Glisson and Ulm, Falstrom only received a letter of counseling. Case 15-1631 was reassigned to Kathleen Harrell.

91. Harrell committed perjury in her final report for IA Investigation 15-1642 when she stated in the Summary of Investigative Findings that she used the subject officer's (Ulm) statements to determine the facts and conclusions of the investigation. Harrell did not interview Ulm for this investigation. In fact, Harrell states that after discussing Investigation 15-1631 with Management in the DOC Office of Inspector General (i.e., IG Beasley and/or Sumpter), that she would not be conducting a subject interview. In other words, she was ordered not to interview

[12] DOC's failure to interview Glisson and Ulm in its investigation against Brian Falstrom was an act of retaliation against Glisson and Ulm.

Ulm, and then lied about it. Chief of Investigations Wiener was fully aware of the perjury, and still signed off approving the investigative findings and conclusions.

92. Ulm was not interviewed during this investigation prior to Kathleen Harrell sustaining the allegations against him. This intentional act by Harrell violated Ulm's due process.

DOC IA INVESTIGATION 15-13778 AGAINST JOHN ULM (PRETEXTUAL AND RETALIATORY)

93. In February of 2015, Ulm was served with two IA investigation notices and ordered to immediately report to the DOC main office in Tallahassee, Florida. In response to receiving the notices, Ulm gathered all of the papers on his desk into a box, and reported to the Tallahassee main office. Ulm was also placed in a broom closet in the Tallahassee DOC main office, without computer access.

94. In approximately July of 2015, Ulm was served with notice of Investigation 15-13778. Ulm was not told what he was under investigation for.

95. Ulm was interviewed by Kathleen Harrell. During the interview, Ulm alleged that Harrell violated Ulm's Officer's Bill of Rights.

96. The underlying allegations were that, after Sumpter pillaged through Ulm's office while he was out of the office, Sumpter discovered a document he believed should have been entered into IGIIS. However, the document was not required to be entered into IGIIS.

97. DOC took adverse employment action against Ulm, despite the fact that IG Beasley, Sumpter, and Falstrom all failed to enter the Glisson/IG Beasley incident report into IGIIS. IG Beasley, Sumpter, and Falstrom were all superiors of Ulm. This is one of many incidents of senior employees within the DOC Office of the Inspector General who have failed to enter reports, documents, or other entries into IGIIS.

98. As point in fact, Beasley, Sumpter, Falstrom, and Dean, were in possession and had actual knowledge of the Glisson/IG Beasley incident report attached *supra* for over two years, and failed to enter the report into IGIIS. Again, Sumpter, the Inspector General for DOC at the time the document was produced in response to a public records request, pulled the document from a special drawer in his desk. In other words, the top cop for DOC, Ken Sumpter, was willfully and knowingly in possession of a document that he had a duty to enter into IGIIS and failed to enter it into IGIIS.

IG BEASLEY ORDERS ULM TO CEASE INVESTIGATING US FOODS AND CLOSE THE INVESTIGATION INTO US FOODS ALLEGED USE OF BLEACH ON FOOD THAT DOC SERVED TO INMATES

99. On approximately July 20, 2015, Ulm emailed IG Beasley and DOC Chief of Investigations Doug Wiener regarding the US Foods Investigation. *See* Ulm email attached hereto as **Exhibit E.** This email, Exhibit E, is protected by the Act. Ulm believed that capital connections were involved as it related to this investigation and the allegations that US Foods was selling tainted meat to DOC[13] and engaging in deceitful billing. Based on Ulm's investigation, as well as a report authored by FDLE Agent Kenny Pinkard, wherein Pinkard stated that FDOC Auditor Bob McMasters had indicated that lobbyists were being paid money to try to keep the US Foods contracts in effect.[14] During the relevant time period of the US Foods contract and investigation, US Foods had only one lobbyist, and then went without a lobbyist for an unknown amount of time, during such time when the lobbyist began to work as general counsel for the Executive Officer of the Governor.

[13] DOC in turn was serving this allegedly tainted meat to its inmates.
[14] That is not to imply paying lobbyists to lobby is improper. Ulm believed that the US Foods Investigation was being addressed in more ways than just Ulm's investigation.

100. Ulm believed that the former lobbyist for US Foods needed to be interviewed for this investigation, as well as FDOC Auditor Bob McMasters to follow up on his comments that lobbyists were being paid to heavily influence and keep the US Foods contracts in effect.

101. Ulm protested in writing to closing the investigation at IG Beasley's direction. IG Beasley's proffered reasons for closing the investigation were that the US Foods Investigation needed to be closed because of "capital connections" and because DOC (according to IG Beasley) could not "indict a corporation." *See Id*. Ulm believed these additional interviews and facts were essential to the completeness of his investigation. *See Id.* Ulm complained in writing of violations of statutes, rules, policies, and procedures, and was entitled to whistleblower protection for this protected activity.

102. IG Beasley was aware of Ulm's feelings and beliefs regarding the US Foods investigation, and, in response to their communications, placed Ulm under IA investigation for case number 15-13778. Investigation 15-13778 was pure pretext for Ulm engaging in a protected activity.

103. Approximately 30 days after Ulm's July 20, 2015, email, US Foods settled with the State of Florida, agreeing to pay back over $15 million.

104. Obviously, had Ulm been able to appropriately complete his investigation without interference by IG Beasley, other individuals and companies may have been indicted, and additional fines, penalties, and false billings may have been recovered from US Foods.

DOC GENERAL COUNSEL ASSIGNED TO THE DOC OFFICE OF THE INSPECTOR GENERAL LOST EVIDENCE AND DID NOT SUFFER ADVERSE PERSONNEL ACTION

105. On approximately July 16, 2015, DOC IA Investigation 15-15102 was opened after DOC received a complaint from Elissa Saavedra, then DOC general counsel assigned to the

DOC Office of the Inspector General. Ulm was the subject of this complaint and investigation and was alleged by Saavedra to have falsified a report. Kathleen Harrell was assigned to lead the investigation.

106. After Harrell interviewed Saavedra, Harrell reported that Saavedra stated that she had lost the evidence (i.e., the falsified report).

107. The case was closed and the allegations were not sustained.

108. Despite losing the evidence, Saavedra did not suffer any adverse employment action. However, when Glisson and Ulm were alleged to have committed similar/identical acts, they suffered adverse employment action. The comparison in discipline between Saavedra on the one hand (no discipline), and Glisson and Ulm on the other (demotion and reduction in pay), is evidence of clear retaliation.

GLISSON AND ULM WERE RETALIATED AGAINST AND SUFFERED ADVERSE PERSONNEL ACTION IN RESPONSE TO THEIR PROTECTED DISCLOSURES

109. From approximately 2013, to the present date, Glisson has complained in writing and requested whistleblower protection on numerous occasions. *See* composite **Exhibit F.** Glisson suffered adverse employment action in as result of his engaging in a protected activity. FCHR has yet to make a determination as it relates to Glisson's whistleblower complaint. Further, FCHR was required to make a decision on Glisson and Ulm's complaint for temporary reinstatement within 15 days of receipt of the complaint. FCHR has not made a determination as to temporary reinstatement, thus this complaint has complied with all conditions precedent, and has been appropriately filed in circuit court.

110. From approximately 2013, to the present date, Ulm has complained in writing and requested whistleblower protection on numerous occasions. *See* composite **Exhibit G.** Ulm

suffered adverse employment action in as result of his engaging in a protected activity. FCHR has yet to make a determination as it relates to Ulm's complaint.

THE DOC DART TEAM[15], COMPRISED OF VARIOUS INDIVIDUALS AT DOC, INCLUDING BIASED INDIVIDUALS RULED ON GLISSON AND ULM'S DEMOTION

111. The DOC Dart Team is comprised of various individuals of DOC. For the purposes of the demotion of Glisson and Ulm, those individuals were:

a. Stacy Arias, Chief of Staff of DOC

b. IG Beasley, Former Inspector General, Intelligence Director

c. Todd Studley, attorney in General Counsel's office at DOC

d. Tammy Edwards

e. David Arthmann

112. Despite IG Beasley's obvious conflict of interest as it relates to ruling on Glisson and Ulm's discipline (*See* Dart Sheets of Glisson and Ulm, attached hereto as **Exhibit H**), as generally alleged herein, IG Beasley did not recuse himself from recommending dismissal[16] of Ulm. Simply put, IG Beasley suggested termination without informing the DART team of his multiple personal conflicts. Beasley recommended termination despite knowledge of the Glisson/IG Beasley incident report hidden in Sumpter's secret and confidential desk drawer. IG Beasley permitted Sumpter, Falstrom, and Dean to not enter the Glisson/IG Beasley incident report in IGIIS, yet recommended dismissal of Ulm for not entering a document into IGIIS, even when it was clear that the document Ulm did not enter into IGIIS was not required to be entered into IGIIS. In other words, only certain individuals violate DOC rules, policies and procedures

[15] The DOC Dart Team reviews sustained allegations of alleged misconduct and levies discipline from counseling to termination and dismissal.

[16] Ulm has a pending federal court claim against IG Beasley. Such claim was pending at the time of IG Beasley's recommendation of dismissal.

when they do not enter documents into IGIIS, not all employees, especially those holding senior positions within the DOC Office of the Inspector General.

113. Despite IG Beasley's obvious conflict of interest as it relates to ruling on Glisson and Ulm's discipline (*See* Dart Sheets of Glisson and Ulm, attached hereto as Exhibit H), as generally alleged herein, IG Beasley did not recuse himself from recommending dismissal[17] of Glisson.

114. IG Beasley should have been recused from ruling on Glisson's discipline because Glisson had and still has two pending lawsuits against IG Beasley. Further, Glisson was accused in another case before the DART Team in the same review, IA Investigation 15-1645, of not entering a report into IGIIS. IG Beasley recommended discipline against Glisson despite knowledge of the Glisson/IG Beasley incident report hidden in Sumpter's secret and confidential desk drawer. IG Beasley permitted Sumpter, Falstrom, and Dean to not enter the Glisson/IG Beasley incident report in IGIIS, yet recommended discipline of Glisson for not entering a document into IGIIS. In other words, only certain individuals violate DOC rules, policies and procedures when they do not enter documents into IGIIS, not all employees. This disparate discipline between employees allegedly violating the same policies is clear evidence of retaliation against Glisson and Ulm.

115. Lastly, Todd Studley should have been recused from the DART Team in reviewing Glisson's discipline because Studley's actions in improperly denying Glisson's proper request for a Glisson Hearing and complaint review board were under review by a circuit court judge wherein Studley testified under oath and adverse to Glisson. On May 26, 2016, the Circuit

[17] Glisson has a pending federal court claim against IG Beasley. Such claim was pending at the time of IG Beasley's recommendation of dismissal. Glisson also has a pending state court claim against IG Beasley, by way of a writ of mandamus. Glisson prevailed in his action against DOC and IG Beasley, resulting in the court entering a writ of mandamus against DOC, IG Beasley, and Secretary Julie Jones.

Court in Leon County, Florida, granted the writ of mandamus. By finding in favor of Glisson and issuing the writ of mandamus, the Court found that DOC, through Studley, incorrectly interpreted Florida Statutes § 112.532, and § 112.534, and thus improperly denied Glisson of a complaint review board and a Glisson Hearing.

116. The DART Team recommended discipline against Glisson and Ulm despite actual knowledge that both Plaintiffs have pending whistleblower complaints and against IG Beasley, Sumpter, Falstrom, Harrell, amongst others, and pending FCHR whistleblower charges of discrimination and retaliation.

PLAINTIFFS' PROTECTED ACTIVITY WAS NOT DONE IN BAD FAITH OR FOR A WRONGFUL PURPOSE

117. As outlined *supra*, Glisson and Ulm engaged in protected activity and were demoted. At the time of their protected activity, DOC had not initiated any personnel action against the Plaintiffs which was not pretextual, or personnel action against Glisson or Ulm which actually documented violations of statutes, rules, policies, or procedures. Simply put, neither had violated statutes, rules, policies, or procedures. The conduct for which Glisson and Ulm were demoted for is engaged in by management at the DOC Office of the Inspector General. In other words, this is conduct that senior DOC officials regularly engage in. Further, the various activities and conduct of State employees which prompted Glisson and Ulm to blow the whistle included violations of laws, rules, or regulations and/or acts of malfeasance, misfeasance, or gross mismanagement, which were actually occurring or which Glisson and Ulm reasonably suspected to be occurring. Therefore, for the reasons outlined *supra*, there is no evidence that any of Glisson or Ulm's protected activity was done in bad faith or for a wrongful purpose.

118. Finally, at this time, Glisson and Ulm request the relief of temporary reinstatement to their former position or to an equivalent position, pending the final outcome on

their complaint, pursuant to Section 112.3187(9)(f), Florida Statutes, including reinstatement of their full fringe benefits and seniority rights; compensation for their lost wages, benefits, and any other lost remuneration caused by DOC's wrongful termination of Glisson and Ulm; as well as payment of attorneys' fees and reasonable costs pursuant to Section 112.3187(9)(d), Florida Statutes.

COUNT I: GLISSON'S COUNT FOR TEMPORARY REINSTATEMENT

119. Glisson restates and realleges the allegations in Paragraphs 1 through 118 and incorporates them into this Count I.

120. Prior to the adverse employment action, Glisson made a disclosure protected by statute.

121. Glisson suffered adverse employment action as a result of the protected disclosure. In fact, the adverse employment action was in fact for acts that did not violate statutes, rules, policies or procedures. The acts DOC complained of were engaged in by management within the DOC Office of the Inspector General. Further, DOC, and its agents and employees violated Glisson's Officer's Bill of Rights and due process in the two investigations that resulted in Glisson's demotion.

122. Glisson's protected disclosures were not in bad faith, or for a wrongful purpose, and did not occur after DOC's adverse action against Glisson.

123. Glisson has suffered lost wages, loss of fringe benefits and seniority rights, and other financial losses as a result of DOC's wrongful demotion of Glisson.

WHEREFORE, Plaintiff Glisson respectfully requests that this Court enter an order granting Plaintiff's Petition for Temporary Reinstatement, reinstating Plaintiff Glisson to the

same position or to an equivalent position held before the adverse action was commenced, including reinstatement of Plaintiff Glisson's full fringe benefits and seniority rights, lost wages and benefits, and any other lost remuneration caused by the adverse employment action, pre and post judgment interest, as well as payment of attorneys' fees and reasonable costs.

COUNT II: ULM'S COUNT FOR TEMPORARY REINSTATEMENT

124. Ulm restates and realleges the allegations in Paragraphs 1 through 118 and incorporates them into this Count II.

125. Prior to the adverse employment action, Ulm made a disclosure protected by statute.

126. Ulm suffered adverse employment action as a result of the protected disclosure. In fact, the adverse employment action was in fact for acts that did not violate statutes, rules, policies or procedures. The acts DOC complained of were engaged in by management within the DOC Office of the Inspector General. Further, DOC, and its agents and employees violated Ulm's Officer's Bill of Rights and due process in the two investigations that resulted in Ulm's demotion.

127. Ulm's protected disclosures were not in bad faith, or for a wrongful purpose, and did not occur after DOC's adverse action against Ulm.

128. Ulm has suffered lost wages, loss of fringe benefits and seniority rights, and other financial losses as a result of DOC's wrongful demotion of Ulm.

WHEREFORE, Plaintiff Ulm respectfully requests that this Court enter an order granting Plaintiff's Petition for Temporary Reinstatement, reinstating Plaintiff Ulm to the same position or to an equivalent position held before the adverse action was commenced, including

reinstatement of Plaintiff Ulm's full fringe benefits and seniority rights, lost wages and benefits, and any other lost remuneration caused by the adverse employment action, pre and post judgment interest, as well as payment of attorneys' fees and reasonable costs.

DATED this 31st day of May, 2016.

Respectfully submitted,

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