



SEPTEMBER 2025 – FIRE & EMS LAW NEWSLETTER

[NEWSLETTER IS NOT PROVIDING LEGAL ADVICE.]



Prof. Bennett with his pet therapy dog - FRYE

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SPECIAL EDITION

- **REVIEWING CASES OF TWO FIRED FIRE CHIEFS.** This Special Edition will focus on two recent cases of fired fire chiefs, proceeding to trial seeking damages [Cincinnati and Port Clinton, OH].
- **UC FIRE EDUCATION – SEE NEW TRACK.**
<https://online.uc.edu/undergraduate-degrees/bachelor-of-professional-studies/fire-administration-track/>

OH: FORMER CINCINNATI FIRE CHIEF - NO PRIOR NOTICE OF CHARGES / NO PRE-TERMINATION HEARING

On Aug. 26, 2025, in Michael J. Washington v. City of Cincinnati, et al., Stephanie K. Bowman, United States Chief Magistrate Judge Stephanie K. Bowman, United States District Court for Southern District of Ohio, held that his lawsuit may proceed to trial [scheduled for September 29, 2025].

“Defendants Long [City Manager Sheryl Long] and the City failed to provide Washington with adequate pretermination procedural due process when they terminated him on March 24, 2023, in violation of the Due Process Clause of the Fourteenth Amendment. *** No one disputes that the Charter language gave City Manager Long the authority to fire Plaintiff, albeit ‘only for cause’ given his length of service. But even the Charter language confirms that a pretermination hearing before the City Manager was required. *** Thus, before executing her authority to terminate Washington, Long was required to provide him with advance oral or written notice of the charges against him, an explanation of her evidence, and a hearing at which Plaintiff had a reasonable opportunity to respond. *** These remaining issues shall proceed to trial: (a) the adequacy of the post-termination process and whether Plaintiff waived his post-termination hearing; (b) whether Defendants had cause to terminate Plaintiff; (c) whether Defendant Long defamed Plaintiff; and (d) what damages, if any, Plaintiff may recover.” <https://cases.justia.com/federal/district-courts/ohio/ohsdce/1:2023cv00230/279336/47/0.pdf?ts=1756299215>

THREE KEY SUMMARIES:

1. “Plaintiff’s thirty-year career came to an abrupt close on March 24, 2023, when he was summoned to a meeting at City Hall. City Manager Sheryl Long and two Human Resources representatives attended the meeting. Once Washington arrived, Long told Washington that he was being terminated, effective immediately, and handed him a termination letter. The termination letter accused Plaintiff of various leadership and conduct failures, including: (1) poor workplace culture; (2) absence from a high-rise fire; (3) mishandling of personnel matters regarding a lieutenant charged with assault; (4) ineffective management of the acquisition of a training facility; and (5) ineffective communication with Long and others.... When she left the meeting, Long notified the Mayor and members of City Council that Plaintiff had been terminated for cause.... In a Memorandum entitled “For Your Information,” Long listed her reasons for terminating Washington, and announced his interim replacement.... The same morning, Long notified media outlets of Washington’s termination and replacement, providing a copy of the termination letter and making statements in interviews consistent with the statements in the termination letter and Memorandum. *** A review of the [Memorandum]... reveals specific examples of misconduct (e.g., ‘multiple women have come forward with concerns about the workplace environment,’ Washington ‘never moved forward’ with the climate assessment).”
2. “Plaintiff requested a post-termination hearing before a neutral decisionmaker. Defendants responded by offering a post-termination hearing before Long, citing to the City Charter.... No hearing was ever held.”

City Charter provides:

“After the fire chief has served six months, he or she shall be subject to removal only for cause including incompetency, inefficiency, dishonesty, insubordination, unsatisfactory performance, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of any felony. If removed for cause the fire chief may demand written charges and the right to be heard thereon before the city manager. Pending the completion of such hearing the city manager may suspend the fire chief from office.”

3. “Here, Long's purposeful decision not to investigate or even to permit Washington to respond to the bullet points in the termination letter, combined with making allegedly false representations of verifiable facts within her knowledge, is sufficient to support a finding of actual malice.... No one disputes that the Charter language gave City Manager Long the authority to fire Plaintiff, albeit ‘only for cause’ given his length of service. But even the Charter language confirms that a pretermination hearing before the City Manager was required.... In Loudermill, the Supreme Court explained that suspension with pay strikes a balance between a government’s interest in immediate termination and an employee’s constitutional right to a pretermination hearing.”

Legal lesson learned: A jury will now decide if the former Chief is entitled to damages when the City Manager did not offer a pre-termination hearing; read the 1985 U.S. Supreme Court decision in Cleveland Board of Education v. Loudermill,

<https://supreme.justia.com/cases/federal/us/470/532/>

Note: See Aug. 27, 2025 article, “Former Cincinnati fire chief's wrongful termination lawsuit is set for trial.” <https://www.wvuxu.org/politics/2025-08-27/michael-washington-wrongful-termination-lawsuit-trial>

OH: FORMER CHIEF’S DEFAMATION CLAIM REINSTATED – PUBLIC OFFICIALS – MUST PROVE “ACTUAL MALICE”

On Aug. 29, 2025, in Kent D. Johnson v. City of Port Clinton, the Court of Appeals of Ohio, Sixth District, Ottawa County, held (3 to 0) that trial judge improperly dismissed the defamation claim in his lawsuit; all his other claims were properly dismissed: Violation of Civil Service Statutes; Infliction of Emotional Distress; Violation of Rights under the Ohio Constitution; Wrongful Termination; and Retaliation.

“In sum, appellant alleged sufficient facts that, if proven, would satisfy all the elements of a claim for defamation. The trial court, therefore, erred when it granted [City’s] motion for judgment on the pleadings as to that claim.... [Trial Court judge’s] judgment dismissing appellant’s third claim for defamation is reversed, and the matter is remanded to the trial court for further proceedings on that claim only.”

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2025/2025-Ohio-3100.pdf>

THREE KEY SUMMARIES:

1. “On January 17, 2024, [the City] removed him from his position.... Appellant has been employed by the City as a fire fighter since 1992 and has served as Fire Chief since 2008. During that time, he has never been reprimanded or disciplined. On June 6, 2023, Dina Shenker, Law Director for the City, received a phone call from the attorney for Port Clinton EMS employee, Rebecca Huskey, alleging that appellant sexually harassed his client. Shenker and Tina Colston, Director of Safety and Service for the City, placed appellant on administrative leave that day, informing him that he was prohibited from being at the Port Clinton Fire Station and from having any contact with Huskey. They also informed him that the City was referring the matter to Clemans Nelson Associates (‘Clemans’) for an investigation.”
2. “Clemans submitted its report on December 15, 2023. That same day, Colston and the mayor of the city, Michael Snider, served appellant with a ‘Notice of Predisciplinary Conference’ to be held on December 21, 2023, regarding three charges. Two of the charges pertained to payroll matters concerning Huskey. The third referenced Huskey’s sexual harassment claim. Each of the charges was listed as ‘Group III Offenses’ and warned that a violation would be subject to ‘discipline for cause up to and including termination of employment.’ The hearing was rescheduled to January 9, 2024, upon appellant’s request. *** The predisciplinary conference occurred as scheduled on January 9, 2024. Colston served as the hearing officer. *** Colston failed to prepare a written report with findings of fact and failed to provide it to appellant in a timely manner.”
3. “Here, appellant argues that the complaint alleges that appellees defamed him when it published to news media, other City employees, and members of the fire department the Order of Removal that charged him with intentionally overpaying Huskey. *** The parties agree that appellant is a public figure, and thus he must prove that appellees acted with actual malice. *Scott v. News-Herald*, 25 Ohio St.3d 243, 248 (1986). ‘Actual malice’ means that the statement was published “with knowledge that it was false or with reckless disregard of whether it was false or not.’ *Id.*, quoting *New York Times Co. v. Sullivan*, 376 U.S. 254, 279-280 (1964). In this case, contrary to appellees’ argument, paragraph 58 of the complaint directly alleges that the claims were made ‘intentionally, recklessly, with actual knowledge of their falsity and with actual malice.’ *** In sum, under the notice pleading standards, the complaint alleges that appellees made a false statement that appellant committed a crime of dishonesty or moral turpitude constituting defamation per se, the statement was published to news media outlets and City employees, and it was made with actual malice. Therefore, we hold that the complaint alleges all the elements for a defamation action, and the trial court erred in granting appellees’ motion for judgment on the pleadings.”

Legal lesson learned: Former Fire Chief is a public official; he has an uphill task proving “actual malice” under *New York Times v. Sullivan*.

<https://supreme.justia.com/cases/federal/us/376/254/>

Note: See July 11, 2025 article, “Judge sentences former Port Clinton fire chief in sexual harassment case.”

<https://www.wtol.com/article/news/crime/port-clinton-fire-chief-kent-johnson-sentenced-to-jail-for-sexual-harassment-case/512-0facde5b-63e1-457e-9908-521ed4a422af>