

July 21, 2021

***Via Electronic Mail***

John Glascock, City Manager  
701 E. Broadway, 2<sup>nd</sup> Floor  
Columbia, MO 65201  
[john.glascock@como.gov](mailto:john.glascock@como.gov)

Re: Kyle Rieman Administrative Leave

Dear Mr. Glascock:

We write on behalf of our client Kyle Rieman, Budget Officer for the City of Columbia, whom you have placed on indefinite administrative leave just weeks before the City's budget is due. Although the memo you provided when you walked him out of the building on July 9 does not identify the basis for his suspension, you told Mr. Rieman at the time that it was for "insubordination" because he attended a public meeting of the Columbia City Council in support of a friend and coworker who addressed the Council. As discussed in further detail below, retaliation against a public employee for such conduct violates the Freedom of Speech and Assembly clauses of the First Amendment to the Constitution of the United States, their counterparts in the Missouri Constitution, and the State Whistleblower Protection Act, § 105.055 RSMo.

During the June 21 meeting of the City Council, an employee in the City's IT department named Ryan Jarrett gave a presentation on the effects of Ord. 19-84 on staffing and morale within City government. Mr. Jarrett's presentation was attended by several other City employees, including Mr. Rieman, who listened but did not speak. That a Columbia resident who happens to also be an employee of the City should desire to attend a public meeting of his government is neither surprising nor improper. Mr. Rieman had every right to be there and, though he chose not to exercise it on June 21, he also had the right to speak in his capacity as a private citizen without prior approval or fear of reprisal. Under Missouri law:

No supervisor or appointing authority of any public employer shall prohibit any employee of the public employer from discussing the operations of the public employer, either specifically or generally, with any member of the legislature, state auditor, attorney general, a prosecuting or circuit attorney, a law enforcement agency, news media, the public, or any state official or body charged with investigating any alleged misconduct described in this section.

§ 105.055.2 RSMo. More specifically, no supervisor or appointing authority of any public employer shall:

- (1) Prohibit a public employee from or take any disciplinary action whatsoever against a public employee for ... the disclosure of information which the employee reasonably believes evidences:
  - (a) A violation of any law, rule or regulation; or
  - (b) Mismanagement, a gross waste of funds or abuse of authority, violation of policy, waste of public resources, alteration of technical findings or communication of scientific opinion, breaches of professional ethical canons, or a substantial and specific danger to public health or safety, if the disclosure is not specifically prohibited by law;
- (2) Require a public employee to give notice to the supervisor or appointing authority prior to disclosing any activity described in subdivision (1) of this subsection; or
- (3) Prevent a public employee from testifying before a court, administrative body, or legislative body regarding the alleged prohibited activity or disclosure of information.

§ 105.055.3 RSMo. Mr. Jarrett's presentation falls squarely within the protections of § 105.055 by disclosing to the City Council information regarding Ord. 19-84 which he "reasonably believes evidences ... mismanagement, ... abuse of authority, [or a] waste of public resources." *Id.* Had that presentation been made by Mr. Rieman rather than Mr. Jarrett—or if Mr. Rieman played any role in preparing the presentation—he too would have been protected under § 105.055. There is no lawful basis for punishing Mr. Rieman merely for *attending* the presentation.

We understand that other city employees have suffered reprisals for Mr. Jarrett's protected activity as well. Two days before Mr. Rieman was placed on administrative leave, you made the following statement in an email to other City officials:

It has been told to me today that the Ryan Jarrett Ord 19-84 presentation at the June 21 council meeting was an orchestrated plan by I.T. and Finance budgeting to have changed the 10% pay rule for promotions. It was planned to have it presented while I was on vacation and it was also told that the idea was to have Ms. Peters make a motion to have the rule changed which did not happen. I have reviewed the video and [other City employees] were in attendance for support of Mr. Jarrett.

I can not approve of these types of actions by staff let alone a director position. Therefore, all FY22 NDI positions for I.T. have been unapproved and will be removed from budget consideration.

By its own terms, your email shows that the entire I.T. Department is being punished because Mr. Jarrett exercised both his First Amendment right to petition his government for redress of grievances and his statutory right to disclose information to the City Council which he sincerely believed to be evidence of mismanagement, abuse of authority, or waste of public resources. Your unlawful and unconstitutional retaliation not only jeopardizes the City's cybersecurity, it has the likely—and likely intended—effect of chilling free speech among City employees. Preventing that chilling effect is precisely why the Missouri General Assembly enacted § 105.055 RSMo and created a private right of action for government employees who are disciplined in retaliation for reporting government mismanagement, abuse of authority, or waste of public resources.

We demand that Mr. Rieman be reinstated to his position immediately so that he may complete the City's budget within this fiscal year. We further demand that no retaliatory actions be taken against Mr. Rieman *or any other City employee* for attending or speaking at a public forum or for reporting mismanagement, abuse of authority, or waste of government resources to you, to other City employees, or to state officials. If he is not reinstated or if he is subjected to further reprisal, we are prepared to vindicate Mr. Rieman's rights in court.

Sincerely,



J. Andrew Hirth

- c. Brian Treece, Mayor
- Pat Fowler, Council Member
- Andrea Waner, Council Member
- Karl Skala, Council Member
- Ian Thomas, Council Member
- Matt Pitzer, Council Member
- Betsy Peters, Council Member
- Nancy Thompson, City Counselor