

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF OREGON
 3 EUGENE DIVISION
 4 JAMES M. CLEAVENGER,)
 5 Plaintiff,) Case No. 6:13-cv-01908-DOC
 6 v.)
 7 CAROLYN McDERMED, BRANDON) September 25, 2015
 8 LEBRECHT, and SCOTT CAMERON,)
 9 Defendants.) Portland, Oregon
 10 _____)

11 TRIAL DAY 12
 12 VERDICT
 13 TRANSCRIPT OF PROCEEDINGS
 14 BEFORE THE HONORABLE DAVID O. CARTER
 15 UNITED STATES DISTRICT COURT JUDGE

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1 APPEARANCES
 2 FOR THE PLAINTIFF: JASON L. KAFOURY
 3 MARK McDOUGAL
 4 GREGORY KAFOURY
 5 ADAM A. KIEL
 6 Kafoury & McDougal
 411 SW Second Avenue
 Suite 200
 Portland, OR 97204
 7 FOR THE DEFENDANTS: ANDREA D. COIT
 8 JONATHAN M. HOOD
 9 Harrang Long Gary Rudnick P.C.
 360 East 10th Avenue
 Suite 300
 Eugene, OR 97401
 10
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 20 COURT REPORTER: Jill L. Jessup, CSR, RMR, RDR, CRR
 21 United States District Courthouse
 1000 SW Third Avenue, Room 301
 22 Portland, OR 97204
 (503)326-8191
 23 * * *
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1 TRANSCRIPT OF PROCEEDINGS
 2 THE COURT: I want to make sure everybody has had
 3 time to gather. Mr. Cleavenger is here. Is the chief and
 4 lieutenant on the way?
 5 MS. COIT: They weren't able to come up today.
 6 THE COURT: I'll tell you informally that the jury
 7 has reached a verdict, so we'll call them back into court.
 8 I want to give everybody time to assemble. So the chief
 9 will not be here or the lieutenant or Cameron. Mr. Cleavenger
 10 is here.
 11 (Jury present.)
 12 THE COURT: We're back in session. The jury is
 13 present. Counsel are present. And if you would be seated
 14 please.
 15 Christy has informed me that you've reached a verdict. If
 16 so, would you signify by saying yes.
 17 THE JURY: Yes.
 18 THE COURT: Christy, would you be kind enough to hand
 19 me the verdict form? I'll read the verdict.
 20 DEPUTY COURTROOM CLERK: Mr. Gingell is your
 21 presiding juror.
 22 THE COURT: I'm sorry?
 23 DEPUTY COURTROOM CLERK: Mr. Gingell is your
 24 presiding juror.
 25 THE COURT: Thank you very much.

1 We, the jury, first duly being sworn, return our verdict
 2 as follows: Carolyn McDermid . Answer the following questions
 3 one through two as to Defendant Carolyn McDermid only.
 4 One: Did Carolyn McDermid take an adverse employment
 5 action against the plaintiff for which the plaintiff's speech
 6 on a matter of public concern was a substantial or motivating
 7 factor?
 8 Yes.
 9 Two: If you answered yes to question one, which speech
 10 motivated Defendant Carolyn McDermid to take adverse employment
 11 action against plaintiff? Check any and all that apply.
 12 The jury has checked: Complaints that he thought he was
 13 not being afforded his rights under the Public Safety Officers'
 14 Bill of Rights in violation of state law. And the jury has
 15 checked: Complaints concerning the legality of his order to
 16 only report felonies in September of 2012. And the jury has
 17 checked: Filing a lawsuit in October of 2013 and its contents.
 18 The jury has not checked: When he spoke about Tasers in
 19 2008. The jury has not checked: Complaints that he thought he
 20 was being retaliated against by his supervisors because of the
 21 Taser speech. The jury has not checked: Complaints about the
 22 list or bowl of dicks list and the time it wasted. The jury
 23 has not checked: Complaints about the disparagement of people
 24 in the Occupy Movement.
 25 Brandon Lebrecht. Answer the following questions three

1 The jury has checked yes.
 2 If you answered no to questions one, three, and five, do
 3 not continue to question six and seven. Please sign and date
 4 the form.
 5 Obviously, the jury has answered yes.
 6 All defendants, if you answered yes to questions one,
 7 three and five above, what are plaintiff's damages?
 8 Economic damages. The jury has indicated and found
 9 \$650,000.
 10 Seven. Should plaintiffs be awarded punitive damages
 11 against, A, Carolyn Lebrecht {sic}? The jury has responded
 12 yes. The amount \$36,000. As to Brandon Lebrecht, the jury has
 13 answered yes. Amount \$51,000. As to Sergeant Scott Cameron,
 14 the jury has answered yes in the amount of \$18,000. Signed
 15 this day, September 25th, by the presiding juror.
 16 Counsel, is there anything before this honorable court
 17 records this verdict? On behalf of plaintiffs?
 18 MR. MCDUGAL: No, Your Honor.
 19 THE COURT: On behalf of the defendants?
 20 MS. COIT: Please poll the jury.
 21 THE COURT: You want the jury polled as to each
 22 question and each designation under that question?
 23 MS. COIT: Just the entire verdict.
 24 THE COURT: The entire verdict at one time?
 25 MS. COIT: Yes.

1 and four as to Defendant Brandon Lebrecht only.
 2 Three: Did Brandon Lebrecht take an adverse employment
 3 action against the plaintiff for which the plaintiff's speech
 4 on a matter of public concern was a substantial or motivating
 5 factor?
 6 The jury has checked yes.
 7 If you answered yes to question three, which speech
 8 motivated Defendant Brandon Lebrecht to take adverse employment
 9 action against the plaintiff? Check any and all that apply.
 10 The jury has checked: Complaints that he thought he was
 11 not being afforded his rights under the Public Safety Officers'
 12 Bill of Rights in violation of state law. The jury has
 13 checked: Complaints concerning the legality of his order to
 14 only report felonies in September of 2012. The jury has
 15 checked: Filing a lawsuit in October 2013 and its contents.
 16 The jury has not checked: When he spoke about Tasers in
 17 2008. The jury has not checked: Complaints about the list or
 18 bowl of dicks list and the time it wasted. The jury has not
 19 checked: Complaint about the disparagement of people in the
 20 Occupy Movement.
 21 Scott Cameron. Answer the following question five as to
 22 Defendant Scott Cameron only. Five: Did Scott Cameron take an
 23 adverse action which was reasonably likely to deter protected
 24 speech against the plaintiff in retaliation for plaintiff's
 25 speech about Tasers?

1 THE COURT: Including economic and punitive damages?
 2 MS. COIT: Yes.
 3 THE COURT: All right. Ladies and gentlemen, first
 4 of all, Christy, I originally had the names of each juror for
 5 the last three weeks, and I know each of you, but I want to
 6 make sure I have it.
 7 While Christy is getting that, the parties and the counsel
 8 are entitled to know if this, in fact, is your individual
 9 verdict as well as you're claiming it was your verdict.
 10 Thank you, Christy. I appreciate it.
 11 Now, I won't necessarily call you in order, but I'll start
 12 with Jennifer Degen. Is this your individual verdict as to
 13 each of the claims as well as the damages?
 14 A JUROR: Yes, it is.
 15 THE COURT: As to Lisa Flanagan, is this your
 16 individual decision and verdict as to each of the claims as
 17 well as the damages?
 18 A JUROR: Yes, it is.
 19 THE COURT: As to Don Gingell, is this your
 20 individual verdict as to each of these claims as well as the
 21 damages?
 22 A JUROR: Yes, it is.
 23 THE COURT: As to Raymond Nutini, is this your
 24 individual verdict as to each of these claims as well as the
 25 damages?

1 A JUROR: Yes, it is.
 2 THE COURT: As to Christina Swanson, is this your
 3 individual verdict as to each of these claims as well as the
 4 economic -- strike that -- as well as the damages, and that
 5 includes both economic and punitives.
 6 A JUROR: Yes.
 7 THE COURT: Okay. Thank you. As to Chris Redfern,
 8 is this your individual verdict as to each of these three
 9 claims as well as the damages?
 10 THE JURY: Yes.
 11 THE COURT: When I'm asking you each about damages ,
 12 it's economic and punitive.
 13 As to Robert Reineccius, is this your individual verdict
 14 as to each of the three claims as well as the damages?
 15 THE JURY: Yes, it is.
 16 THE COURT: And Jennifer Kamprath, is this your
 17 individual verdict as to each of these three claims as well as
 18 the damages.
 19 THE JURY: Yes, it is. Yes.
 20 THE COURT: Counsel, do you wish any further polling
 21 or is there any other business before this Court? Counsel?
 22 MR. MCDUGAL: No, Your Honor.
 23 THE COURT: Counsel?
 24 MS. COIT: Defendants renew their motion for judgment
 25 as a matter of law.

1 forthcoming on this case?
 2 MR. MCDUGAL: Yes, Your Honor.
 3 THE COURT: That should be filed, I would hope, at
 4 the same time so the Court is looking at all the issues, motion
 5 for a new trial as well as attorneys' fees, at the same time.
 6 Counsel, thank you very much.
 7 MR. MCDUGAL: Thank you.
 8 MR. KIEL: Thank you, Your Honor.
 9 (Trial concluded.)

1 THE COURT: And that will be denied.
 2 Now, I'm going to order the clerk of the court to record
 3 these verdicts and damages. And I want to humbly thank you. I
 4 want to humbly thank you for taking the time and serving so
 5 admirably on behalf of all the parties but most importantly on
 6 behalf of the justice system. We are as strong as you are and
 7 we're just blessed to have you, frankly.
 8 So I'm going to excuse you at this time. These verdicts
 9 are to be recorded. If I was you, I would go on about my way
 10 and get out of the rain. It's raining outside.
 11 You're excused. Thank you very much.
 12 (Jury excused)
 13 THE COURT: Counsel, if you would be seated. Christy
 14 is going to take jurors back in chambers if they like.
 15 Concerning any motions of this matter, Counsel, filed
 16 within?
 17 MS. COIT: 28 days.
 18 THE COURT: 20.
 19 MS. COIT: 28 days.
 20 THE COURT: 28 days. Response will be?
 21 MR. MCDUGAL: Whatever the rule says, Your Honor. I
 22 don't know the rule right offhand.
 23 THE COURT: I don't know if we'll be back to resolve
 24 those. If we can do those on the paper or not.
 25 Is there a motion for attorneys' fees eventually

1 C E R T I F I C A T E
 2
 3 Cleavenger v. McDermed, et al.
 4 6:13-cv-01908-DOC
 5 TRIAL DAY 12
 6 September 25, 2015
 7
 8 I certify, by signing below, that the foregoing is a true
 9 and correct transcript of the record, taken by stenographic
 10 means, of the proceedings in the above-entitled cause. A
 11 transcript without an original signature, conformed signature,
 12 or digitally signed signature is not certified.
 13
 14 /s/Jill L. Jessup, CSR, RMR, RDR, CRR
 15 Official Court Reporter Signature Date: 12/28/15
 16 Oregon CSR No. 98-0346 CSR Expiration Date: 9/30/17
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<p>A JUROR: [5] 2910/13 2910/17 2910/21 2910/25 2911/5 DEPUTY COURTROOM CLERK: [2] 2906/19 2906/22 MR. KIEL: [1] 2913/7 MR. MCDUGAL: [5] 2909/17 2911/21 2912/20 2913/1 2913/6 MS. COIT: [8] THE COURT: [26] THE JURY: [4] 2906/16 2911/9 2911/14 2911/18</p>	<p>A able [1] 2906/5 about [9] above [2] 2909/7 2914/10 above-entitled [1] 2914/10 action [5] 2907/5 2907/11 2908/3 2908/9 2908/23 ADAM [1] 2904/3 admirably [1] 2912/5 adverse [5] 2907/4 2907/10 2908/2 2908/8 2908/23 afforded [2] 2907/13 2908/11 against [7] al [1] 2914/3 all [7] amount [3] 2909/12 2909/13 2909/14 ANDREA [1] 2904/7 Answer [3] 2907/2 2907/25 2908/21 answered [7] any [5] 2907/11 2908/9 2911/20 2911/21 2912/15 anything [1] 2909/16 APPEARANCES [1] 2904/1 apply [2] 2907/11 2908/9 appreciate [1] 2910/10 are [6] 2906/13 2909/7 2910/8 2912/6 2912/6 2912/9 as [46] asking [1] 2911/11 assemble [1] 2906/8 attorneys' [2] 2912/25 2913/5 Avenue [3] 2904/4 2904/8 2904/21 awarded [1] 2909/10</p>	<p>checked [15] chief [2] 2906/3 2906/8 Chris [1] 2911/7 Christina [1] 2911/2 Christy [6] 2906/15 2906/18 2910/4 2910/7 2910/10 2912/13 claiming [1] 2910/9 claims [8] CLEAVENGER [4] 2903/4 2906/3 2906/9 2914/3 clerk [1] 2912/2 COIT [1] 2904/7 come [1] 2906/5 Complaint [1] 2908/19 Complaints [8] concern [2] 2907/6 2908/4 concerning [3] 2907/15 2908/13 2912/15 concluded [1] 2913/9 conformed [1] 2914/11 contents [2] 2907/17 2908/15 continue [1] 2909/3 correct [1] 2914/9 counsel [9] court [9] Courthouse [1] 2904/20 CRR [2] 2904/20 2914/14 CSR [4] 2904/20 2914/14 2914/16 2914/16 cv [2] 2903/5 2914/4</p>
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