



**SHELLY ROSS**, individually and in her )  
official capacity as Member of Council, )  
Woodmere City Council )  
27899 Chagrin Boulevard )  
Woodmere, OH 44122 )

And )

**CAROLYN L. PATRICK**, individually and )  
in her official capacity as Member of Council, )  
Woodmere City Council )  
27899 Chagrin Boulevard )  
Woodmere, OH 44122 )

and )

**GERALD CARRIER**, individually and in )  
his official capacity as Member of Council, )  
Woodmere City Council )  
27899 Chagrin Boulevard )  
Woodmere, OH 44122 )

and )

**JOYCE HOLBERT**, individually and in her )  
official capacity as Member of Council, )  
Woodmere City Council )  
27899 Chagrin Boulevard )  
Woodmere, OH 44122 )

Defendants. )

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### **NATURE OF THE ACTION**

1. This is an action under instituted, *inter alia*, under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e-1, *et seq.*, as amended (2007 Supp.), and the Civil Rights Act of 1991, 42 U.S.C. §1981a, as amended (2007 Supp.), the Civil Rights Act of 1871, 42 U.S.C. § 1983 (2007 Supp.) and the Ohio Civil Rights Act, Ohio Revised Code §§4112.01, *et seq.* (2007 Supp.) to vindicate state

and federally protected rights against unlawful employment practices on the basis of race and retaliation.

### **JURISDICTION AND VENUE**

2. This present and continuing action is authorized and instituted pursuant to Section 706(f) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-6(f) (2005 Supp.) (hereinafter referred to as "Title VII") with the U.S. Equal Employment Opportunity Commission entering a finding that the evidence obtained during the investigation established a violation of Title VII on or about May 9, 2005 and timely filed in a motion of intervention as of right with the case of *United States of America vs. The Village of Woodmere, Ohio* filed on May 25, 2007.

3. More than thirty days prior to the institution of this lawsuit, plaintiff Timothy J. Ellis filed charges with the U.S. Equal Employment Opportunity Commission alleging violations of Title VII by the defendants and with respect to present and continuing claims under the Civil Rights Act of 1991, 42 U.S.C. § 1981a (2005 Supp.), jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343(3) and (4) and 1345 and, with respect to pendent state claims and claims under the Civil Rights Act of 1871, 42 U.S.C. § 1983 (2007 Supp.) , and the Ohio Civil Rights Act, Ohio Revised Code §§ 4112.01, *et seq.*, jurisdiction is invoked pursuant to 28 U.S.C. §1367 (1990 Supp.).

4. The unlawful employment practices alleged were and continue to be committed within the jurisdiction of the United States District Court for the Northern District of Ohio, Eastern Division.

### **PARTIES**

5. Plaintiff, TIMOTHY J. ELLIS, is a white citizen of the United States who, at all relevant times, was employed by the defendants, all of whom are black, and who has sought and continues to seek to perform his duties as a police officer free from restrictions of race and retaliation.

6. Defendant, THE CITY OF WOODMERE, OHIO is an “employer” as defined by Title VII.

7. Defendants, YOLANDA E. BROADIE, JAMES JORDAN, SHELLY ROSS, CAROLYN L. PATRICK, GERALD CARRIER and JOYCE HOLBERT, individually and collectively operated under color of state law to deprive the plaintiff of equal employment opportunities on account of race and color.

8. At all relevant times, defendant has been and is now an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. § 2000e-1(b), (g) and (h).

### **Count I**

9. Plaintiff reasserts the foregoing allegations and incorporates them by reference as if fully set forth herein.

10. On March 28, 2003, defendants initially hired the plaintiff as a probationary police officer for defendant Village of Woodmere.

11. On October 8, 2003, defendants passed a resolution hiring the plaintiff as a full time police officer for defendant Village of Woodmere.

12. As the one-year vested period approached on October 7, 2004, defendants identified a citizen complaint, a minor reprimand and purported discourtesies toward defendants Patrick and Broadie as a way to terminate the plaintiff.

13. Knowing the complaints to be minor and realizing they would be unable to fire the plaintiff, defendants searched for an additional reason to fire the plaintiff before the one-year period.

14. With the passage of the one-year period, on October 15, 2004, plaintiff was required to testify in a hearing involving a white police officer and offered sworn testimony which the defendants perceived as inimical to their interests.

15. Immediately after the testimony, defendant Broadie, in her official capacity as Safety Director and Mayor of defendant Village of Woodmere, fired the plaintiff.

16. On October 15, 2004, defendants fired the plaintiff.

17. Beknownst to the plaintiff, defendant Broadie who served as both mayor and safety director of defendant Village of Woodmere, make clear to plaintiff's superior, Chief of Police Lamont Lockhart, that because the Village

of Woodmere was a predominantly black city, she preferred by her actions to have black officers on the Woodmere police force rather than white officers.

18. Defendants Broadie and others were fully aware that Woodmere black officers involved in significantly more serious infractions and misbehavior were not disciplined or fired.

19. Acting under color of state law, defendant Broadie in her official position as the city's safety director and as superior to Police Chief LaMont Lockhart intervened and ordered that plaintiff be fired.

20. Police Chief Lockhart objected to defendant Broadie that the discipline of termination against the plaintiff was disproportionate and racially discriminatory.

21. Defendant Broadie punished Police Chief Lockhart as insubordinate for initially refusing to fire the plaintiff.

22. Defendant Broadie overrode the police chief in furtherance of her official plan to rid the police department of white officers.

23. Defendants were aware that Woodmere black officer Masai Brown was arrested for felonious assault with a firearm, kidnapping with a firearm and possession of criminal tools, but was not fired.

24. Defendants were aware that Woodmere black officer Masai Brown falsified and destroyed public records, lied to superior officers, found to have been engaged in incompetence and neglect of duty, but was not fired.

25. Despite the foregoing and over objection by Police Chief LaMont Lockhard, defendant Broadie, with the support of the other defendants, promoted Officer Brown.

26. Defendants were aware that Woodmere black officer John Patterson was found to have engaged in conduct unbecoming an officer arising out of road rage where he threatened to kill a citizen, but was not fired.

27. Defendants were aware that Woodmere black officer John Patterson caused damage to village property, but was not fired.

28. Woodmere black officer Benny Baker was involved in a serious traffic accident, but was not disciplined at all by the defendants.

29. On or about October 15, 2004, defendants acting under color of state law and despite their awareness that black officers engaged in more serious infractions are not terminated, approved the termination of the plaintiff.

30. Defendants, acting in their official capacities, furthered the village's plan of racial preference by terminating the plaintiff and terminating another white officer while being aware that black officers are not disciplined for actions significantly more serious than those asserted by the plaintiff and by another white officer.

31. The acts and conduct of the defendants have been and continue to be intentional and in wanton and reckless disregard of the rights and feelings of the plaintiff.

32. As a direct and proximate result of the acts and conduct of the defendant, plaintiff has suffered and continues to suffer extreme emotional distress, humiliation, anxiety and loss of esteem and self-worth as well as loss of productive ability in comparison to that which he could have performed except for discrimination on account of race.

### **Count II**

33. Plaintiff reasserts the foregoing allegations and incorporates them by reference as if fully set forth herein.

34. Defendants have denied and continue to deny to the plaintiff the statutory right to enter into and maintain an employment contractual relationship with the defendants free of discrimination and retaliation on the basis of his race.

35. Defendant has purposefully deprived plaintiff equal contract opportunities on the job on the basis of race.

36. The acts and conduct of the defendant have been and continue to be intentional, retaliatory and in wanton and reckless disregard of the rights and feelings of the plaintiff.

37. As a direct and proximate result of the acts and conduct of the defendant, plaintiff has suffered and continues to suffer extreme emotional distress, humiliation, anxiety and loss of esteem and self-worth as well as loss of

productivity in comparison to that which he could have performed except for retaliation and discrimination by the defendant on account of race.

WHEREFORE, plaintiff respectfully requests the Court to grant the following relief:

- A. Declare that the acts and conduct of the defendants constitute violations of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§2000e, *et seq.*, the Civil Rights Act of 1991, 42 U.S.C. §1981a, as amended, the Civil Rights Act of 1871, 42 U.S.C. §1983, and the Ohio Civil Rights Act, Ohio Revised Code §§4112.01, *et seq.*;
- B. Grant a permanent injunction enjoining defendants, their officers, agents, employees, successors, assigns, and all persons in active concert of participation with it, from engaging in any employment practices which discriminate on the basis of race, and further enjoin any acts or conduct which has the purpose or effect of retaliating against the plaintiff for asserting rights against discrimination based on race;
- C. Order defendants to institute and to otherwise carry out policies, practices and programs which provide equal employment opportunities for black employees, and which eradicate the effects of its past and present unlawful employment practices;
- D. Order defendants to reinstate the plaintiff and to make whole the plaintiff by providing appropriate back pay with prejudgment interest and for other affirmative relief necessary to eradicate the effects of its unlawful employment practices;

- E. Grant to plaintiff appropriate compensatory, exemplary and punitive damages;
- F. Award the plaintiff costs in this action including statutory reasonable attorney fees as provided by statute;
- G. Grant such further relief as the Court deems necessary and proper and in the public interest.

/s/ Avery Friedman  
AVERY S. FRIEDMAN (0006103)  
701 The City Club Building  
850 Euclid Avenue  
Cleveland, Ohio 44114-3358  
(216)-621-9282  
FAX 621-9283  
averyfriedman@hotmail.com

Attorney for Plaintiff Timothy J. Ellis

**TRIAL BY JURY DEMANDED**

Plaintiff hereby demands trial by jury.

/s/ Avery Friedman  
AVERY S. FRIEDMAN