

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT,  
POLK COUNTY, STATE OF FLORIDA  
CIVIL DIVISION

WEST CENTRAL FLORIDA  
POLICE ASSOCIATION, and  
RUSTY LONGABERGER

Petitioners/Movants,

vs.

Case No.

CITY OF LAKELAND,

Respondent.

\_\_\_\_\_ /

**PETITION/MOTION TO VACATE ARBITRATION AWARD**

**COME NOW** the West Central Florida Police Benevolent Association and Rusty Longaberger, by and through their undersigned attorney, and move this Court to vacate an arbitration award and would show:

1. This Court has jurisdiction of this matter pursuant to Chapter 682, Florida Statutes.
2. Petitioner/Movant West Central Florida Police Benevolent Association (hereinafter "PBA") and Petitioner/Movant Rusty Longaberger (hereinafter "Longaberger") were parties to a grievance filed with the City of Lakeland that became subject to an arbitration conducted through the auspices of the Federal Mediation and Conciliation Service (hereinafter "FMCS") under FMCS Case Number 141203-00366-3.
3. Longaberger was a sergeant with the City of Lakeland Police Department who was terminated from employment on July 15, 2013. The PBA is the certified collective bargaining agent for police officers, sergeants and lieutenants at the Lakeland Police Department. Longaberger, with the assistance of the PBA filed a timely grievance

protesting Longaberger's termination in accordance with the Collective Bargaining Agreement between the PBA and the City of Lakeland.

4. The grievance resulted in an arbitration which was held on April 16, 2014 and an award was rendered by the arbitrator, Barry J. Baroni, on August 29, 2014.
5. Pursuant to §682.13, F.S., this petition/motion to vacate is filed within ninety (90) days of delivery of a copy of the award to the petitioners/movants.
6. The grounds for vacating the award are as follows:
  - a) There was evident partiality by the arbitrator appointed as a neutral or misconduct prejudicing the rights of the petitioners/movants.
  - b) The arbitrator in the course of his jurisdiction exceeded his powers.
  - c) The arbitrator in the course of his jurisdiction refused to hear evidence material to the controversy or otherwise conducted the hearing, contrary to the provisions of §682.06, F.S. as to prejudice substantially the rights of the petitioners/movants.
7. The ultimate facts which will be proven at a hearing on this matter and which support the foregoing grounds include, but are not limited to the following:
  - a) The arbitrator improperly limited the time available and improperly rushed the presentation of the PBA's and Longaberger's case, while not imposing similar restrictions on the City.
  - b) The arbitrator improperly conflated Longaberger's off duty, harmless conduct with the conduct of other officers who engaged in on duty sexual misconduct resulting in the conclusion that he was part of the Lakeland Police Department sex scandal that adversely affected the public.

- c) The arbitrator based his opinion on a "death letter" from the State Attorney which did not even exist at the time of his termination but was issued because of the City's incompetence which the arbitrator chose to ignore.
- d) The arbitrator based his decision on the conduct of others.
- e) The arbitrator improperly shifted the burden of proof to Longaberger to show that his discipline was not consistent with others, where the Collective Bargaining Agreement clearly places the burden of proof on the City to show that discipline must be progressive, consistent and appropriate.
- f) The arbitrator concluded, without supporting evidence, that Longaberger's off duty conduct adversely affected himself, as an officer, and the entire Lakeland Police Department.
- g) The arbitrator failed to take into consideration Longaberger's superlative record which he was required to do by reason of the Collective Bargaining Agreement.

8. Attached hereto as an appendix and made a part hereof, are the following exhibits which support or are otherwise pertinent to the allegations of this petition/motion:

- A) Arbitration award;
- B) Hearing transcript;
- C) Grievant's Post Hearing Brief;
- D) City's Post Hearing Brief and
- E) Relevant portion of the applicable Collective Bargaining Agreement.

**WHEREFORE**, Petitioners/Movants request the arbitration award be vacated, a new hearing be ordered before a new arbitrator and for such other and further relief as this Court deems appropriate.



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