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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CHRISTOPHER WIRTS,)	NO. 2:18-CV-00343-SMJ
Plaintiff,)	
vs.)	AMENDED COMPLAINT
)	JURY TRIAL DEMANDED
HEATHER WILSON, in her official)	
capacity as the Secretary of the United)	
States Air Force,)	
Defendant.)	

I. PARTIES, JURISDICTION, & VENUE

1. Plaintiff Christopher Wirts (“Plaintiff” or “Mr. Wirts”) is a resident of the State of Washington. Mr. Wirts worked as a civilian employee of the U.S. Air Force during all times relevant to this lawsuit.

1 8. On or about December 1991 the Air Force employed Mr. Wirts as a
2 civil servant GG-09 with the Air Force's Joint Personnel Recovery Agency (JPRA)
3 which is located in Spokane County, Washington. Mr. Wirts remained employed by
4 the Air Force as a GG-15 until the retaliatory acts of his former supervisor,
5 Lieutenant Colonel David McGraw, resulted in the loss of permanent employee
6 status, which, in turn, ultimately resulted in termination of his employment by
7 compelling Mr. Wirts to retire early or be subject to Reduction in Force actions with
8 no compensation.
9

10 9. Beginning in June 2016 Lieutenant Colonel David McGraw served as
11 Mr. Wirts' supervisor. Lt. Col. McGraw continued to serve as Mr. Wirts' supervisor
12 until July 2018.

13 10. On or about October 31, 2016, Lt. Col. McGraw instructed Mr. Wirts
14 to conduct an investigation regarding an allegation that a female JPRA employee,
15 while on a Temporary Duty Assignment (TDY), was topless in a hot tub.
16

17 11. This allegation was ultimately determined to be related to a TDY that
18 took place years before Lt. Col. McGraw assumed command. Accordingly, Mr.
19 Wirts thought it wrong that the Agency should be (years after the fact) investigating
20 unsubstantiated actions relating to a female employee (who was not even employed
21 by JPRA) when the alleged toplessness in the hot tub supposedly occurred. To that
22

1 end, Mr. Wirts told Lt. Col. McGraw that the investigation was improper gender
2 discrimination. Nonetheless, Lt. Col. McGraw ordered that the investigation
3 continue.

4 12. During the course of the hot tub investigation Mr. Wirts conducted
5 interviews. As part of those interviews Mr. Wirts offered to assist the two female
6 subjects of the hot tub investigation if they decided to file EEO or hostile work
7 environment complaints against Lt. Col. McGraw.
8

9 13. One such interview took place on November 15, 2016, where Kellie
10 Summerall, the interviewee, told Mr. Wirts that she believed that the investigation
11 was gender discrimination. Upon hearing this Mr. Wirts offered to assist her in filing
12 an EEO charge and answered other questions she had about the potential
13 discrimination she was experiencing.
14

15 14. Mr. Wirts completed the investigation and issued a written report about
16 the same. That report is dated November 15, 2016.

17 15. On November 15, 2016, Mr. Wirts informed Lt. Col. McGraw, in
18 writing, that he offered to assist the female subjects of the investigation if they
19 decided to file an EEO or hostile work environment complaint on account of the
20 gender-based investigation.
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1 16. Mr. Wirts' November 15, 2016, report to Lt. Col. McGraw emphasizes
2 his reluctance to conduct the investigation: "After expressing my concerns over
3 investigating a matter like this with no information directly from the reporting staff
4 member, I was directed to look into the matter and report back in writing." Mr.
5 Wirts' November 15, 2016, report made clear that Mr. Wirts "offered assistance if
6 [the women subject to the investigation] decided to file an EEO or hostile work
7 environment complaint." The November 15, 2016, report made clear that one
8 woman intended to file a grievance or harassment complaint and that Mr. Wirts
9 referred her to the Human Resources department for guidance and "offered local
10 assistance if she needed it."

12 17. On November 28, 2016, Lt. Col. McGraw pulled Mr. Wirts into his
13 (McGraw's) office. Lt. Col. McGraw presented Mr. Wirts with two Memorandums
14 for Record (MFR). Those MFRs, which were both dated November 28, 2016,
15 contained derogatory (and baseless) criticisms of Mr. Wirts' workplace
16 performance. A Technical Sergeant (Tsgt) named Chris Weichman witnessed the
17 event.
18

19 18. Ironically, the MFRs included criticism of Mr. Wirts' investigation of
20 the above-referenced "hot tub" incident even though Lt. Col. McGraw was the one
21 who instructed Mr. Wirts to investigate that incident.
22

1 19. On December 13, 2016, Lt. Col. McGraw disclosed the MFRs to Kelly
2 Summerall, Nichole Olson, and Victoria Mode. Lt. Col McGraw also re-disclosed
3 the MFRs to Tsgt. Weichman. Lt. Col. McGraw disclosed the MFRs to those
4 individuals at a workplace meeting whereupon Lt. Col. McGraw also told those four
5 individuals that he (McGraw) would be taking action against Mr. Wirts and that Mr.
6 Wirts' 2017 performance review would suffer as a result of the information
7 contained in the MFRs.
8

9 20. On December 13, 2016, Mr. Wirts learned of the above-referenced
10 disclosure of the MFRs by Lt. Col. McGraw.

11 21. In December 2016 Lt. Col. McGraw asked Jeffrey Hirata, JPRA
12 headquarters - - personnel manager (i.e. HR) and the Air Force District of
13 Washington (AFDW) - - JPRA oversight for HR matters to conduct an "encumbered
14 position review" of Mr. Wirts' position.
15

16 22. An "encumbered position review" could result in the elimination of a
17 job position within the Agency.

18 23. The *only* "encumbered position review" that Lt. Col. McGraw
19 requested in December of 2016 was for Mr. Wirts' GG-15 position.
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1 24. Upon information and belief, Lt. Col. McGraw never requested an
2 “encumbered position review” of any other position under his command even though
3 he could have requested such a review of approximately 115 other positions.

4 25. Lt. Col. McGraw requested the “encumbered position review” of Mr.
5 Wirts’ position with the goal of forcing Mr. Wirts from government service via the
6 elimination of his permanent employee status which caused him to be designated
7 surplus.
8

9 26. On January 10, 2017, Lt. Col. McGraw presented the MFRs to Colin
10 Junkins (a GG-13) and Tod Erickson (a GG-12). At that time Mr. Junkins and Mr.
11 Erickson were supervised by Mr. Wirts.

12 27. Mr. Wirts did not consent to Lt. Col. McGraw’s November 28, 2016,
13 December 13, 2016, or January 10, 2017, disclosure of the MFRs.

14 28. Lt. Col. McGraw’s disclosures on November 28, 2016, December 13,
15 2016, and January 10, 2017, were not only willful but flagrantly disregarded Mr.
16 Wirts’ rights under the Privacy Act. For Lt. Col. McGraw occupied a command level
17 position within the Air Force. And as part of taking that job he unquestionably was
18 trained on the Privacy Act and knew that the law forbade the disclosures that he
19 made vis-à-vis Mr. Wirts’ MFRs. Moreover, Lt. Col. McGraw had access to a well-
20 trained Human Resources office that, had he accessed it and/or followed its advice,
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1 would have told him that the above-referenced disclosures violated the law.
2 Nonetheless, Lt. Col. McGraw recklessly and intentionally disregarded the Privacy
3 Act's requirements.

4 29. Beginning December 13, 2016, and continuing thereafter, Mr. Wirts
5 learned that the contents of the MFRs had been routinely discussed among not only
6 Mr. Wirts' Spokane-based JPRA colleagues but among JPRA members who were
7 based on the East Coast.
8

9 30. The JPRA is a close-knit community where ones reputation, especially
10 the reputation of a GG-15 like Mr. Wirts, is paramount. Thus, the disclosure of the
11 information contained in the MFRs harmed Mr. Wirts' reputation. For immediately
12 after the December 2016 disclosure numerous employees approached Mr. Wirts and
13 asked if he was going to be disciplined or fired. Some employees began treating Mr.
14 Wirts with disdain and disgust.
15

16 31. Lt. Col. McGraw's disclosure of the MFRs caused Mr. Wirts mental
17 injury which, in turn, caused Mr. Wirts to seek (and pay for) professional medical
18 treatment so as to address those injuries.

19 32. Ms. Olson had no need to know the information contained in the MFRs.

20 33. Ms. Mode had no need to know the information contained in the MFRs.
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1 34. Tsgt Weichman had no need to know the information contained in the
2 MFRs.

3 35. Ms. Summerall had no need to know the information contained in the
4 MFRs.

5 36. Mr. Junkins had no need to know the information contained in the
6 MFRs.

7 37. Mr. Erickson had no need to know the information contained in the
8 MFRs.

9 38. On or about January 19, 2017, Mr. Wirts filed, with the Air Force, a
10 DD Form 2959 Breach of Personally Identifiable Information (PII) Report.
11

12 39. On or about January 24, 2017, Lt. Col. McGraw learned that Mr. Wirts
13 had filed a complaint against him for the above-referenced Privacy Act violations.

14 40. AFI33-332 (Jan. 12, 2015), ¶2.2.2.3 bars Air Force personnel from
15 “[p]enaliz[ing] or harass[ing] an individual for exercising rights guaranteed under
16 the Privacy Act.”
17

18 41. Although the above regulation prevents such harassment Lt. Col.
19 McGraw penalized and harassed Mr. Wirts after Mr. Wirts exercised his rights under
20 the Privacy Act by removing Mr. Wirts from his position, attempting to take several
21 disciplinary actions against Mr. Wirts, attempting to remove Mr. Wirts’ security
22

1 clearance, attempting to affect Mr. Wirts' eligibility to maintain a security clearance
2 and began a pattern of harassment and reprisal that resulted in Mr. Wirts having to
3 spend his own money so as to retain counsel.

4 42. On November 30, 2017, the Chairman of the Joint Chiefs of Staff
5 Inspector General wrote Mr. Wirts a letter which stated, in relevant part:

6 This letter is in response to your complaint you filed with the Joint Staff
7 Inspector General (JSIG) Office on 23 February 2017, concerning the
8 alleged violation that Lieutenant Colonel (Lt Col) David McGraw had
9 violated your privacy, when he provided a copy of a Memorandum for
Record (MFR) that was addressed to you to members of the
organization.

10 We conducted a thorough inquiry into your allegations. Our inquiry
11 determined that the allegation was substantiated.

12 This office will take no further action pertaining to the allegations.

13 43. Since the Air Force has not fully informed Mr. Wirts as to whom it
14 disclosed Mr. Wirts' confidential information nor has it compensated Mr. Wirts for
15 the pecuniary losses he sustained as a result of its violations of the Privacy Act, Mr.
16 Wirts brings his Privacy Act claim.
17

18 44. In early January 2017 Mr. Wirts provided advice to Ms. Breanna Bragg
19 and her supervisor Mr. Meyer concerning workplace sexual harassment she brought
20 to his attention.
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1 45. On or about May 21, 2018, Mr. Wirts provided a sworn statement in
2 support of another Air Force employee who brought an age discrimination claim
3 against the Agency.

4 46. On July 10, 2018, Lt. Col. McGraw's change of command ceremony
5 took place.

6 47. The United States Air Force, just like all branches of the military, is a
7 secular institution where individuals of many (or no) faiths work hand-in-hand in
8 executing military missions at home or abroad.

9 48. Air Force Instruction 1-1, ¶2.12 (7 August 2012 *incorporating Change*
10 *1, 12 November 2014*) requires that its officers "ensure their words and actions
11 cannot reasonably be construed to be officially endorsing or disapproving of, or
12 extending preferential treatment for any faith, belief, or absence of belief."
13

14 49. Yet at that July 10, 2018, change of command ceremony Lt. Col.
15 McGraw, gave a public speech that mentioned "God" eleven times, "sin" two times,
16 "Christ" four times, "Lord" seven times, "pray" eight times, "hell" once, "bless"
17 seven times, "Him" (a reference to Christ) twice, along with references to "eternal
18 souls", "eternal joys" and "eternal suffering" - - Lt. Col. McGraw mentioned one,
19 and only one, civilian Agency employee by name: Mr. Wirts.
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1 50. Lt. Col. McGraw, in calling out Mr. Wirts in the presence of senior
2 military personnel, civil service employees, private citizens, and Mr. Wirts' new
3 chain of command (supervisor and higher level reviewer), stated:

4 Mr. Wirts, you of all people I have prayed for the most. At the
5 difficulties in your health, for our wife, for your daughters and for your
6 grandchildren. I have loved you the most and sought your good. Pastor
7 Smith can attest that we prayed for you many times together that you
8 would come to know Jesus Christ as your personal savior.

9 51. Mr. Wirts is not a Christian.

10 52. Lt. Col. McGraw knew that Mr. Wirts was not a Christian and knew
11 that fact well before the July 10, 2018, speech.

12 53. Lt. Col. McGraw is a Christian.

13 54. However, before publicly professing to have "loved [Mr. Wirts] the
14 most" Lt. Col. McGraw (behind Mr. Wirts' back) had devised and executed a plan
15 to remove Mr. Wirts from government service by ensuring that Mr. Wirts' position
16 was deemed "surplus."

17 55. The Air Force has a mechanism that it uses to get rid of civilian workers
18 when it does not want to utilize a Reduction in Force (RIF) mechanism or when its
19 leadership, such as Lt. Col. McGraw don't want to or can't outright fire a civilian
20 employee. This process involves the Air Force manager (McGraw in this instance)
21 requesting an "encumbered position review" or "audit" of a certain civilian's job
22

1 position with the end goal of making it so the position is deemed “surplus” which,
2 in turn, causes the employee to lose permanent employee status and places the
3 “surplus” employee in the position of choosing to retire or be subject to reduction in
4 force, unless the Agency can place the employee in a similar position for which they
5 are minimally qualified.

6 56. Lt. Col. McGraw initiated this process in December 2016.

7
8 57. And During the March 2018 timeframe Lt. Col. McGraw followed up
9 on his December 2016 request by submitting a Local Coordination Sheet, i.e. the
10 document necessary to eliminate Mr. Wirts’ GG-15 position and replace that
11 position with that of a GG-14 position.

12 58. This was the only “encumbered position review” request Lt. Col.
13 McGraw made even though he could have made other review requests of at least
14 four other encumbered senior positions, one other unencumbered senior position and
15 at least a dozen other unencumbered positions.

16
17 59. On July 11, 2018, Mr. Wirts asked Col. Thomas Johnson, Lt. Col.
18 McGraw’s commanding officer, attendee of the July 10, 2018, ceremony, and the
19 Director of the JPRA, to address the religious discriminatory speech with Lt. Col.
20 McGraw. In response to Mr. Wirts’ request - - - a request that asked Col. Johnson to
21 enforce Air Force regulation - - - Col. Johnson strongly implied that Mr. Wirts
22

1 should let the matter drop. Mr. Wirts told Col. Johnson that he would not let the
2 matter drop and that he would consult with EEO organizations to investigate filing
3 an EEO claim regarding the discrimination.

4 60. On or about July 12, 2018, Col. Johnson informed Mr. Wirts that his
5 position had been rendered surplus and he was expected to perform the duties of a
6 GG14, but that the decision to eliminate his position had not been approved. Col
7 Johnson gave Mr. Wirts this information via an undated memorandum *the day after*
8 *Mr. Wirts opposed Lt. Col. McGraw's discrimination to Col. Johnson and day after*
9 *Mr. Wirts told Col. Johnson that he intended to file an EEO claim.*

10
11 61. Col. Johnson was aware that Mr. Wirts had opposed (and assisted others
12 in opposing) Lt. Col. McGraw's discriminatory acts and that Mr. Wirts had
13 participated in the above-referenced EEO activities.

14
15 62. Mr. Wirts received notice of his official surplus status, via email, on
16 December 7, 2018 from AFDW. This notice was an affirmation that Col. Johnson
17 had determined Mr. Wirts' position was surplus and inquired if Mr. Wirts was
18 interested in applying for VERA/VSIP (early retirement with incentive pay)

19
20 63. On January 15, 2019, the Agency informed Mr. Wirts that his position
21 was being eliminated and that he must either retire early, with incentive, or face an
22 involuntary RIF wherein no incentive would be paid. Had Mr. Wirts not opted to

1 retire early (with incentive) he would likely be subject to RIF no later than
2 September 2019.

3 64. Any explanation by the Agency that its elimination of Mr. Wirts'
4 position was non-discriminatory or retaliatory is a pretext as the Agency had other
5 alternatives to designating Mr. Wirts' position "surplus."

6 65. The Agency could have taken the appropriate personnel action to assign
7 Mr. Wirts to the new core document/position resulting in an adverse action
8 (reduction in grade) that Mr. Wirts could have challenged. Indeed, the normal course
9 of action used by the Agency in similar circumstances involved proposing an adverse
10 action followed by a deciding official conveying a final decision.

11 66. Alternatively, the Agency could have placed Mr. Wirts in another
12 position at its headquarters (it didn't).

13 67. Alternatively, the Agency could have placed Mr. Wirts in a position at
14 another geographic location (it didn't).

15 68. The agency never gave Mr. Wirts an option to accept a voluntary
16 downgrade or notify him of a proposal to involuntarily downgrade him. Agency
17 policy and practice requires that a voluntary or involuntary downgrade is always
18 communicated in writing and requires an employee acknowledgement of receipt.
19 However, no such voluntary or involuntary downgrade was communicated to Mr.
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1 Wirts as Lt. Col. McGraw, Col. Johnson and/or the Agency knew or strongly
2 suspected that Mr. Wirts would accept the reduction - - an act that would defeat the
3 Agency's plan to force Mr. Wirts out of government service.

4 69. Conversely, another GG15 position held by an employee - - an
5 employee who was not under McGraw's command who did not file an EEO
6 complaint against the Agency - - was downgraded and was issued the required
7 "notification of change to lower grade" notification for acknowledgement.
8

9 70. It bears repeating, Mr. Wirts was never issued such a notification
10 because the Agency knew or suspected that Mr. Wirts would accept a downgrade
11 and remain employed which was contrary to the Agency's desire to force Mr. Wirts
12 out of government service.

13 71. Mr. Wirts was the only Spokane-based JPRA employee whose job
14 position was eliminated during the timeframe relevant to this lawsuit.
15

16 **III. LEGAL CLAIMS**

17 **(Violation of the Privacy Act, 5 U.S.C. § 552a, et seq.)**

18 72. To state a claim under the Privacy Act a plaintiff must show (1) the
19 agency disclosed information contained within a system of records; (2) the
20 disclosure was improper; (3) the disclosure was intentional or willful, and (4) the
21

1 plaintiff was adversely affected by the disclosure. *Tungjunyatham v. Johanns*, 500
2 F. App'x 686, 689 (9th Cir. 2012).

3 73. The Air Force maintains a system of records in which an employee's
4 confidential personnel records are stored. That system of records has a "System of
5 Records Number" (SORN) titled "Employee Performance File System Records" and
6 designated OPM/GOVT-2. Records contained within SORN OPM/GOVT-2
7 include, but are not limited to, "[w]ritten recommendations for awards, removals,
8 demotions, denials of within-grade increases, reassignments, training, pay increases,
9 cash bonuses, or other performance-based actions (e. g., nominations of SES
10 employees for Meritorious or Distinguished Executive), including supporting
11 documentation" as well as "advice and counseling records that are based on work
12 performance" and "[p]erformance-related material that may be maintained in the
13 work folder to assist the supervisor/manager in accurately assessing employee
14 performance."¹

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16
17 74. Lt. Col. McGraw's intentional disclosure of the above-referenced
18 information regarding Mr. Wirts' workplace performance did not constitute a
19

20 ¹ <https://dpcl.d.defense.gov/Privacy/SORNsIndex/DOD-wide-SORN-Article-View/Article/570735/opmgovt-2/> (last visited October 17, 2018).
21
22

1 “routine use” for OPM/GOVT-2 or any system of records containing Mr. Wirts’
2 employee performance information.

3 75. The Privacy Act requires agencies to log the date, nature, and purpose
4 of each non-FOIA disclosure an agency makes of any employee’s record as well as
5 the name and address of each person to which the disclosure was made. 5 U.S.C. §
6 552a(c)(1).

7 76. The Air Force has not maintained a disclosure log as it relates to the
8 MFRs.

9 77. This failure to maintain the disclosure log has harmed Mr. Wirts
10 because Mr. Wirts does not know who saw the MFRs. For all Mr. Wirts knows, those
11 MFRs could have been viewed by individuals who are responsible for promoting
12 Mr. Wirts, giving Mr. Wirts performance reviews, or engaging in other acts that
13 could further Mr. Wirts’ career. Armed with a disclosure log Mr. Wirts could have,
14 in a timely manner, approached those individuals to whom the information had been
15 disclosed and then told his side of the story so as to alleviate the MFR’s disclosure’s
16 effect on his career.
17

18 78. The Air Force’s disclosure of Mr. Wirts’ confidential information
19 caused Mr. Wirts pecuniary economic damages in an amount to be proven at trial.
20 Without limitation, these damages included Mr. Wirts paying out of pocket for the
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1 medical services to address the trauma caused by the disclosures, paying out of
2 pocket for the costs associated with transportation to and from those medical
3 appointments, and having to use leave (and forfeit the value of that leave vice being
4 able to use that leave for another matter) to travel to and attend those medical
5 appointments. The Agency's disclosures have caused Mr. Wirts loss of other
6 economic opportunities such as the opportunity to obtain a higher bonus or
7 promotion. Lastly, the Agency's disclosures caused Mr. Wirts to hire an attorney,
8 which, in turn, constitutes actual pecuniary damages for which Mr. Wirts is entitled
9 to as a result of the Agency's Privacy Act violations.
10

11 **(Violation of the Title VII of the Civil Rights Act – Discrimination and**
12 **Retaliation.)**

13 79. “In order to establish a prima facie case in actions where the plaintiff
14 claims that he was discriminated against because he did not share certain religious
15 beliefs held by his supervisors, we hold the plaintiff must show (1) that he was
16 subjected to some adverse employment action; (2) at the time the employment action
17 was taken, the employee's job performance was satisfactory; and (3) some additional
18 evidence to support the inference that the employment actions were taken because
19 of a discriminatory motive based upon the employee's failure to hold or follow his
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1 or her employer's religious beliefs.” *Magden v. Easterday Farms*, 2017 WL
2 1731705, at *6 (E.D. Wn. May 3, 2017)(citation omitted).

3 80. Mr. Wirts was subject to numerous adverse employment actions, he
4 was forced from government service and subjected to proselytizing by Lt. Col.
5 McGraw.

6 81. At the time of his termination Mr. Wirts was performing his job
7 satisfactorily. Lt. Col. McGraw rated Mr. Wirts’ performance as “excellent”.

8 82. The inferences of discriminatory motive are many. First, Lt. Col.
9 McGraw made clear that his (McGraw’s) faith was different than that of Mr. Wirts
10 (after all had Lt. Col. McGraw never addressed his (McGraw’s) religious beliefs
11 with Mr. Wirts then he (McGraw) would have no reason to say, during his change
12 of command speech, “Pastor Smith can attest that we prayed for you many times
13 together that you would come to know Jesus Christ as your personal savior.”) and
14 felt the need to publically profess that difference in an official military ceremony
15 attended by Mr. Wirts’ peers, subordinates, and superiors. Second, Lt. Col. McGraw
16 lied to Mr. Wirts by (among other reasons) professing “love” for Mr. Wirts in his
17 change of command speech but failing to tell Mr. Wirts that within weeks of Mr.
18 Wirts opposing the discriminatory hot tub investigation that Lt. Col. McGraw had
19 subjected his (Wirts’ position and Wirts’ position only) to an “encumbered review.”
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1 Third, the Agency did not offer Mr. Wirts the opportunity to move to a lower position
2 but did allow another former GG-15 to do so. Fourth, Col. Johnson declined to
3 officially address Lt. Col. McGraw's July 10, 2018 speech even though that speech
4 violated Air Force regulation. Fifth, the surplus memo that Col. Johnson gave Mr.
5 Wirts in July 2018 was not in accord with Agency policy which, in turn, was
6 detrimental to Mr. Wirts.

7
8 83. The Agency's discrimination caused Mr. Wirts damage in an amount
9 to be proven at trial.

10 84. A Title VII retaliation claim requires proof that the plaintiff (1)
11 engagement in a protected activity; (2) an adverse employment action; and (3) a
12 causal link between the two.

13 85. Mr. Wirts engaged in protected activity in opposing Lt. Col. McGraw's
14 gender discrimination as well as in participating in EEO investigations.

15
16 86. Mr. Wirts was subjected to the adverse employment action of losing his
17 job.

18 87. In addition to the facts set out above, Mr. Wirts' opposition to Lt. Col.
19 McGraw's gender based "hot tub topless" investigation was within weeks of Lt. Col.
20 McGraw's December 2016 act of subjecting Mr. Wirts' position – and Mr. Wirts'
21 position only – to an encumbered review.
22

1 88. The Agency's acts have caused Mr. Wirts damage in an amount to be
2 proven at trial.

3 **IV. PRAYER FOR RELIEF**

4 Plaintiff respectfully prays that this Honorable Court enter an Order providing
5 Mr. Wirts all remedies available to him by law, including, but not limited, to an
6 award of:
7

8 (a) actual damages suffered as result of the violation of the Privacy Act,
9 general and economic damages as allowed under Title VII;

10 (b) costs and reasonable attorneys' fees incurred with this lawsuit with
11 interest thereon;

12 (c) the injunctive relief necessary to bring the Air Force in compliance with
13 the Privacy Act vis-à-vis Mr. Wirts including an order compelling the Air Force to
14 give Mr. Wirts a disclosure log as required under 5 U.S.C. § 552a(c); and,
15

16 (d) such other and further relief as the Court deems just or equitable.

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1 DATED this 2nd day of May, 2019.

2 CROTTY & SON LAW FIRM, PLLC

3 By/s/ Matthew Z. Crotty

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9 *Attorneys for plaintiff*

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CERTIFICATE OF SERVICE

1
2 I certify that I electronically filed the foregoing with the Clerk of the Court
3 using the CM/ECF system, which will send notification of such filing to those
4 attorneys of record registered on the CM/ECF system. All other parties, if any, shall
5 be served in accordance with the Federal Rules of Civil Procedure.

6 Dated this May 2, 2019.

7
8 /s Matthew Crotty
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