



West Virginia E-Filing Notice

CC-31-2025-C-311

Judge: Cindy Scott

To: City of Morgantown, West Virginia
389 Spruce Street
Morgantown, WV 25301

NOTICE OF FILING

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA

Lamar Johnson v. City of Morgantown, West Virginia

CC-31-2025-C-311

The following complaint was FILED on 8/6/2025 2:35:02 PM

Notice Date: 8/6/2025 2:35:02 PM

Donna J. Hidock
CLERK OF THE CIRCUIT COURT
Monongalia County
75 High Street, Suite 12
MORGANTOWN, WV 26505

(304) 291-7240

Donna.Hidock@courtswv.gov

SUMMONS

E-FILED | 8/6/2025 2:35 PM
CC-31-2025-C-311
Monongalia County Circuit Clerk
Donna J. Hidock

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA
Lamar Johnson v. City of Morgantown, West Virginia

Service Type: Filer - Private Process Server

NOTICE TO: City of Morgantown, West Virginia, 389 Spruce Street, Morgantown, WV 25301

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Sean Cook, 309 DOLARON LN, , S CHARLESTON, WV 25309

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

8/6/2025 2:35:02 PM

Date

/s/ Donna J. Hidock

Clerk

RETURN ON SERVICE:

- Return receipt of certified mail received in this office on _____
- I certify that I personally delivered a copy of the Summons and Complaint to _____
- I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling or usual place of abode to _____, someone who is eighteen (18) years of age or above and resides there.
- I certify that I personally delivered a copy of the Summons and Complaint to _____, an agent or attorney-in-fact authorized by appointment or statute to receive service of process for the individual.
- I have reviewed documentation authorizing the above-named person to accept service on behalf of the individual named on the summons.
- I have not reviewed documentation authorizing the above-named person to accept service on behalf of the individual named on the summons.
- Not Found in Bailiwick

Date

Server's Signature

IN THE CIRCUIT COURT OF MONONGALIA

CIVIL CASE INFORMATION STATEMENT
(Civil Cases Other than Domestic Relations)

I. CASE STYLE:

Case No. _____

Plaintiff(s)

Judge: _____

Lamar Johnson

Plaintiff's Phone: (304) 282-7996

vs.

Defendant(s)

Days to
Answer

Type of Service

City of Morgantown, WV

30

Personal

Name

389 Spruce Street

Defendant's Phone: (304) 284-7405

Street Address

Morgantown, WV 26505

City, State, Zip Code

II. TYPE OF CASE:

- | | |
|--|--|
| <input checked="" type="checkbox"/> General Civil | <input type="checkbox"/> Adoption |
| <input type="checkbox"/> Mass Litigation [As defined in T.C.R. 26.04(a)] | <input type="checkbox"/> Administrative Agency Appeal |
| <input type="checkbox"/> Asbestos | <input type="checkbox"/> Civil Appeal from Magistrate Court |
| <input type="checkbox"/> FELA Asbestos | <input type="checkbox"/> Miscellaneous Civil Petition Mental |
| <input type="checkbox"/> Other: _____ | <input type="checkbox"/> Hygiene |
| <input type="checkbox"/> Habeas Corpus/Other Extraordinary Writ | <input type="checkbox"/> Guardianship |
| <input type="checkbox"/> Other: _____ | <input type="checkbox"/> Medical Malpractice |

III. JURY DEMAND: Yes No CASE WILL BE READY FOR TRIAL BY (Month/Year): 6 / 2026

IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS?

Yes No

IF YES, PLEASE SPECIFY:

- Wheelchair accessible hearing room and other facilities
 Reader or other auxiliary aid for the visually impaired
 Interpreter or other auxiliary aid for the deaf and hard of hearing
 Spokesperson or other auxiliary aid for the speech impaired
 Foreign language interpreter-specify language: _____
 Other: _____

Attorney Name: Sean W. Cook

Representing:

Firm: Sean W. Cook, Esq. (Solo Practitioner)

Plaintiff Defendant

Address: 309 Dolaron Lane, South Charleston, WV 25309

Cross-Defendant Cross-Complainant

Telephone: (681) 313-9809

3rd-Party Plaintiff 3rd-Party Defendant

Proceeding Without an Attorney

Original and 2 copies of complaint enclosed/attached.

Dated: 08 / 06 / 2025

Signature: Sean W. Cook

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA

LAMAR JOHNSON.

Plaintiff,

v.

CIVIL ACTION NO. _____

**CITY OF MORGANTOWN,
WEST VIRGINIA**

JUDGE _____

Defendant.

COMPLAINT

Comes now the Plaintiff, Lamar Johnson (sometimes, "Lamar", "Mr. Johnson" or "Plaintiff"), through his undersigned counsel, and brings the following causes of action against Defendant, City of Morgantown, West Virginia (sometimes, "Defendant" or "City"), and in support, states as follows:

INTRODUCTION

This Complaint is filed against the City of Morgantown for (i) its failure to honor a previous settlement agreement entered into in 2020 with Lamar; (ii) its continued race discrimination towards Lamar, and (iii) the systematic culture of racism that continues and that has existed for far too many years within its ranks.

Defendant has been provided every opportunity to correct its discriminatory behavior.

However, it has stubbornly and unlawfully refused to do so.

Defendant's actions and inactions violate the aforementioned settlement agreement, clearly established state West Virginia statutory and common law, and its own employment policies.

THE PARTIES

1. Plaintiff Lamar Johnson is a resident of Morgantown, West Virginia, who has been employed by the City of Morgantown for approximately twenty-four (24) years.
2. Defendant City of Morgantown is a municipal corporation located in Monongalia County, West Virginia.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter pursuant to West Virginia Code § 51-2-2.
4. Venue is proper in this Court pursuant to West Virginia Code § 56-1-1, as the acts and omissions giving rise to this Complaint occurred in Monongalia County, West Virginia.

THE FACTS

5. On July 31, 2020, Lamar, through his then and current undersigned counsel, sent a letter to officials of the Defendant, which included (in part) the following facts and content:

JULY 31, 2020 CORRESPONDENCE

6. "I am writing to notify the City of Morgantown of my intention to bring civil claims on behalf of my client, Lamar Johnson, for unlawful actions he has suffered associated with his employment."
7. "Lamar is an African American male who has worked approximately 20 years for the City of Morgantown as a laborer/clerk. The city employment structure classifies positions such as Lamar's as Levels 1-4. Progress to the next level results in pay raise, for as employees accrue seniority they are as a matter of course promoted to the next level."
8. "In his 20 years with the City, Lamar has not received a promotion, while most if not all of his Caucasian colleagues have moved up the employment ranks. Indeed, a fellow African

American employee resigned approximately four years ago because of the City's failure to promote him."

9. "In or about February of 2018, after a Caucasian colleague from his department performing the exact same duties was promoted, Lamar filed an employment grievance based on failure to promote. The grievance was denied. Since filing the grievance, Lamar describes his work experience as 'hell'. For example, without limitation, he has been excluded from previous employment duties, not trained on new systems implemented, and ostracized overall."
10. "Furthermore, there is a history and culture of racism amongst the employment ranks at the City of Morgantown. Although Lamar cannot recall each and every instance of explicit racism, he specifically recalls three incidents: (1) A Caucasian employee exiting a city truck and stating: "It smells like n**gers in there."; (2) The word 'n**ger' being carved onto a wooden cubbyhole wall at his employment location; and (3) a noose hanging in the city garage where he works."
11. "These incidents were reported to Lamar's superiors, yet corrective action was not taken. For example, Lamar reported the third incident referenced above to his superior, who dismissively responded, 'we don't necessarily know that was meant to be racist,' and took no action other than removal of the noose."
12. "More recently, a Caucasian city employee used the n-word while dining at a local restaurant with other city employees. Lamar arrived at this restaurant shortly after this incident, and was later informed by his co-workers of the offensive comment. An investigation was reportedly initiated, but on information and belief, was later suspended per the direction of management."
13. "I currently plan to bring claims on behalf of Lamar for, without limitation, the following violations of the West Virginia Human Rights Act (WVHRA) based on his race:

- Disparate Impact
- Disparate Treatment
- Hostile Work Environment
- Adverse Employment Actions (Including Failure to Promote)
- Retaliation for Reporting Potential Violations of the WVHRA.”

14. “If the City of Morgantown desires to discuss potential resolution of this matter without the necessity of official litigation, please contact me on or before Friday, May 15, 2020.”

(END OF JULY 31, 2020 CORRESPONDENCE)

15. Officials of the Defendant responded to Lamar’s counsel, and a mediation was eventually scheduled for August 5, 2020, before the necessity of filing a lawsuit.

16. Prior to the scheduled mediation, Lamar submitted a statement to the mediator – a copy of which was also shared with Defendant and its counsel.

17. In this mediation statement, Lamar represented (in substantial part) as follows:

MEDIATION STATEMENT

18. “Lamar Johnson is an African American male, a Veteran of the United States Armed Services, and has worked over 20 years for the City of Morgantown as a laborer/clerk in the Public Works Department at the City Garage.”

19. “The City employment structure classifies its employment positions, and employees are promoted internally. Promotions result in an hourly pay increase. The laborer/clerk position is the lowest paid permanent full-time employment position at the City.”

20. “In his 20 plus years with the City, Lamar has not received a single promotion, while his Caucasian colleagues have steadily moved up the employment ranks. Lamar has applied for numerous promotions. However, not only has he not received a promotion, but he has often times not even been afforded an interview.”

21. "On December 4, 2017, Lamar filed an official employee grievance with the City. Lamar grieved that he had for 17 years been performing the job duties of an employment position above that of a laborer/clerk, without receiving commensurate pay. He noted that each time he had brought this to the attention of his superiors, he was told there was not enough money in the City budget to properly compensate him, and to 'be patient.' However, Lamar pointed out in his grievance that 'just recently other employees in other departments including mine are getting raises and promotions.'"
22. "Lamar further grieved that when a new inventory system had recently been implemented in his Department, he was not included in the training for this system. Such lack of training renders it even more difficult for Lamar to receive a promotion. Lamar's grievance was summarily denied."
23. "There is a history and culture of racism amongst the employment ranks at the City of Morgantown that Lamar has endured throughout his employment. Although Lamar cannot recall each and every instance of racism, he specifically recalls three incidents: (1) a Caucasian employee exiting a city truck and stating: "It smells like n**gers in there"; (2) the word 'n**ger' being carved onto a wooden cubbyhole wall at the City Garage; and (3) a noose hanging in the City Garage where he works."
24. "These incidents were reported to Lamar's superiors, yet corrective action was not taken. For example, Lamar reported the noose incident referenced above to his superior, who dismissively responded, 'we don't necessarily know that was meant to be racist.'"
25. "Kevin Marshall is an African American male and a former employee of the City who also worked at the City Garage. Similar to Lamar, Kevin held the position of laborer/clerk. Kevin worked for the City in this full-time position for approximately 27 years, and did not receive a

single promotion. He estimates that he was passed over 18 to 19 times for promotion in favor of Caucasian employees in the Public Works Department – many of which he previously supervised when they were part time summer employees.”

26. “Kevin also was subjected to explicit and implicit race discrimination throughout his many years of employment with the City. He recalls the term “n**ger-rigging” often being used at the City Garage, and racist jokes being told frequently. Kevin was also witness to the first and second specific racist incidents cited above.”

27. “Finally, having lost all hope of being treated fairly and similarly to the City’s Caucasian employees, Kevin resigned approximately four years ago because of the City’s repeated failure to promote him and the racially hostile work environment he had long endured.”

28. “[The] Public Works Director for the City of Morgantown [at the time of the previous mediation] observed the racism and discrimination that has permeated and continues to infect the City Garage. She has further witnessed the lack of action taken by those charged with remediating such a hostile work environment, despite their notice of this severe and pervasive prejudicial activity.”

29. “[The Public Works Director] executed an Affidavit, which is attached hereto. I have copied and pasted below the content of her affidavit for your convenience.”

Affidavit

“1. I am an employee of the City of Morgantown, West Virginia (‘City’) holding the position of Director of Public Works. My office is located at the Morgantown City Garage, 2020 Mississippi Street, Morgantown, WV, 26501.

2. Upon assuming this employment position, employees of the City Garage complained to me that Lamar Johnson often played the “race card.”

3. Lamar Johnson is an African-American male who works at the City Garage.

4. On January 18, 2020, I sent the following email message to City Human Resources (‘HR’) Director John Bihun:

'Hello John,

Yesterday, while overall was a great day, I had a somewhat eye-opening experience. I was sitting at the table outside the offices with a group of people eating our lunch when Dave Bean told me a very nice story but he used the word 'colored' to describe people of color in this story. Then, not ten minutes later Chuck, who also told a story that was really not racist or mean at all, said the word colored to describe a black woman in his story. At the time my stomach lurched and I was frantic waiting for other people's reaction. They didn't react so I didn't. But I can't stop thinking about that and how backward and antiquated the terminology is and how hurtful it would be for people of color seeing me allow others to use it. I want to be politically correct, and informative when I do face this subject, but I also want to nip it in the bud. Could you assist me in figuring out an appropriate response and also implementing a training of some sort, **I think it may also be good to try to eliminate some of the bias in hiring.**

Additionally, I had to write up Lamar yesterday for not emptying the garbage and he told me some of his experiences with racism. One example he said he overheard: **a guy was telling a story about his wife leaving him for another man and he said 'as long as it is not a dirty-ni**er I won't really care.'** He had plenty of examples but that one stuck out in my mind."

5. On Saturday, February 8, 2020, I attended a birthday party for a City employee at a local restaurant, Mario's Fishbowl. At this party, City employee Christopher Maloney – who like Lamar Johnson works at the City Garage and within the City Public Works Department - began complaining of work-related issues. Another employee in attendance commented to Mr. Maloney that I (as Director of Public Works) did not want to hear Mr. Maloney's complaints. Mr. Maloney responded that **'you wouldn't like it either if you had to work with a bunch of N**grs.'** Lamar Johnson was not present when Mr. Maloney made this statement, but arrived shortly thereafter and was informed that the statement had been made.

6. On Monday, February 10, 2020, consistent with the City's Personnel Policy, I reported Mr. Maloney's conduct that occurred on the preceding Saturday via email to my superior, then Assistant City Manager Emily Muzzarelli, and to City Human Resources Director John Bihun and City Attorney Ryan Simonton, in which I began by expressing as follows: 'I had another issue with racism today and Saturday. I would like to please have some support to deal with these issues. It is not going away and the longer I witness the problems without taking action the harder it is going to be to deal with.'

7. In this email, I further expressed, in part, as follows: 'Chris Maloney has the responsibility of taking care of the inmates from the Kennedy Center, many of which are African American. Racism cannot be tolerated; especially from him. I can send written complaints from the actual witnesses Saturday and from other people that have witnessed the behavior at work. **He asked one of the black inmates if he wanted some fried chicken on Friday at work. He also said to the inmates 'there's only one black guy that works out here and that's Lamar and you can't talk to him because he will get you in trouble.'** Something needs to be done. I will gladly initiate action but I believe there needs to be collaboration from Human Resources, legal, and the city manager's office. I do not know what can legally be done when people are racist outside of work but **I think that if some of their essential duties at work are inhibited by racism this changes the circumstances. This is the**

third racist incident since Thanksgiving, and that's only the ones I have witnessed. Please help me. Thank you.'

8. As referenced above, the City previously engaged in a partnership with the Kennedy Center a/k/a Federal Correctional Institution ("FCI") - Morgantown in which federal inmates assisted free of charge in cleanup around the City.

9. In February of 2020, it was reported to me that Mr. Maloney had treated African American inmates in a racially discriminatory manner. At that time, Mr. Maloney was the City employee who supervised the FCI inmates. I inquired as to these allegations with FCI representatives on or about February 11, 2020.

10. The City later received correspondence from FCI Morgantown dated February 13, 2020, indicating in part, that the following information was provided to FCI Unit Manager:

- 'Inmate 1: Chris [Maloney] is a redneck and makes stupid comments that most people would hear when there is [sic] all white people around. [For example], when we would see a white girl with a black guy he would state: 'We lost another one.'

- 'Inmate 2: **They are racist as hell out there [at the City Garage].** Well not everyone but Chris is terrible. Statement[s] made include the following: [1] There is one guy here that is black, don't talk to him.' [2] 'We lost another one' (referenced as above). [3] 'All black people like Hennessy, do you like Hennessey?'

- 'A black man who works at the City of Morgantown stated he found a KKK membership card on the floor.'

11. The FCI conducted its own internal investigation into Mr. Maloney's conduct, which resulted in the immediate termination of the work program partnership with the City.

12. I approached Harry Dalton, City Street Superintendent and Mr. Maloney's immediate supervisor, and advised him of the events described above. Mr. Dalton informed me that he would not get involved since the racial slur was used by Mr. Maloney during his own personal time. Mr. Dalton did not explain his refusal to act with regard to the allegations associated with FCI inmates, and instead indicated his belief that the situation had not reached a level that required discussion with Mr. Maloney.

13. Based on representations made by both of these individuals, Mr. Dalton and Mr. Maloney are personal friends and associate with one another outside of work.

14. A meeting was held on February 26, 2020 among City officials. The City's HR Department and the City Manager's office made the decision to only issue a warning to Mr. Maloney.

15. I believed that this discipline was inadequate and appealed to then City Manager, Paul Brake, who decided that Mr. Maloney would be suspended for five (5) days without pay.

16. I then expressed via email of March 2, 2020, as follows to then City Manager Paul Brake, Assistant City Manager Emily Muzzarelli, City Human Resources Director John Bihun and City Attorney Ryan Simonton: 'I would like to, in writing, state my opposition to the

continued employment of Chris Maloney. **I believe this is an example of negligent retention and creating a hostile work environment for anyone of color in the Public Works Department.'**

17. Despite the fact that I reported the racism as described above, I observed that employees at the City Garage blamed Lamar Johnson for these reports and retaliated against him. For example, Mr. Maloney, and his girlfriend (also an employee in the Code Department of the City) complained of and accused Lamar of showing her criminal mugshot to employees at the City Garage. This allegation was proven to be untrue.

18. I also repeatedly observed employees at the City Garage teasing Lamar about not working and being lazy. These employees have further accused Lamar of being in love with me, and anytime I need to work with him, they accuse him of going on dates with me.

19. I have been informed by an employee assigned to the City Garage and by inmates who previously participated in the former partnership with FCI, that since the aforementioned events, employees assigned to the City Garage refer to me as a '**N**ger Lover**'.

20. Eventually - but not until May 14, 2020 - Mr. Maloney was issued an Employee Corrective Action Form indicating in part that an investigation had occurred based on allegations that Mr. Maloney had made several remarks exhibiting racial prejudice in February 2020, including use of a racial slur directed towards African Americans. Mr. Maloney oversees inmates as part of a work program with the Federal Correction Institute, one of which is African American. **Internal investigation resulted in a suspected use of racial slurs and racial prejudice.'**

21. As indicated above, Mr. Maloney was only issued a 5-day suspension based on these findings by the City.

22. Mr. Dalton was also issued an Employee Corrective Action Form for failing to counsel and report Mr. Maloney's conduct.

23. Former Assistant City Manager and current Interim City Manager Emily Muzzarelli informed me that the City was worried that it released the full investigative file to Mr. Maloney, the City would have to release the same to Lamar Johnson.

24. I provided names of employees who I believe have had issues involving race and/or who have reported to be their observations of such issues at the City Garage to City investigators. However, on information and belief, these employees were not interviewed with regard to the aforementioned investigation(s).

25. The above are only examples of the persistent racist behavior that I have observed at the City Garage.

26. As a further example, many employees of the City Garage display confederate flags on their vehicles."

(End of Affidavit)

30. "After I forwarded the City correspondence informing of the intention to bring claims on behalf of Lamar, City Attorney Ryan Simonton asked that he and City Human Resources Director John Bihun be permitted to interview my client. As this occurred amidst the pandemic, this interview occurred via video remote, and I participated." (*Mediation Statement*).
31. "Lamar gave compelling testimony, including without limitation, that which is summarized as follows:
- He has consistently reported the persistent racism at the City Garage, but no action has been taken. When asked if he reported every incident, he explained the hopelessness and resignation he feels: 'It won't do any good to do anything, and I have to keep my job', and that he is humiliated to eat either chicken or watermelon during his lunch at the City Garage, because his co-employees make disparaging comments and racist jokes about it;
 - He has suffered high blood pressure due to anxiety associated with his employment;
 - He suffers mood swings when he goes home after work, angers easily, and he is unable to enjoy time with his family;
 - He self-confidence has been destroyed because he has been at the same job for so many years, has not been promoted, and is still not making any 'real money'. But he has to keep his job because he 'needs a paycheck for his kids';
 - When he first started at his job with the City over 20 years ago, a fellow employee called his Uncle a 'dirty ni**ger'. He called his mother in tears. He reported this incident to his superiors, but no action was taken;
 - He is ashamed that he has worked in the same job for over 20 years and is still 'just cleaning bathrooms'; and,
 - Chris Maloney's nephew once told him that 'my uncle doesn't like you black people'. Lamar is still required to ride in work trucks with Mr. Maloney. He was disappointed but not surprised that Mr. Maloney only received a 5-day suspension after the 2020 investigation into his racist behavior."
32. "The City may argue that Lamar has not been promoted because of alleged substandard employment performance. Such an argument is inherently flawed, as the same decision-makers who made such a determination are part of the implicit and explicit prejudicial system at the City. Moreover, if Lamar did display such substandard performance that would prevent a single

promotion, it cannot be explained how he was retained his employment with the City for over 20 years without being fired.”

33. “I currently plan to bring claims on behalf of Lamar for, without limitation, the following violations of the West Virginia Human Rights Act based on his race, as well as the identified common law claims:

- Disparate Impact for Failing to Promote
- Disparate Treatment/Discrimination for Failing to Promote
- Hostile Work Environment
- Retaliation for Reporting Violations of the West Virginia Human Rights Act
- Negligent Retention
- Negligent Training.”

34. “The first page of the Personnel Rules for the City of Morgantown indicates as follows: ‘The City of Morgantown is an Equal Opportunity-Affirmative Action employer. As such, it is the expressed policy of the City of Morgantown that it shall not discriminate against any person in any employment matter because of the person’s race, color [or] creed [.] This policy shall govern all matters related to pay rate increases, promotions . . . and other terms and conditions of employment.’”

35. “Throughout Lamar’ tenure of employment, this policy has been violated and cast aside by the City of Morgantown, as has the West Virginia Human Rights Act and principles of basic human decency.”

(END OF MEDIATION STATEMENT)

36. In or about August of 2020, after a mediation lasting approximately ten (10) hours, a settlement was reached between Lamar and the Defendant.

37. Defendant did not admit to any liability in reaching this settlement in 2020.

38. Subsequently, on November 22, 2024, Lamar’s undersigned counsel sent correspondence to Defendant’s City Attorney, Ryan Simonton, the content of which was as follows:

NOVEMBER 22, 2024 CORRESPONDENCE

39. "As you are aware, I previously represented Lamar Johnson in a proposed lawsuit against the City of Morgantown ("City"). The matter was resolved without the necessity of initiating official litigation."
40. "A written settlement agreement was executed by the parties in the fall of 2020 ("SA"). The SA set forth, in part, as follows: '7. As additional terms of this Agreement, Johnson and Morgantown agree as follows: a. related to his current employment with Morgantown, Johnson will receive and agrees to participate in training on the 'New World' inventory system.'"
41. "The reason for inclusion of this provision is that Lamar had not previously received training with regard to New World or any other inventory computer system, while other white/Caucasian employees received said training."
42. "For example, in the previous mediation statement I provided to [Mediator] Steve Dalesio (which I also provided to you and outside counsel, Erin Webb), I indicated (in part) as follows:

'The City employment structure classifies its employment positions, and employees are promoted internally. Promotions result in an hourly pay increase. The laborer/clerk position is the lowest paid permanent full-time employment position at the City.

In his 20 plus years with the City, Lamar has not received a single promotion, while his Caucasian colleagues have steadily moved up the employment ranks. Lamar has applied for numerous promotions. However, not only has he not received a promotion, but he has often times not even been afforded an interview.

On December 4, 2017, Lamar filed an official employee grievance with the City. Lamar grieved that he had for 17 years been performing the job duties of an employment position above that of a laborer/clerk, without receiving commensurate pay. He noted that each time he had brought this to the attention of his superiors, he was told there was not enough money in the City budget to properly compensate him, and to 'be patient.' However, Lamar pointed out in his grievance that 'just recently other employees in other departments including mine are getting raises and promotions.'

Lamar further grieved that when a new inventory system had recently been implemented in his Department, he was not included in the training for this system. Such lack of training renders it even more difficult for Lamar to receive a promotion. Lamar's grievance was summarily denied.'

43. "Subsequent to the SA being executed by the parties, Lamar received approximately forty-five (45) minutes of instruction by a designated City employee, which was woefully insufficient and inconsistent with the terms of the SA. Lamar frequently requested that the City abide by the SA and provide the required training. However, his pleas were constantly ignored, and he was told by his superiors (including without limitation) his direct supervisor, David Beane, and his employment superior, City Fleet Superintendent Paul Straight, 'not to worry about it.'"
44. "Moreover, the icon to access the New World system was subsequently removed from Lamar's desktop computer without any notice to Lamar."
45. "Lamar continued to inquire to David Beane and Paul Straight as to why he was not receiving the training that was required under the SA. However, he was told (without limitation) by Mr. Beane that he was following the orders of Mr. Straight. Accordingly, when Lamar would inquire as to the same with Mr. Straight, he would respond that he was following the orders of his superiors at the City – and specifically named Gary Gregg and Kenny Holloway."
46. "Recently, Lamar's employment superior, Mr. Beane, retired from his position as the City's Equipment Accounting Assistant. Lamar applied for a promotion to this position vacated by Mr. Beane. Lamar was interviewed by Paul Straight and City Official Dameon Davis after submitting his application."
47. "During the interview, Lamar was extensively questioned regarding his knowledge and training with regard to the New World system. Lamar explained that he had frequently requested such training, and it had not been provided. Nonetheless, Mr. Straight and Mr. Davis

were skeptical of Lamar's qualifications for promotion because of his lack of knowledge of the New World system."

48. "On information and belief, two other individuals also applied for this position – both of whom were white/Caucasian, and neither of whom were City employees. One of these individuals interviewed was David Murray."
49. "In the weeks following his interview, Lamar frequently inquired as to whether a decision had been reached with regard to the position. Such inquiries were made to (without limitation) Mr. Straight. However, Lamar's questions were either ignored, or Mr. Straight would respond that 'he did not know who got the job.'"
50. "Then, approximately one hour after Lamar's last inquiry, David Murray arrived at the facility and informed that he had been hired for the position. Mr. Murray immediately and since has been provided training on the New World system and on all other aspects of the position."
51. "Notably, Lamar was and has not been provided formal/informal or written/verbal notification from the City that he was not promoted to the position."
52. "Additionally, Lamar has been intentionally excluded from numerous other training and educational programs since 2020, including without limitation: new procedures related to logging inventory, and new phone systems implemented by the City."
53. "Moreover, since 2020, locks have been changed by at the facility by Mr. Straight, who refused to provide Lamar with a key to access critical areas of the facility which are crucial to his performance of employment duties."
54. "Lamar has now worked for the City for approximately twenty-four (24) years, and has been denied upward mobility and promotions despite his service and experience."

55. "The actions described above represent a continuation of the previous unlawful conduct of the City, and despite the previous settlement of Mr. Johnson's identified claims, the conduct has persisted. It is obvious that the culture of race discrimination and additional unlawful conduct by the City has continued."
56. "Such unlawful conduct on behalf of the City and its representatives was detailed (in part) in the mediation statement referenced above and attached hereto."
57. "The City of Morgantown has failed to abide by and has breached the Settlement Agreement. This agreement was entered into and accepted by Lamar based principally on the provision requiring good faith abidance with the training provisions cited above, and in consideration thereof. Had these provisions not been included, Lamar would not have agreed to the settlement that was reached."
58. "Indeed, it should never have been necessary to formally reduce matters of fundamental fairness to a formal settlement agreement. Essentially, the City agreed formally in the SA to abide by the Human Rights Act and the fundamental principle of treating all people and employees the same no matter their race, color or creed."
59. "But even with a formal agreement in place, the City has ignored and utterly failed to abide by such fundamental principles that govern our society."
60. "I currently plan to bring claims on behalf of Lamar for, without limitation: Breach of Contract as it relates to the Settlement Agreement, and for violations of the West Virginia Human Rights Act based on the race discrimination that has occurred and continued since the Settlement Agreement was entered into by the parties."
61. "If the City of Morgantown desires to discuss potential resolution of this matter without the necessity of official litigation, please contact me [.]"

(END OF NOVEMBER 22, 2024 CORRESPONDENCE)

62. A representative of Defendant subsequently sent correspondence to Lamar's undersigned counsel indicating that the facts described in the November 22, 2024 correspondence were being investigated.
63. However, neither Lamar nor his undersigned counsel were contacted or interviewed by any representative of Defendant regarding the facts detailed in this most recent correspondence.
64. Ultimately, this same representative indicated Defendant did not wish to engage in discussions regarding potential settlement.

ADDITIONAL FACTS

65. On December 6, 2024, Lamar's undersigned counsel filed a request with Defendant for documents pursuant to the West Virginia Freedom of Information Act, W. Va. Code § 29B-1-1 *et seq.* (sometimes, "WVFOIA request").
66. Defendant did not respond to the WVFOIA request until February 27, 2025, and the response did not comply with multiple legal requirements under the WVFOIA.
67. Accordingly, Lamar's undersigned counsel subsequently filed a *Complaint for Declaratory and Injunctive Relief Pursuant to the West Virginia Freedom of Information Act* in the Circuit Court of Monongalia County, WV, which was issued Civil Action No. CC-31-2025-C-275 and assigned to the Honorable Judge Michael D. Simms. That case remains pending.
68. Although just as in the current matter, Defendant failed to comply with its legal obligations in responding to the WVFOIA request, it did partially respond.
69. Notably, the Settlement Agreement entered into between the parties in 2020 also contained the following provision: "[R]elated to this current employment with [the City of] Morgantown, [Lamar] Johnson will receive and participate in performance reviews consistent with

Morgantown's Personnel Rules and procedures [.]” *See*, Section 5.5 of Defendant's Employment Manual: (“Performance Reviews. 5.5.1. Annual reviews. After the Initial Employment period, the City conducts annual performance reviews of all employees.”)

70. This provision was included in the 2020 Settlement Agreement because Lamar had not previously received employment performance reviews as required by Defendant's policies.

71. Accordingly, the WVFOIA request included the following: “REQUEST NO. 4: Please provide a copy of all employment performance reviews conducted with regard to Mr. Johnson by the City since September of 2020.”

72. Defendant's response to the WVFOIA request did not include any such performance reviews, nor did it cite to any recognized exemption under the WVFOIA that could possibly excuse its failure to disclose the requested performance reviews.

73. This provides another example of Defendant's breach of the 2020 Settlement Agreement – or to the contrary, if such performance reviews were conducted, another example of Defendant's violation of the WVFOIA statute in failing to disclose any such reviews.

74. However, the limited documents provided by Defendant in response to the WVFOIA request revealed email exchanges occurring between Lamar's supervisor, Paul Straight, and Defendant's Financial System Analyst, Courtney Latocha, on September 20 & 21, 2021.

75. In his email to Ms. Latocha, Mr. Straight stated as follows: “I need to get Lamar Johnson setup [sic] on new world. Ashley came out to shop today and trained Lamar on the PO [purchase orders] process, and receiving. Currently he is using Dave Beans [sic] to create POs. He will need Barracuda and a login for New World for his computer.”

76. This email is significant for myriad reasons.

77. First, it confirms that there was no attempt to train Lamar on the New World system until over a year after the 2020 Settlement Agreement was reached and entered into by the parties. This “training” came only after Lamar’s constant inquiries asking when Defendant planned to provide training pursuant to the 2020 Settlement Agreement.
78. Second, the “training” received by Lamar from “Ashley” reflects the sole training session he was provided that lasted approximately forty-five (45) minutes, as referenced above and in the November 22, 2024 correspondence.
79. Third, it recognizes that among Lamar’s employment tasks was use of the New World system, on which he was inadequately trained in violation of the 2020 Settlement Agreement.
80. Finally, as to this point, after eventually being provided access to the New World system and attempting to navigate it based on 45 minutes of training, Lamar’s superiors indicated to him that he was performing related tasks too slowly, and was no longer allowed to perform tasks related to purchase orders on this system. Moreover, as further reflected above, the New World icon and access to this system was removed from Lamar’s computer without any explanation from Defendant.
81. Shortly after the 2020 Settlement Agreement was entered into by the parties, Lamar was informed by Paul Straight and David Beane, in summary, that they had been previously ordered by their superiors to not train Lamar on the New World system. These two individuals further informed Lamar this would now “change”, and that he would be sufficiently trained.
82. However, this did not occur.
83. Moreover, on information and belief and subsequent to the 2020 Settlement Agreement, Defendant implemented additional and/or new systems that, in addition to the New World

inventory system, specifically related to Lamar's ability to perform his job duties and qualify for a promotion.

84. Such systems included, without limitation, the City Net system.

85. On information and belief, the New World system is utilized to track purchase orders, while City Net is utilized to keep track of the parts inventory.

86. However, Lamar was also not adequately trained on the City Net system, and was eventually denied access to this system.

87. Moreover, subsequent to execution of the 2020 Settlement Agreement, Lamar was informed by officials of the Defendant that his job categorization and description had changed.

88. This change did not represent an employment promotion or increase in wages/benefits.

89. Notably, Lamar was not provided with a job description related to the change in his employment categorization.

DEFENDANT'S POLICIES AND PROCEDURES

90. In the section titled "Welcome Statement" the Defendant indicates (in part) as follows: "This Employee Handbook is being provided to you to help you meet that goal and to help our organization meet its goals in serving our citizens. This handbook outlines the personnel policies and practices of the City. It should serve as a helpful reference while you work with us. Please also ask your supervisors, department directors, and human resources representatives for guidance in understanding and following these policies."

91. Based in part on the facts detailed herein, Defendant has failed to abide by its own personnel policies and practices, including without limitation, the following:

92. Section 3.1: "Equal Employment Opportunity. The City is an equal opportunity employer and complies with all applicable federal, state, and local fair employment practices laws. The City

strictly prohibits and does not tolerate discrimination in employment practices because of race, color . . . creed, or any other characteristic protected by law. This policy applies to all terms and conditions of employment, including, but not limited to . . . training [and] promotion [.]”

93. Section 3.3: “Anti-Harassment Policy. The City strictly prohibits and does not tolerate unlawful harassment because of race, creed, or any other characteristic protected by law. Responsibilities of employees to follow this Anti-Harassment Policy are specified in the Anti-Harassment Policy included with the City’s Administrative Policies.”

94. Section 3.4: “Anti-Retaliation Policy. The City strictly prohibits and does not tolerate unlawful retaliation against any applicant or employee by any employee. All forms of unlawful retaliation are prohibited, including any form of discipline, reprisal, intimidation, or other form of retaliation for participating in any activity protected by law. Examples of protected activities include: Lodging a good faith internal complaint (written or oral) with human resources or management specifically opposing unlawful discrimination or harassment [; and/or] filing a good faith complaint of unlawful discrimination or harassment with an administrative agency or in court; participating in the City's internal investigation into allegations of discrimination or harassment [.] The examples above are illustrative only, and not exhaustive. No form of retaliation for any protected activity will be tolerated.”

95. Section 5.2.4: “Promotion. The City provides promotional opportunities to qualified current employees when possible. Promotions may be made upon the recommendation of the Department Director with the approval of the City Manager without following an application process.”

96. Section 5.4: “Training. From time to time, the City offers training to its employees to enhance or acquire new skills for the performance of their jobs or future advancement. Training may

include seminars, institutes, in-house training, courses at educational institutions, or other offerings determined appropriate by the City. Department Directors or supervisors may require employees to participate in appropriate training from time to time. Employees may also request that they be allowed to participate in appropriate training.”

97. Section 4.1: “Job Descriptions. The Human Resources Director will maintain updated job descriptions for each position identified on the current adopted Pay Plan. Department Directors and supervisors will assist the Human Resources Director with any information needed to prepare and maintain the descriptions. The job descriptions will describe the duties and responsibilities, skill and educational requirements, and experience level associated with each position. Job descriptions must be current before a vacancy for a position will be filled.”

**COUNT I
BREACH OF CONTRACT**

98. Plaintiff incorporates the preceding paragraphs by reference.

99. In West Virginia, a breach of contract claim requires: (1) the existence of a valid, enforceable contract; (2) that the plaintiff has performed under the contract; (3) that the defendant has breached or violated its duties or obligations under the contract; and (4) that the plaintiff has been damaged as a result of the breach.

100. The 2020 Settlement Agreement is a valid contract between Lamar Johnson and the Defendant, which includes specific provisions for adequate training on the New World system and a requirement that Lamar receive performance reviews consistent with Defendant’s Personnel Rules and Procedures.

101. Lamar performed his contractual obligations by continuing his employment and refraining from instituting litigation, as agreed to with the Defendant pursuant to the 2020 Settlement Agreement.

102. However, Defendant breached the contract by failing to honor the obligations of the 2020 Settlement Agreement in the manner described above.

103. As a direct and/or proximate result, Lamar has suffered damages in form of (without limitation) lack of promotion and continued inability to perform employment duties effectively, resulting in economic losses.

**COUNT II
DISPARATE TREATMENT/RACE DISCRIMINATION
IN VIOLATION OF THE WEST VIRGINIA HUMAN RIGHTS ACT**

104. Plaintiff incorporates the preceding paragraphs by reference.

105. “This article shall be known and may be cited and referred to as ‘The West Virginia Human Rights Act.’” W. Va. Code § 16B-17-1 (“WVHRA”).

106. The WVHRA provides that it is unlawful for an employer to discriminate against an employee based on race.

107. Under the WVHRA, “discrimination” means treating individuals differently because of different individual traits.

108. The WVHRA provides that an employer is liable for discriminatory acts when it knew or reasonably should have known of the discriminatory acts and did nothing to correct them, or expressly or impliedly authorized or ratified them.

109. Claims for employment discrimination based on race brought under the WVHRA are typically brought as a cause of action for disparate treatment.

110. To establish a prima facie case for discrimination/disparate treatment based on race under the WVHRA, a plaintiff must show: (1) membership in a protected class; (2) adverse employment action; (3) qualification for the position; and (4) circumstances giving rise to an inference of discrimination.

111. Lamar is African-American, and a member of a protected class under the WVHRA.
112. Lamar has suffered adverse actions related to his employment with the Defendant, including without limitation, Defendant's failure to promote and adequately train him.
113. Lamar was qualified for promotions, but was denied despite his seniority and experience.
114. To the extent Lamar was otherwise not qualified for promotions, it was the direct result of Defendant's failure to provide him proper training, in violation of the 2020 Settlement Agreement, the WVHRA, and Defendant's own policies and procedures.
115. The facts of the current case, the pattern of promoting Caucasian colleagues, and the reported incidents of racial hostility provide an inference of discrimination on behalf of Defendant.
116. Accordingly, the Defendant has discriminated and continues to discriminate against Lamar in a disparate manner in violation of the WVHRA, and Defendant is liable for the damages he has suffered and continues to suffer as a result thereof.

**COUNT III: DISPARATE IMPACT BASED ON RACE
IN VIOLATION OF THE WVHRA**

117. Plaintiff incorporates the preceding paragraphs by reference.
118. Disparate impact claims under WVHRA involve employment practices that, while neutral on their face, disproportionately affect a protected class and result in an adverse impact on the protected group.
119. Although appearing to be neutral, based on the facts and allegations contained herein, the Defendant utilizes particular employment practices and/or policies that have caused a disparate impact on African-Americans – a protected class under the WVHRA of which Lamar is a member.

120. The Defendant's lack of promotions and training described above disproportionately affects African American employees, as evidenced by Lamar's experience and similar accounts from other employees.

121. These employment practices and/or policies of the Defendants have had a discriminatory effect on African-American employees such as Lamar, and have disproportionately affected he and others that are members of this protected class.

122. Accordingly, Defendant's failure to provide equal training and promotion opportunities results in a disparate impact on Lamar and other African American employees, and Defendant is liable to Lamar as a result.

COUNT IV: RETALIATION IN VIOLATION OF THE WVHRA

123. Plaintiff incorporates the preceding paragraphs by reference.

124. Retaliation under the WVHRA is unlawful where an employee can demonstrate: (1) engagement in protected activity; (2) adverse action by the employer; and (3) a causal link between the protected activity and the adverse action.

125. Lamar engaged in protected activities by reporting discrimination and participating in mediation.

126. Lamar then faced retaliation, including Defendant's failure to promote and adequately train him, after reporting Defendant's discriminatory practices based on race.

127. The timing and nature of the retaliation suggest a causal link to Lamar's complaints about race discrimination, and as a result, Defendant is liable to Lamar for retaliation prohibited under the WVHRA.

COUNT V: NEGLIGENT RETENTION

128. Plaintiff incorporates the preceding paragraphs by reference.

129. West Virginia law recognizes a claim for negligent retention when an employer retains an employee with known propensities for misconduct, resulting in harm.

130. As described *supra*, Defendant retained employees who expressly engaged in racial discrimination and related misconduct, and/or supervisory employees who knew of such unlawful conduct and failed to take necessary and appropriate remedial action.

131. Defendant's actions/inactions in this regard resulted in harm to Lamar, and Defendant is liable therefore.

COUNT VI: NEGLIGENT TRAINING

132. Plaintiff incorporates the preceding paragraphs by reference.

133. West Virginia law recognizes a claim for negligent training when failure to properly train results in harm.

134. Defendant is liable under this legal doctrine for (without limitation) two distinct reasons based on the facts cited *supra*:

135. First, Defendant failed to provide Lamar proper training, in violation of the 2020 Settlement Agreement, the WVHRA, and Defendant's own policies and procedures, which hindered his job performance and advancement opportunities.

136. Second, the discrimination Lamar suffered based on his race demonstrates that Defendant failed to properly train its employees regarding the prohibition of such discrimination found in the WVHRA, and to otherwise properly train its employees to abide by legal requirements.

137. As a direct and proximate result of Defendant's negligent failure to train, Lamar has suffered damages.

COUNT VII: PRIMA FACIE NEGLIGENCE

138. Plaintiff incorporates the preceding paragraphs by reference.

139. Defendant's failure to adhere to its own policies, as described *supra*, provides grounds for separate and additional claims.

140. Defendant's failure to abide by their own employment policy constitutes prima facie negligence, and Defendants are liable to Lamar for the damages he has suffered as a result thereof.

**COUNT VIII
FAILURE TO DEAL FAIRLY AND IN GOOD FAITH**

141. Plaintiff incorporates the paragraphs above by reference.

142. Inherent in every contract is a duty of each party to deal fairly and in good faith with the other party.

143. Defendant breached the duty to deal fairly and in good faith with Lamar in the manner explained herein, and is liable to him for the damages he has suffered as a result thereof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Lamar Johnson, prays for the following relief:

- a) That he be awarded back pay for the Defendant's unlawful and discriminatory conduct;
- b) That he be awarded front pay, including all additional benefits for which he would have been eligible but for the unlawful and discriminatory conduct of the Defendant complained of herein;
- c) That he be awarded compensatory damages in an amount to be determined by a jury for the physical, emotional and mental distress, humiliation, anxiety, embarrassment, depression, aggravation, annoyance and inconvenience that he has

directly and/or proximately suffered as a result of the Defendant's discriminatory and unlawful conduct;

- d) That he be awarded all out-of-pocket losses directly and/or proximately suffered as a result of the Defendant's discriminatory and unlawful conduct;
- e) That he be awarded prejudgment and post-judgment interest on any and all damages, as provided by applicable law;
- f) That he be awarded his costs of litigation, including but not limited to attorney fees, in accordance with the controlling statutory provisions of the WVHRA; and
- g) That he be awarded such other and further relief as this Court deems appropriate.

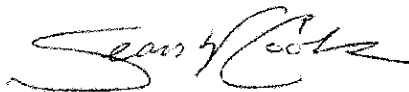
A JURY TRIAL IS DEMANDED

Respectfully submitted,

Plaintiff,

Lamar Johnson

By his Counsel,



Sean W. Cook (WV State Bar #10432)
309 Dolaron Lane
South Charleston, WV 25309
Phone: 681.313.9809
sean@seanwcooklaw.com

SUMMONS

Case Number:

CC-31-2025-C-311

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA

Lamar Johnson v. City of Morgantown, West Virginia

Service Type: Filer - Private Process Server

NOTICE TO: City of Morgantown, West Virginia, 389 Spruce Street, Morgantown, WV 25301

Sean Cook, 309 DOLARON LN, , S CHARLESTON, WV 25309

SERVICE:

8/6/2025 2:35:02 PM

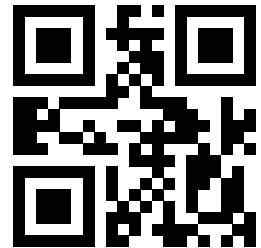
Date

/s/ Donna J. Hidock

Clerk

RETURN ON SERVICE:

- Return receipt of certified mail received in this office on _____
- I certify that I personally delivered a copy of the Summons and Complaint to _____
- I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling or usual place of abode to _____, someone who is eighteen (18) years of age or above and resides there.
- I certify that I personally delivered a copy of the Summons and Complaint to _____, an agent or attorney-in-fact authorized by appointment or statute to receive service of process for the individual.
- I have reviewed documentation authorizing the above-named person to accept service on behalf of the individual named on the summons.
- I have not reviewed documentation authorizing the above-named person to accept service on behalf of the individual named on the summons.
- Not Found in Bailiwick



Date

Server's Signature

CC-31-2025-C-311

Lamar Johnson v. City of Morgantown, West Virginia

SERVICE RETURN