

On February 2, 2022, Joshua Lipscomb, a Nashville Fire Department (“NFD”) employee, tweeted the following:

“I hate feeding into the illusion that America’s government and existence is legitimate so I’m no fan of voting.

But the majority of Nashville city council is white supremacists. I know it’s boring but millennials HAVE to start caring about local elections

These folk want us dead”

On February 22, 2022, the NFD informed Mr. Lipscomb that his statements violated several internal policies. Mr. Lipscomb attended a disciplinary hearing and, on March 18, 2022, was suspended without pay for 16 days. He was previously suspended for eight days in 2020 for harassing a local business owner on social media. Mr. Lipscomb filed suit via 42 U.S.C. § 1983 alleging that his 2022 discipline violated several constitutional rights.

A preliminary injunction was entered by the chancery court against the Metropolitan Government related to the Courtesy and Derogatory Notices sections of the NFD Operational and Procedural Guideline 1.24. The NFD is revising this policy as well as the NFD social media policy in light of evolving current jurisprudence governing public employees’ free speech rights.

Mr. Lipscomb claims damages for the violation of his First Amendment rights. If he were to prevail on this claim, a jury would award compensatory damages at its discretion. He also claims back pay for the 16-day suspension totaling \$4,053.12. In addition, under 42 U.S.C. § 1988, Mr. Lipscomb’s attorneys would be entitled to recover their fees if he were to prevail in his lawsuit. It is likely that those fees could total at least \$200,000 at this point in the case and would increase if litigation continues.

The Department of Law recommends settlement of Mr. Lipscomb’s claims for \$450,000.

Fiscal Note: This settlement would be paid from the Judgment and Losses Fund in the amount of \$425,000 and \$25,000 from the Nashville Fire Department operating budget. This settlement would be the 2nd payment from the Judgment and Losses Fund in FY23 for a cumulative total of \$429,339. The fund balance would be \$17,262,866 after this payment.