

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

LINDSEY CAROLINE THOMPSON,

PLAINTIFF,

v.

CASE NO.: 25-C-_____

**BENJAMIN“Ben” HATFIELD, former
prosecuting attorney of Raleigh County,
West Virginia, an individual; RALEIGH
COUNTY COMMISSION; a political subdivision,
LINDA EPLING, in her capacity as
a Raleigh County Commissioner;
DANIEL J. HALL, in his capacity as
a Raleigh County Commissioner;
GREGORY DUCKWORTH, in his capacity as
a Raleigh County Commissioner; and
JOHN/JANE DOE, employees of the Raleigh County
Commission and/or servants at the pleasure of
former prosecuting attorney Benjamin “Ben” Hatfield,**

DEFENDANTS.

COMPLAINT

Comes now Lindsey Caroline Thompson, by and through Counsel, Brandon L. Gray, Matthew Bradford, Timothy P. Lupardus, Zachary Whitten, and the law firms of Bradford & Gray PLLC, Lupardus Law Office, LC, and Whitten Law and hereby brings claims for violation of the West Virginia Human Rights Act on the basis of gender and sex , 42 U.S. Code Section 1983 and 1988, and for hostile work environment against the Defendants. Plaintiff hereby states as follows:

PARTIES

1. That the Plaintiff, Lindsey Caroline Thompson, at all times relevant herein, is a resident of Wyoming County, West Virginia and was employed at the Office of the Prosecuting Attorney of Raleigh County as an Assistant Prosecuting Attorney.

2. That the Defendant, Raleigh County Commission (hereafter the “Commission”), is a political subdivision of Raleigh County, West Virginia, but is not an executive political subdivision.
3. That the Defendant Benjamin “Ben” Hatfield (hereafter “Hatfield”), at all times relevant to this action was a resident of Raleigh County, West Virginia, and is the former Raleigh County Chief Prosecuting Attorney and, as such, was employed by the Defendant Raleigh County Commission and/or exercised supervision and authority over employees of the Raleigh County Commission and Raleigh County Prosecuting Attorney’s Office.
4. Daniel J. Hall, Linda Epling, and Gregory Duckworth, are the present Raleigh County Commissioners and served in such capacity in 2024 to present, and in the case of Commissioners Epling and Hall in 2023 at times relevant to this complaint, and David Tolliver is a former Raleigh County Commissioner who served in 2023 at times relevant to this complaint, were at all times hereto the elected officials charged with oversight of the Raleigh County Commission and the carrying out of all statutory, regulatory, supervisory, and other nondelegable duties of the Raleigh County Commission, including but not limited to supervision, payment, management, human resources, training, budgeting, oversight, programming, and services for county employees, including but not limited to personnel employed as professionals, para-professional and support staff in the office of the Raleigh County Prosecuting Attorney. Among the duties of the Commissioners named herein is an assurance that all county employees enjoy healthy, safe work places, free from sexual

harassment, cruel or unusual punishment, infringement on liberty, infringement on speech, and infringement on professional employment, licensing, and/or the ability to perform and seek chosen employment.

5. John/Jane Doe are individuals as yet unknown to the degree necessary to name and include herein as named defendants who are believed to have assisted the Raleigh County Commission, the Defendant Commissioners and/or the Defendant Benjamin “Ben” Hatfield in carrying out the actions and omissions which are complained of and which give rise to the allegations, losses, damages and claims made herein.

JURISDICTION AND VENUE

6. That the events giving rise to this action occurred within Raleigh County, West Virginia, and/or as a function or in connection with the Plaintiff’s employment as an assistant prosecuting attorney for Raleigh County, West Virginia such that jurisdiction and venue are proper in the Circuit Court of Raleigh County, West Virginia.
7. That actions against a political subdivision shall be brought in the county in which the political subdivision is located or in the county in which the cause of action arose.
West Virginia Code § 29-12A-13.
8. That prior notice of a civil action is not required prior to filing a Complaint against a political subdivision as County Commissions or the individuals employed by those entities are not considered to be within the executive branch of government. *Patton v. Cnty. of Berkeley*, 242 W. Va. 315, 321, 835 S.E.2d 559, 565 (2019).

STATEMENT OF FACTS

9. That Defendant Hatfield was elected as Chief Prosecuting Attorney of Raleigh County in 2020 and took office in 2021. He exercised that office and position at all times relevant hereto. Exercising powers afforded him under color of law, West Virginia Code § 7-7-7. He, at least in part, hired the Plaintiff herein as part of a scheme to employ young, attractive females, and he lured her to employment with a starting salary which far exceeded that paid to male attorneys in the office with greater experience. Both Defendant Hatfield and the Commission Defendants had a statutory obligation to prevent disparity in pay based on factors such sex appeal, gender and physical attractiveness because among other reasons, West Virginia Code § 7-7-7(e) provides that “[t]he county officials, in fixing the individual compensation of their assistants, deputies and employees **and the county commission** in fixing the total amount of money to be expended by the county, shall give due consideration to the duties, responsibilities and work required of the assistants, deputies and employees and their compensation shall be reasonable and proper.”(emphasis supplied.)
10. That Plaintiff, Lindsey Caroline Thompson, was employed as an Assistant Prosecuting Attorney under Defendant Hatfield, starting in January, 2023, and by April of 2023 began to experience instances of questionable and inappropriate comments concerning her physique, appearance and attractiveness, which comments were confusing at the time, awkward, and uncomfortable, but which did not grow in frequency and intensity until later in Defendant’s Hatfield’s term.

11. That Plaintiff Lindsay Thompson worked as an Assistant Prosecuting Attorney an average of forty (40) hours per week.
12. That there were no employee handbooks or written administrative guidance for employees with regards to how to address work related issues.
13. That there existed no Human Resource (“HR”) department or HR personnel to whom employees at the Raleigh County Prosecuting Attorney’s Office could report any work related issues.
14. That through the spring of 2023, the office became a hostile work environment with increasingly frequent outbursts, personal affronts, disparaging statements and physical displays of anger and frustration by Defendant Hatfield. The Commission Defendants (where such term is used herein, Commission Defendants refers to the Raleigh County Commission, and in 2023, Commissioners Hall, Epling and Former Commissioner Tolliver, and in 2024 to present, Commissioners Hall, Epling, and Duckworth, as well as John/Jane Doe agents and employees of the Commission from 2023 to the present) failed to provide employee handbooks, a human resources department or source, and any other employee safety precautions to prevent, discourage or eliminate work place torts, harassment, hostile work environment sexual harassment, and/or the deprivation of employees constitutionally guaranteed rights. In this regard, the Commission Defendants were deliberately indifferent to county employees who experienced violations of their civil rights to continued employment, to seek employment, and to be free of that which essentially constituted punishment, threat, and affront to health and welfare, physical safety and mental and

emotional safety.

15. That it was known throughout the office that Defendant Hatfield's nickname was Richard "Dick" Petty, which Plaintiff and her co-workers believed and understood to mean that Defendant Hatfield was boasting that he was arrogant, rude, and willing to retaliate for small slights against him. Defendant Hatfield self promoted and perpetuated this nickname. The nickname was well known not only in the office of the prosecuting attorney but also to the Commission Defendants.
16. That as early as 2023 and more frequently in 2024, Plaintiff and her co-workers worked in collective dread and fear of Defendant Hatfield's hostility and tried to actively avoid drawing attention from Defendant Hatfield because of his capacity for angry outbursts, personal affronts, and emotional and even physical abuse. On occasion, he literally placed members of the office into "time-out" by imprisoning them into a small conference room and requiring that they sit there as long as an entire work day due his anger.
17. That Plaintiff could hear Defendant Hatfield in his office screaming/yelling in anger/rage and that he would also throw large objects, believed by Plaintiff to be copy paper boxes, inside his office. These outbursts created anxiety and produced the physical, mental and emotional effects of such anxiety on members of the office including your Plaintiff herein, who experienced all the effects of this increasingly hostile work environment.
18. That the female employees in the office were held to a different standard than the male employees. Your plaintiff was, based on her gender, held to differing standards

than her male counterparts.

19. That the male employees had more freedom to take leave and vacation, but that female employees were held to a stricter standard when taking leave or vacation.
20. That Defendant Hatfield developed a practice, which extended into the events of the summer of 2024, of requiring your Plaintiff and other female attorneys and support staff in the office to make physical contact with him, which, upon information and belief, was sexually motivated and which made your Plaintiff, and others, feel harassed, uncomfortable, and disrespected. Male employees were not subjected to the same requirements. In particular, Defendant Hatfield increasingly began to extend his hand and to expect that your Plaintiff touch or take his hand in her own, and the conduct was oppressively presented.
21. Female employees were subjected to sexual comments, comments about their physical appearance, and embarrassing statements comparing them or their body parts to other people and culturally inappropriate stereotypes.
22. That the female employees, and not the male employees, were expected to act in a subservient manner to Defendant Hatfield.
23. That in March 2024, Defendant Hatfield brought all female assistants into the conference room and stated that no one could leave. They were essentially placed into a forced “time out” and made to sit there until Defendant Hatfield was satisfied.
24. On one occasion, Defendant Hatfield got it into his mind that many of the female assistants were not “getting along” with one another, and he demanded that they sit together quietly for a good portion of the day, in a small conference room as

punishment.

25. That Defendant Hatfield's forcing the female assistants to sit in the conference room together until they "got along" was humiliating and patronizing, and no male employees were subjected to any similar punishment.
26. That Defendant Hatfield sexually harassed Plaintiff, made lewd comments to your Plaintiff concerning her appearance, spoke of her appearance to and in front of others, and generally treated her as a piece of meat, all of which made her embarrassed, humiliated, and dehumanized and made her dread work that she would have otherwise enjoyed and caused her anxiety, physical suffering, and mental and emotional discomfort.
27. By way of example, Defendant Hatfield, employing an inappropriate cultural stereotype, told Plaintiff that he "hadn't seen an ass like that on a white girl," in reference to Plaintiff's own body. He even said this in front of Plaintiff's husband which made for an extra awkward and uncomfortable circumstance.
28. That Defendant Hatfield made such comments about Plaintiff directly to her, often in the presence of co-workers, and to co-workers at times when she was not present. Defendant Hatfield referred to Plaintiff as "a hamper" which she at first thought was praise for her legal work as an assistant prosecutor but which she came to learn was an offensive description that Defendant Hatfield used to describe her physique. She began to understand that Defendant Hatfield valued her for her body and not at all for her legal abilities. Defendant Hatfield wholly and completely objectified your Plaintiff as an attractive female for her looks.

29. When attorneys in the office won trials during Defendant Hatfield's reign as prosecutor, he placed the defendants' names and/or indicia of case recognition on a wall in the office which reflected the conviction. When Plaintiff and another female attorney won a trial, Hatfield refused to honor their victory on the wall, upon information and belief, as part of a scheme to employ control, humiliate and exercise dominion over the self-esteem of attractive females in the office.
30. That only male attorneys were allowed to put their successful cases on Defendant Hatfield's "Wall of Shame" as he called it, the wall reserved for trial wins, the phrase "shame" applying to the acts of convicted defendants.
31. That Defendant Hatfield kept a shotgun hanging above the mantle in his office which was evidence from a case, bearing an evidence tag. This made Plaintiff uncomfortable as to the ethics of that decision and made Plaintiff concerned that all the lawyers in the office may get in trouble due to Defendant Hatfield's loose treatment of such matters.
32. That Defendant Hatfield would show Plaintiff and her co-workers sexually inappropriate pictures that he found of criminal defendants online, unrelated to the criminal prosecutions of said defendants. He insisted that Plaintiff and some other females in the office view these photographs and listen to his comments as to the sexual nature of the photographs.
33. That Defendant Hatfield would warn Plaintiff and her female co-workers that when looking at pornographic images at work, that they should not use their work computers nor the office internet connection network. He apparently thought this

was funny, but it was not. Plaintiff was not, of course, surfing the internet looking at porn at work and, upon information and belief, none of her female co-workers were either. Defendant Hatfield made any excuse to make a sexually harassing comments.

34. That Defendant Hatfield's problematic conduct, behavior, and actions were noticeably exacerbated following allegations made against him in a domestic violence petition which matter became widely known in public news outlet reports. Despite the serious allegations and news reports, the commission defendants, exclusive of former Commissioner David Tolliver who was no longer a commissioner, failed to take any action to protect your Plaintiff or others in the office from harassment, mistreatment, hostile work environment, cruel and unusual punishment, and infringements on speech and liberty.
35. That Defendant Hatfield told Plaintiff's colleagues sordid and lurid details about his alleged sexual affair. Rather than simply denying the allegations which Plaintiff and others knew he was facing through news reports and word of mouth, Defendant Hatfield made lengthy, lurid and excessively descriptive accounts of sexual adventures he claimed were consensual. Your Plaintiff and other female employees were forced by Defendant Hatfield to endure his stories.
36. That Defendant Hatfield threatened Plaintiff and her colleagues about the importance of remaining loyal to him.
37. That Defendant Hatfield threatened Plaintiff and her colleagues that if they were disloyal to him that they would "pay for it." Plaintiff's fear of losing not only her job but of costing her husband his job served to infringe on her First Amendment right

to free speech, increased the hostility she experienced, and caused physical, mental and emotional distress. The commission defendants took no action to alleviate the increasingly hostile conditions.

38. That Defendant Hatfield stated that he was going to “wipe out the third floor” for not supporting him. The “third floor” was occupied by your Plaintiff, her spouse, two other assistant prosecutors and an assistant support staff employee.
39. Defendant Hatfield seemed paranoid about disloyalty, and his behavior became more and more driven thereby. Upon information and belief, Defendant Hatfield began spying on Plaintiff and colleagues by use of a camera system. Defendant Hatfield began standing at the entrance offices of the Plaintiff and colleagues and just staring at them without speaking.
40. That Chad Lilly informed Plaintiff that Defendant Hatfield had instructed him to tell her that he (Hatfield) would ruin Plaintiff’s career if she were disloyal to him.
41. That Defendant Hatfield would sit in his secretary’s office so that he could monitor the movements of the employees located on the third floor, forcing said employees to walk by him while being stared at in order to reach their office.
42. That Plaintiff worked on the third floor, and she was put in fear by Defendant’s threats.
43. That Defendant Hatfield would stare at Plaintiff for prolonged periods of time making Plaintiff feel uncomfortable.
44. The Commission defendants and Defendant Hatfield conspired to have the County Commission’s own attorney hired as an assistant prosecutor by Defendant Hatfield,

and while the attorney was well-liked by most people, the Plaintiff and others came to believe that said attorney did not have their best interests as a goal and made that known. Without action by the Commission defendants or Defendant Hatfield, that attorney resigned his position as an assistant prosecutor and, upon information and belief based upon the facts that are known to Plaintiff presently, said individual is not a named defendant herein.

45. However, in his dual role as an assistant prosecutor and counsel for the Commission Defendants, said attorney was well aware of the issues that Plaintiff and her co-workers were experiencing in relation to the behavior and actions of Defendant Hatfield which created a hostile and untenable working environment.
46. That on or about the end of August 2024, Defendant Hatfield went on voluntary leave amidst the allegations against him. Despite the presence of commission defendants' counsel in the office, the letter from the circuit court judges, the media reports of findings against Defendant Hatfield in a court of law as to matters of serious consequence, and direct knowledge of the physical, mental and emotional impact that Defendant Hatfield directly had on female staff, female attorneys, and one male colleague who had bravely reported malfeasance in office, the commission defendants took no steps to remove Defendant Hatfield from the office, did not file the necessary petition, and upon information and belief, did not conduct a meaningful inquiry into the issues she and others faced and endured. During Hatfield's voluntary leave, a Hatfield loyalist in the office assisted him in surreptitiously gaining entry to the office after preservation of evidence letters had been delivered to Hatfield, the

Raleigh County Prosecuting Attorney's Office and the Commission defendants.

47. That Bill Roop, counsel for the Commission, told Plaintiff and her co-workers that he promised Defendant Hatfield would not be back in the office. During Hatfield's voluntary leave, an employee loyal to Hatfield told Plaintiff and others that they had better "get in line" because there would be "hell to pay" when Hatfield returned to office. Presently, Plaintiff operates under the belief that said statements were communicated as a direct message from Defendant Hatfield or from Commission defendants.
48. Without warning, Defendant Hatfield returned to the office, fired a colleague, and resumed staring at your Plaintiff and others, and made the workplace nearly unendurable. Some colleagues were unable to remain in their positions. Both the incomes of Plaintiff's household were tied to the office of the prosecuting attorney, making Plaintiff's situation dire to say the least.
49. That on or about September 19, 2024, Defendant Hatfield fired attorney Chad Lilly who had been the individual who made the report of malfeasance to the circuit court judges and others, thereby making good on the threats regarding loyalty.
50. That Plaintiff and her co-workers were caused to experience chronic worry and fear that they too would be fired from their positions. Indeed word has been passed to Plaintiff and colleagues that pursuit of their legal claims for these human rights violations, sexual and gender based discrimination, sexual harassment, and constitutional rights violations will be punished by the defendants named herein, their proxy(ies) or appointee(s). Your Plaintiff can only hope that she endures no such

punishment for asserting her statutory and constitutional rights, as she took an oath to uphold that same constitution, and her self-respect demands of her that she do just that, and she certainly needs to recover the self-respect the defendants' actions eroded.

51. That the 2024 Commission defendants, despite knowing about the issues with Defendant Hatfield in the Prosecutor's office, never gave any guidance or set forth any expectations as to how the situation was being addressed and failed to take those steps necessary to remove Hatfield from the office. Upon information and belief, the 2024 commission defendants intended that Plaintiff's and colleagues' worries and concerns be silenced. Indeed, upon information and belief, Defendant Hatfield had impacted criminal investigations, charges and matters intentionally so as to produce results favorable certain commission defendants.
52. Plaintiff experienced daily stress, worry, fear, and anxiety that she would be retaliated against.
53. That Plaintiff now suffers from stress, anxiety, depression and other issues associated with and caused by the stress of these events. Her view of her position has forever changed.
54. That Plaintiff has developed a stomach ulcer and additional serious medical conditions due to the stress and anxiety that she suffered as a result of the collective defendants' conduct.

**COUNT I - SEXUAL HARASSMENT IN VIOLATION
OF THE HUMAN RIGHTS ACT**

55. That the Plaintiff re-alleges and incorporates by reference all forgoing paragraphs as if they were fully set forth specifically herein, below.
56. Former West Virginia Code § 5-11-2 provided a statement of policy as to the West Virginia Human Rights Act which was in place and effective until the 2023 legislative repeal thereof became effective February 8, 2024, and before it's repeal, West Virginia jurisprudence was well established that "[a] plaintiff may, as an alternative to filing a complaint with the Human Rights Commission, initiate an action in circuit court to enforce rights granted by the West Virginia Human Rights Act." *Syllabus point 1, Price v. Boone County Ambulance Authority*, 175 W.Va. 676, 337 S.E.2d 913 (1985). *Weimer v. Sanders*, 752 S.E.2d 398, 232 W.Va. 367 (2013). The Human Rights Act was re-enacted and codified at West Virginia Code 16B-17-1, et seq., and employs the same operational language as to discriminatory practices and exclusivity, which depends as cited herein above, on the election of a permissive filing. *See, Price (1985), Weimer (2013)*.
57. Accordingly, Plaintiff's election to proceed to civil action in circuit court is permitted.
58. That Defendant Hatfield's comments and actions, as set forth herein, were unwelcome.
59. That Defendant Hatfield's comments and actions, as set forth herein, were targeted against Plaintiff on the basis of her sex and gender, protected characteristics.

60. That the conduct was sufficiently severe or pervasive to alter the Plaintiff's conditions of employment and create a harassing and offensive work environment.
61. That the Commission defendants knew or should have known about Defendant Hatfield's sexually and gender-based harassing conduct, but failed to take remedial or ameliorative actions.
62. That the Commission defendants ratified and condoned the sexually harassing work environment created by Defendant Hatfield.
63. That Defendant Hatfield's sexual harassing conduct was imposed under color of law upon Plaintiff with malice and in bad faith and under color of law.
64. That Defendant Hatfield's sexually harassing conduct was done under color of law in a wonton or reckless manner, with deliberate indifference to its impact on Plaintiff
65. That as a direct and proximate result of Defendant Hatfield's sexually harassing conduct, Plaintiff suffered pain, embarrassment, humiliation, mental anguish, and loss of dignity.
66. That as a direct and proximate cause of Defendant Hatfield's harassment and the Commission's failure to address the issue, the terms, conditions, and environment of Plaintiff's employment were negatively impacted.

**COUNT II - GENDER DISCRIMINATION IN VIOLATION
OF THE HUMAN RIGHTS ACT**

67. That the Plaintiff re-alleges and incorporates by reference all forgoing paragraphs as if they were fully set forth specifically herein, below.

68. That the Plaintiff is a member of a protected class because of her gender.
69. That Defendant Hatfield's comments and actions, as set forth herein, were unwelcome and related to her gender.
70. That the conduct was sufficiently severe or pervasive to alter the Plaintiff's conditions of employment and create an abusive, hostile, and offensive work environment.
71. That the Commission defendants knew or should have known about Defendant Hatfield's gender based discriminatory acts, but failed to take remedial or ameliorative action.
72. That the Commission defendants ratified and condoned the gender based discriminatory work environment created by Defendant Hatfield.
73. That Defendant Hatfield's gender based discriminatory conduct was imposed under color of law upon Plaintiff with malice and in bad faith.
74. That Defendant Hatfield's gender based discriminatory conduct was done under color of law in a wonton or reckless manner.
75. That as a direct and proximate result of Defendant Hatfield's gender based discriminatory conduct, the Plaintiff suffered pain, embarrassment, humiliation, mental anguish, and loss of dignity.
76. That as a direct and proximate cause of Defendant Hatfield's harassment and the Commission's failure to address the issue, the terms, conditions, and environment of Plaintiff's employment were negatively impacted.

COUNT III - HOSTILE WORK ENVIRONMENT

77. That the Plaintiff re-alleges and incorporates by reference all forgoing paragraphs as if they were fully set forth specifically herein, below.
78. That Defendant Hatfield's comments and actions, as set forth herein, were unwelcome.
79. That Defendant Hatfield's comments and actions, as set forth herein, were targeted against Plaintiff on the basis of her sex, a protected characteristic.
80. That the conduct was sufficiently severe or pervasive to alter the Plaintiff's conditions of employment and create an abusive, hostile, and offensive work environment.
81. That Plaintiff subjectively perceived her working conditions as hostile and abusive.
82. That Defendant Hatfield's offensive conduct created an objectively hostile and abusive work environment.
83. That Defendant Hatfield's offensive conduct was pervasive and repetitive.
84. That other female employees were the targets of Defendant Hatfield's offensive conduct, to which Plaintiff was witness.
85. That the Commission defendants knew or should have known about Defendant Hatfield creating a hostile work environment, but failed to take remedial or ameliorative action.
86. That the Commission defendants ratified and condoned the hostile, abusive, and offensive work environment created by Defendant Hatfield.
87. That Defendant Hatfield's harassing and threatening behavior were imposed upon Plaintiff with malice and in bad faith.

88. That Defendant Hatfield's harassing and threatening behavior was done under color of law in a wonton or reckless manner.
89. That as a direct and proximate result of Defendant Hatfield's harassment and threats, the Plaintiff, Lindsay Caroline Thompson, suffered pain, embarrassment, humiliation, mental anguish, and loss of dignity.
90. That as a direct and proximate cause of Defendant Hatfield's harassment and the Commission's failure to address the issue, the terms, conditions, and environment of Plaintiff's employment were negatively impacted.

COUNT IV - 42 U.S.C 1983, 1998

91. That the Plaintiff re-alleges and incorporates by reference all forgoing paragraphs as if they were fully set forth specifically herein, below.
92. Defendant Hatfield and the Commission Defendant each acted with deliberate indifference in the violation of certain of your Plaintiff's constitutionally guaranteed civil rights.
93. Defendant Hatfield is the former Prosecuting Attorney of Raleigh County, West Virginia, and both he and the Commission Defendants acted in all respects and regards toward the Plaintiff as an employee under color of law as the hiring and appointment of assistant prosecutors is an endeavor shared between these defendants pursuant to West Virginia Code § 7-7-7. Thus, the element of color of law is established.

94. The constitutional rights violated include Plaintiff's First Amendment right to free speech; her Fourteenth Amendment right to due process and freedom from punishment as she is employed, not convicted; accompanying Eighth Amendment right against cruel and unusual punishment. Her Fourteenth Amendment right to equal protection.
95. Under the Eighth Amendment, Plaintiff has a right to remain free in her employment of ongoing, abusive behavior (physical, verbal, or psychological). To prevail on this cause of action, Plaintiff must demonstrate that Defendant Hatfield and/or Commission defendants were "deliberately indifferent." The United State Supreme Court has clarified the deliberate indifference standard for Eighth Amendment claims, holding that a prison official violates the Eighth Amendment if they are deliberately indifferent to an inmate's serious risk of harm. *Farmer v. Brennan*, 511 U.S. 825 (1994) In workplace harassment cases, the same principle can apply where an employer or the person/commission in charge knowingly allows harmful behavior to continue in the workplace without intervention.
96. Whereas in the prison setting, the deliberate indifference standard requires proof of two elements, an objective and a more difficult subjective prong, as here, where Plaintiff is not legally in State custody, any deprivation which constitutes or equates to punishment is sufficient to satisfy the objective test, and where the analysis is, as here, application of the 8th through the 14th Amendment there is no subjective proof require.

97. Plaintiff was subjected, under color of law, at employment to conditions which constituted punishment and which created an ongoing risk of serious harm. Indeed, even now, your Plaintiff suffers the physical impacts of events which lead her to develop an ulcer.
98. Both Defendant Hatfield and Commission defendants were deliberately indifferent to securing and preserving Plaintiff's freedom of expression. The defendants both knew that your Plaintiff was warned to "get in line" or there would be "hell to pay" when Ben Hatfield returned to work. Defendant Hatfield directly warned Plaintiff and colleagues that they needed to remain loyal to him. Defendant Hatfield demonstrated the intent behind these threats when he fired the whistle blower, a move which chilled your Plaintiff and others from speaking out as to the deplorable, harmful and desperate conditions of employment. The commission defendants had an agent present during loyalty warnings. A commission defendant employee/agent directly committed such threats.
99. Plaintiff's Fourteenth Amendment right to seek and maintain employment was subjected to serious risk of permanent and substantial harm through the deliberate indifference of Defendant Hatfield, and/or the Commission Defendants, to said right. In particular, she and the rest of the attorneys in the Raleigh County prosecuting attorney's office were employed and directed by Defendant Hatfield who directed certain actions in certain cases, some of which, upon information and belief, were subject to improper considerations based on Defendant Hatfield's own sexual or otherwise deviant behaviors, thereby implicating the office and the assistant attorneys

therein in potentially unethical acts, omissions and decisions which could negatively impact licensing and/or professional reputation. Further, Plaintiff and colleagues were subjected to direct threats to their continued employment, which likewise posed serious risk of harm thereto.

100. Should Plaintiff substantially prevail on her Eighth, First or Fourteenth Amendment claims, then she invokes and is entitled to provisions of 42 U.S.A. 1988 which enables the Court to award attorney fees and costs to a Plaintiff substantially prevailing in civil rights litigation.

COUNT V - NEGLIGENCE

101. That the Plaintiff re-alleges and incorporates by reference all forgoing paragraphs as if they were fully set forth specifically herein, below.
102. That Defendant Hatfield, the Commission Defendants, their agents, and John/Jane Doe committed all the acts and omissions alleged throughout this Complaint in the course of their employment and duties for the Raleigh County Commission,
103. The Commission Defendants were negligent with regard to hiring, training, supervising, retention and protecting employees, which negligence proximately caused and/or contributed the harms to Plaintiff herein.
104. The Commission Defendants were negligent in their failure to provide your Plaintiff a human resources department or to train supervisors and staff in the recognition and prevention of sexual harassment and hostile work environments.
105. Defendant Hatfield's actions alleged herein constitute negligence *per se* and proximately caused and/or contributed to your Plaintiff's damages as described

herein.

COUNT VI - CONSPIRACY

106. That the Plaintiff re-alleges and incorporates by reference all forgoing paragraphs as if they were fully set forth specifically herein, below.
107. That Defendant Hatfield conspired together with certain or all of the commission defendants to commit each and every violation set forth herein above in courts I through IV, and that said conspiracy was, at the least, occasioned where the Commission Defendants knew and allowed the perpetuation sexual harassment, hostile work environment, and constitutional violations and deprivations.
108. That the commission defendants employed person making and/or communicating threats of reprisal to those amongst the office who would speak out or take a stand against Defendant Hatfield.

VII - PLEADING AS TO LIMITATION ON DAMAGES

109. Except where excess is permitted by law, each and every claim made herein is made for damages up to but not exceeding applicable insurance coverage.

WHEREFORE, Plaintiff prays that this Court grant Plaintiff's special damages; compensatory damages; nominal damages; statutory penalties; punitive damages; attorney fees and costs; and such other relief as this Court deems proper and necessary together with prejudgment and

post-judgement interest if the same be allowable pursuant to applicable law and not if the same be disallowed.

PLAINTIFF DEMANDS A TRIAL BY JURY.

LINDSEY CAROLINE THOMPSON

By Counsel

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