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IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
FOR THE COUNTY OF CLARK

JENNIFER JACKSON; KATHLEEN DE
STAEI; KELLIE WRAY; JAMIE PLEW; and
MATT KOZLOWSKI,

Plaintiffs,

v.

CLARK COUNTY WASHINGTON,
ANTHONY ("Tony") GOLIK, and SCOTT
JACKSON, individually,

Defendants.

No. **16-2-00314-5**

**COMPLAINT FOR UNLAWFUL
EMPLOYMENT PRACTICES**

COMES NOW, Plaintiffs, by and through their attorneys, the Law Offices of Gregory D. Ferguson, PC, Gregory D. Ferguson, and Northwest Legal Advocates, LLC, and Alan E. Harvey and James E. David for their complaint against defendants, and allege as follows:

NATURE OF THE CASE

The five plaintiffs in this action employed as legal secretaries with the Clark County Prosecutor's Office seek legal redress and damages for unlawful discrimination and retaliation. The plaintiffs engaged in legally protected activity when they opposed discrimination, and refused to participate in a scheme of retaliation and implicate a co-worker during a workplace

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COMPLAINT - 1

1 harassment investigation. Each suffered retaliation forbidden by Washington's Law Against
2 Discrimination (WLAD, RCW 49.60 et seq) and were wrongfully terminated for engaging in
3 concerted union activity for their mutual aid and protection in violation of statute and Washington
4 public policy. This case addresses a systemic pattern and history of discrimination and reprisal
5 by the County Prosecutor's office against employees who exercise their rights to be free from
6 discrimination in the workplace.

7 **I. PARTIES**

8 1.1 Plaintiff JENNIFER JACKSON is an individual formerly employed with the Clark
9 County Prosecuting Attorney's Office as a legal secretary for over twenty-two (22) years. Ms.
10 Jackson performed well over the entire tenure of her employment, and in April of 2015 was
11 publicly honored in the County's "STARS" program in recognition of her commitment to service
12 and for being a "positive representative of Clark County". Prior to engaging in the legally
13 protected activity referenced below, Ms. JACKSON had never been the subject of disciplinary
14 action and had received above average performance reviews. Ms. JACKSON was at all
15 material times hereto a resident of Clark County, Washington.

16 1.2 Plaintiff KATHLEEN DE STAEL is an individual formerly employed with the Clark
17 County Prosecuting Attorney's Office as a legal secretary for over fifteen (15) years, and who
18 has also been the recipient of County awards for her service and exemplary performance. Prior
19 to engaging in the legally protected activity referenced below, Ms. DE STAEL had never been
20 the subject of disciplinary action and had received above average performance reviews. Ms.
21 DE STAEL was at all material times hereto a resident of Clark County, Washington.

22 1.3 Plaintiff KELLIE WRAY is an individual formerly employed with the Clark County
23 Prosecuting Attorney's Office as a legal secretary for over fifteen (15) years, and who has also
24 been the recipient of County awards for her service and performance. Prior to engaging in the
25 legally protected activity referenced below, Ms. WRAY had regularly received acceptable

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1 performance reviews. Ms. WRAY was at all material times hereto a resident of Clark County,
2 Washington.

3 1.4 Plaintiff JAMIE PLEW is an individual formerly employed with the Clark County
4 Prosecuting Attorney's Office as a legal secretary for over eight (8) years and who has been the
5 recipient of County awards for her service and performance. Prior to engaging in the legally
6 protected activity referenced below, Ms. PLEW had never been the subject of disciplinary action
7 and had received above average performance reviews. Ms. PLEW at all material times hereto
8 resided in Clark County, Washington.

9 1.5 Plaintiff MATT KOZLOWSKI is an individual formerly employed with the Clark
10 County Prosecuting Attorney's Office as a legal secretary for over twelve (12) years. Prior to
11 engaging in the legally protected activity referenced below, Mr. KOZLOWSKI had never been
12 the subject of disciplinary action and had received satisfactory or above average performance
13 reviews. Mr. KOZLOWSKI is an individual who at all material times hereto resided in Clark
14 County, Washington.

15 1.6 Defendant CLARK COUNTY WASHINGTON (hereinafter "COUNTY") is a
16 Washington public corporation as defined in RCW 4.08.

17 1.7 Defendant ANTHONY GOLIK ("GOLIK") is the COUNTY'S Prosecutor, and has
18 direct control over the terms and conditions of employment for employees at the Clark County
19 Prosecutor's Office, and who at all material times hereto is a resident of the State of
20 Washington, and acting on behalf of COUNTY, is charged with carrying out employment policies
21 and personnel management decisions affecting the terms and conditions of Plaintiff's
22 employment.

23 1.8 Defendant SCOTT JACKSON is the chief civil deputy prosecuting attorney, and
24 has direct control—and does exercise such administrative non prosecutorial control—over the
25 terms and conditions of employment for employees at the Clark County Prosecutor's Office, and

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1 who at all material times hereto is a resident of the State of Washington, and acting on behalf of
2 COUNTY, is charged with carrying out employment policies and personnel management
3 decisions affecting the terms and conditions of Plaintiff's employment.

4 **II. JURISDICTION AND VENUE**

5 2.1 Plaintiffs were employed through the COUNTY in Clark County, worked at a
6 physical location in Clark County, Washington, reside in Clark County, and have asserted only
7 state law claims. All of the actions complained of affecting their employment and giving rise to
8 this litigation occurred in Clark County, Washington. Subject matter jurisdiction, personal
9 jurisdiction and venue are all properly before this Court.

10 **III. FACTS**

11 3.1 Former County legal secretary, plaintiff Matt Kozlowski, having demonstrated a
12 record of effective union advocacy, including winning his own unfair labor practice, began
13 advocating for a co-worker as her union shop steward and as a concerned County employee.
14 Kozlowski began opposing what he believed to be unlawful discrimination.

15 3.2 Kozlowski utilized Washington's Public Records Act ("PRA") as a means to
16 investigate and oppose the discrimination and retaliation against his co-worker.

17 3.3 Kozlowski's actions of opposing discrimination and engaging in pro-union activity
18 afforded him protection from unlawful discrimination and retaliation.

19 3.4 Defendants, through its officials and administrators, began retaliating and
20 discriminating against Kozlowski, and applied performance, email use and attendance
21 standards differently and more stringently toward him than other employees who had not
22 engaged in union activity, and who had not opposed unlawful discrimination.

23 3.5 Kozlowski continued using the state public records act to obtain information
24 showing that workplace policies—including those relating to email use and attendance—were

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1 being applied selectively and used as tools to target employees who had engaged in protected
2 activity, such as lodging civil rights complaints or union grievances.

3 3.6 Defendants participated in a pattern of harassment and retaliation toward plaintiff
4 Kozlowski that was witnessed by plaintiffs Jackson, De Stael, Wray and Plew.

5 3.7 Plaintiffs Jackson, De Stael, Wray and Plew were identified as witnesses in a
6 written notice of tort claim Kozlowski served upon the County in November of 2013 signifying his
7 intent to sue for discrimination and retaliation.

8 3.8 Upon information and belief, in early 2015, within days of Kozlowski filing a
9 whistleblower complaint with the County Auditor's Office, Defendant Golik instructed Defendant
10 Scott Jackson and others to begin a covert review of all of Kozlowski's work emails going back
11 several months.

12 3.9 It was during the targeted review of emails that prosecutors located a joking
13 exchange of emails between Kozlowski and his four female co-workers wherein Kozlowski had
14 quipped about bringing his union representatives "Smith and Wesson" to a disciplinary meeting
15 (*Loudermill* hearing) scheduled for the next day, after being asked in an email what "ammo" he
16 had to defend himself. One co-worker responded with "LOL" (laughing out loud).

17 3.10 Over a month later, plaintiffs Jackson, De Stael, Wray and Plew were called into
18 a series of impromptu meetings, one-at-a-time, first with a county sheriff's deputy who was a
19 personal friend of prosecutor Golik, and then with county prosecutor, defendant Scott Jackson.

20 3.11 During the meetings each was pressured into stating for the record that
21 Kozlowski's brief email exchange had caused them to fear for their personnel safety. Further,
22 they were pressured to say that they understood the emails to mean that Kozlowski intended to
23 actually shoot his supervising attorney the morning following the exchange.

24 3.12 They were cautioned that speaking to anyone about the matter and failing to
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1 cooperate would subject them to criminal charges, and each was grilled about whether they had
2 sought, or intended to seek, union advice or assistance from legal counsel. Further, they were
3 told that their failure to immediately report the emails to authorities could subject them
4 termination from employment and that their employment status was uncertain.

5 3.13 Rather than give information damaging to Kozlowski thereby removing the threat
6 of punishment and criminal fallout, they opposed the unlawful conduct, stood their ground and
7 refused to give false testimony while stridently maintaining that the email exchange was
8 harmless and obviously made in jest, and that nothing that Kozlowski had ever done raised any
9 concerns or fear for their safety or that of others. Each broke silence and sought union
10 assistance and advice of legal counsel.

11 3.14 Plaintiffs chose to act in concert for their mutual aid and protection, and in
12 opposition to discrimination and unlawful anti-union animus by defendants, and as a
13 consequence, were placed on administrative leave. Defendants then began an exhaustive
14 review of the women's emails, searching for any policy violations that would justify their
15 terminations.

16 3.15 Plaintiffs each filed union grievances challenging the unwarranted discipline.

17 3.16 While defendants secretly poured over the women's work emails while they were
18 on leave, Golik instructed defendant Scott Jackson and the same County deputy who had
19 interrogated Jackson, De Stael, Wray and Plew to arrest Kozlowski for felony harassment
20 without first obtaining a warrant and without any judicial oversight, commonly known as a "hot-
21 pop" arrest. Plaintiff Kozlowski was forcibly apprehended in his driveway while neighbors
22 looked on, and hauled away in handcuffs to the Clark County jail.

23 3.17 The State Attorney General's Office (AG) eventually intervened on the criminal
24 matter because of the county prosecutor's pronounced conflict of interest. The AG found no
25

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1 legal basis for criminal charges against Kozlowski. All charges were dropped and he was
2 exonerated on April 28, 2015.

3 3.18 Defendant Golik terminated Kozlowski's employment the day after he was
4 exonerated and the charges dismissed by the AG, still maintaining that Kozlowski had in fact
5 "threatened to shoot" his supervisor.

6 3.19 Jennifer Jackson, Kathleen De Stael, Kelly Wray, and Jamie Plew were
7 terminated after approximately three months of administrative leave while their union grievances
8 were pending, on the basis of "excessive personal use of county email" during work time.

9 3.20 Plaintiffs were terminated from employment in retaliation for engaging in legally
10 protected activity, including opposing discrimination, anti-union animus and retaliation, and
11 because they notified defendants of their intent to pursue legal claims.

12 3.21 All claim notification prerequisites of RCW Chapter 4.96 have been met by all
13 plaintiffs.

14 **IV. FIRST CAUSE OF ACTION:**
15 **DISCRIMINATION - RCW 49.60**

16 4.1 Plaintiff re-alleges paragraphs 1.1 through 3.21 as if set forth herein.

17 4.2 The aforementioned conduct of defendants violated RCW 49.60 et. seq. in that
18 plaintiffs suffered discrimination and retaliation for opposing discrimination.

19 4.3 Defendants violated RCW 49.60.220 in that they aided, abetted, and incited the
20 furtherance of the unfair employment practices.

21 4.4 As a direct and proximate result of the discriminatory conduct of defendants,
22 plaintiffs have suffered lost wages, past and future, and emotional distress and humiliation in
23 amounts to be proven at trial.

24 4.5 Plaintiffs are entitled to their attorneys' fees and costs incurred as a result of the
25 conduct of defendants.

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1 **V. SECOND CAUSE OF ACTION:**

2 **RETALIATION FOR PARTICIPATING IN UNION ACTIVITY- RCW 49.32**

3 5.1 Plaintiff re-alleges the aforementioned paragraphs 1.1 through 4.5 above.

4 5.2 Plaintiffs suffered retaliation as a consequence of their acting in concert for their
5 mutual aid and protection, in opposition to discrimination and unlawful anti-union animus by
6 defendants, and opposing defendants' anti-union conduct and retaliation against those
7 participating in union activity.

8 5.3 As a direct and proximate result of the discriminatory conduct of defendants,
9 plaintiffs have suffered lost wages, past and future, and emotional distress and humiliation in
10 amounts to be proven at trial.

11 5.4 Plaintiffs are entitled to their attorneys' fees and costs incurred as a result of the
12 conduct of defendants.

13 **VI. THIRD CAUSE OF ACTION:**

14 **WRONGFUL TERMINATION**

15 6.1 Plaintiff re-alleges the aforementioned paragraphs 1.1 through 5.4 above.

16 6.2 Plaintiffs suffered retaliation and were wrongfully discharged in violation of the
17 clear mandates of public policy.

18 6.3 As a direct and proximate result of the discriminatory conduct of defendants,
19 plaintiffs have suffered lost wages, past and future, and emotional distress and humiliation in
20 amounts to be proven at trial.

21 6.4 Plaintiffs are entitled to their attorneys' fees and costs incurred as a result of the
22 conduct of defendants.

23 **VII. THIRD CAUSE OF ACTION:**

24 **CIVIL CONSPIRACY**

25 7.1 Plaintiff re-alleges the aforementioned paragraphs 1.1 through 6.4.

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