

**IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN AND
FOR LEON COUNTY, FLORIDA**

2019 CA 001575

KAREN RIGGIEN,

Plaintiff,

v.

**KIMBERLY DANIELS, in her individual
and official capacities,**

Defendant.

**CASE NO.: 19-CA-
FLA BAR NO.: 0739685**

COMPLAINT

Plaintiff, KAREN RIGGIEN, hereby sues Defendant, KIMBERLY DANIELS, in her official and individual capacity and alleges:

NATURE OF THE ACTION

1. Plaintiff's claims are brought under 42 U.S.C. §1983, which authorizes actions to redress the deprivation, under color of state law, of rights, privileges, and immunities secured to Plaintiff by the Constitution and laws of the United States, under 42 U.S.C. §1988, which authorizes the award of costs and attorney's fees to prevailing plaintiffs in actions brought under 42 U.S.C. §1983.

2. This action involves claims which are, individually, in excess of Fifteen Thousand Dollars (\$15,000.00), exclusive of costs and interest.

THE PARTIES

3. At all times pertinent hereto, Plaintiff, KAREN RIGGIEN, has been a resident of the State of Florida and was employed by Defendant. Plaintiff was the victim of retaliation after she engaged in constitutionally protected speech.

4. At all times pertinent hereto, Defendant, KIMBERLY DANIELS, has been a member of the House of Representatives in Florida. At all times pertinent to this action, Defendant has been an “employer” as that term is used under the applicable laws identified above and/or exercised authority and control over her employment. Defendant was Plaintiff’s employer as it relates to these claims.

CONDITIONS PRECEDENT

5. Plaintiff has satisfied all conditions precedent to bringing this action, if any.

STATEMENT OF THE ULTIMATE FACTS

6. Plaintiff began her employment with the Florida House of Representatives with Defendant on September 5, 2017 and held the position of Legislative Aide at the time of her wrongful termination on February 13, 2018.

7. Despite her stellar work performance during her employment with Defendant, Plaintiff became the victim of retaliation shortly after she engaged in constitutionally protected speech.

8. In or around October 2017, Plaintiff began to notice Defendant’s mistreatment of Plaintiff by way of assigning tasks outside the course and scope of Plaintiff’s job description.

9. By way of example, Defendant would regularly assign Plaintiff to perform personal tasks such as working on Defendants’ home insurance or helping Defendant’s son gain admission to Florida State University. Plaintiff knew these duties were outside the course and scope of her job duties as a public employee, and as such, she voiced opposition to Defendants’ requests. However, each time Plaintiff voiced opposition, she was subject to retaliation.

10. Specifically, even when Plaintiff performed every request by Defendant, Defendant would contend that Plaintiff needed to do better. However, Defendant would not

specify any details regarding Plaintiff's improvements. Moreover, Defendant regularly told Plaintiff she wished she would resign as their relationship was not a good fit. Nevertheless, Plaintiff attempted to ignore the remarks and continue work as usual.

11. Moreover, Defendant regularly allowed Gary Johnson, a boyfriend of Defendant not employed with Defendant, to be present and/or lead meetings with Plaintiff and co-workers, including without limitation Hinton Battle III. By way of another example, Gary Johnson would regularly email Plaintiff from his personal email requesting personal tasks via Defendant. Defendant contended that Plaintiff must respond to Gary Johnson as she would a Supervisor by way of performing his requested tasks.

12. In early 2018, after Defendant continued to force Plaintiff to perform non-governmental personal tasks during the work day, Plaintiff reported Daniels actions that were costing money to the taxpayers of the state of Florida to Director of House Administration Steve Godwin. Specifically, Plaintiff reported all incidences of Defendant requiring Plaintiff to perform personal non-governmental tasks outside the course and scope of her job duties. Moreover, Plaintiff further reported Defendant's allowance of Gary Johnson to act as Supervisor and demand tasks, all while he was never employed by Defendant. Thereafter, Plaintiff faced further retaliation for engaging in constitutionally protected speech.

13. On February 9, 2018, Plaintiff called out of work sick for the day. However, at around 10:00 p.m., Defendant requested that Plaintiff come to work and drop off a computer key. Plaintiff contended she would drop it off; however, Plaintiff requested that they meet in the parking lot as she was not appropriately dressed to be seen at the office. Per Defendant's employee guidelines, employees may not enter Defendant's building unless dressed in clothes appropriate for session. As Plaintiff was out sick all day, she was not dressed in professional

clothing. Defendant initially agreed. However, when Plaintiff arrived, she was met by Gary Johnson in the parking lot.

14. Gary Johnson informed Plaintiff that, per Defendant's request, Plaintiff must bring the key to the top floor of Defendant's building. Plaintiff subsequently cited Defendant's employee guidelines requiring professional attire during session and as such, refused to bring the key into the building. Thereafter, Plaintiff gave Gary Johnson the key and went home.

15. Defendant immediately called Plaintiff and told her to take the following week off, without reason. Thereafter, Defendant contended that Plaintiff would need to start looking for a new job, as Defendant wished to end Plaintiff's employment.

16. Nevertheless, on February 12, 2018, Plaintiff arrived to work per usual, as Defendant never gave Plaintiff a reason for her intended termination. Defendant's boyfriend, Gary Johnson, requested a meeting with Plaintiff. In this meeting, Johnson contended that reason for Plaintiff's intended termination was Plaintiff's refusal to walk to the top of Defendant's building on February 9, 2018. Johnson thereafter told Plaintiff she would be terminated if she did not apologize to Defendant. However, as Plaintiff did nothing wrong and Johnson was not employed by Defendant, she refused to apologize.

17. On February 13, 2018, Plaintiff again arrived to work per usual. Defendant immediately called Plaintiff, stated "you continue to disobey me", and terminated Plaintiff effective immediately, approximately one (1) month after she engaged in constitutionally protected speech.

18. Plaintiff has been retaliated against for speaking out against unlawful conduct in violation of Defendant's policies that affect the public by forcing public employees to perform work outside the course and scope of their intended job duties. By making said report to her

supervisor, Plaintiff spoke as a citizen and outside the course and scope of her job duties. At all times, Defendant was acting as final policymaker.

19. Plaintiff has retained the undersigned to represent her interests in this cause and is obligated to pay a fee for these services. Defendant should be made to pay said fee under the laws referenced above.

COUNT I
FIRST AMENDMENT RETALIATION

20. Paragraphs 1 through 19 are incorporated herein by reference.

21. This count sets forth claims against Defendant for violations of Plaintiff's First Amendment rights, brought through 42 U.S.C. §1983. Plaintiff engaged in constitutionally protected speech by making public statements outside the course and scope of her employment duties, including without limitation statements that Defendant forced employees to perform personal tasks outside the course and scope of their work duties. The main thrusts of Plaintiff's statements were public in nature on matters of public concern, as outlined in part above.

22. After engaging in protected speech as related in part above, Plaintiff was the victim of retaliatory actions set forth in part above. Defendant infringed on Plaintiff's constitutionally protected interests in freedom of expression by way of terminating Plaintiff, as described in part above in retaliation for her protected speech/expression.

23. At the time that Plaintiff made the statements setting forth her concerns, she was engaged in protected First Amendment activities in that the matters about which she spoke were matters of public concern.

24. Defendant's conduct in terminating Plaintiff and/or participating in the decisions to terminate Plaintiff is the type of retaliatory conduct that would deter a person of ordinary sensibilities from exercising his or her First Amendment right to speak/express. The actions of

Defendant were taken in violation of Plaintiff's clearly established rights under the First Amendment to the United States Constitution to be free from retaliation motivated by the exercise of her First Amendment speech/expression rights. The actions and inactions of Defendant were taken under color of state law with the intent to harm to Plaintiff. These actions and inactions were malicious and willful.

25. Defendant is a person under the applicable law. Defendant violated the First Amendment to the United States Constitution by retaliating against Plaintiff because of her protected speech.

26. As a direct and proximate result of the actions of Defendant, Plaintiff was terminated. Plaintiff has suffered lost wages, benefits and other tangible damages. She has also sustained emotional pain and suffering damages, loss of the capacity for the enjoyment of life and other tangible and intangible damages. These losses have occurred in the past, are occurring at present and are certain to occur into the future. Plaintiff is entitled to punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant for the following:

- (a) that process issue and this Court take jurisdiction over this case;
- (b) that this Court grant equitable relief against Defendant under the applicable counts set forth above, mandating Defendant's obedience to the laws enumerated herein and providing other equitable relief to Plaintiff;
- (c) enter judgment against Defendant and for Plaintiff awarding all legally-available general and compensatory damages and economic loss to Plaintiff from Defendant for Defendant's violations of law enumerated herein;

- (d) enter judgment against Defendant and for Plaintiff permanently enjoining Defendant from future violations of law enumerated herein;
- (e) enter judgment against Defendant and for Plaintiff awarding Plaintiff attorney's fees and costs;
- (f) award Plaintiff interest where appropriate; and
- (g) grant such other further relief as being just and proper under the circumstances, including but not limited to reinstatement.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury on all issues herein that are so triable.

DATED this 1st day of July 2019.

Respectfully submitted,

/s/ Marie A. Mattox
Marie A. Mattox [FBN 0739685]
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