

NO.

JEFFERSON CIRCUIT COURT

DIVISION _____

MAHLON M. MORTON

PLAINTIFF

v.

VERIFIED COMPLAINT

(Filed Electronically)

LOUISVILLE METRO GOVERNMENT

DEFENDANT

Serve: Mayor Greg Fischer
527 West Jefferson Street
Louisville, KY 40202

*** **

The Plaintiff, Mahlon M. Morton, brings this civil Complaint against the Defendant, Louisville Metro Government, seeking damages for retaliation.

1. This action contains claims that arise under the laws of the Commonwealth of Kentucky, including KRS Chapter 61 et seq. and KRS Chapter 344 et seq.

2. The Defendant Louisville Metro Government is a political subdivision of the Commonwealth of Kentucky.

3. The Plaintiff resides in this county. Therefore, this Court has jurisdiction pursuant to KRS 61.103(2).

4. This Court has jurisdiction as Plaintiff affirmatively pleads that he seeks monetary damages aggregating more than the jurisdictional threshold of this Court.

5. For all relevant times herein, Plaintiff was employed by the Defendant in its Department of Parks and Recreation as the Parks Supervisor II.

6. Plaintiff was hired on or about September 14, 2021.

7. The entire time Plaintiff worked for Defendant, his direct supervisor was Jeffrey Abbott, the Parks Manager of the Parks Department.

8. Mr. Abbott's direct supervisor was Mesude Duyar, the Assistant Director of Operations of the Parks Department.

9. Ms. Duyar, and Mr. Abbott, Parks Manager, told Plaintiff his job was to supervise the northeast parks district and to bring and present his knowledge of the commercial landscape industry to the job.

10. Plaintiff quickly observed numerous safety issues with the facilities and equipment.

11. One particularly disturbing safety issue was poorly maintained mowers, which were missing safety mechanisms, and which were being operated in hazardous conditions, including but not limited to rain, hills and off-road.

12. Plaintiff raised his concerns directly with Ms. Duyar and Mr. Abbott several times, including over email, in person, over the phone, and even in a virtual disciplinary hearing regarding one of Plaintiff's subordinate employees.

13. Ms. Duyar repeatedly told Plaintiff safety is not something she wanted to talk about with him each and every time he would raise his concerns with her.

14. On one occasion, Mr. Abbott said directly to Plaintiff, "If we follow the [mowers] manufacturer's safety instructions, we will never get the work done."

15. Because of Ms. Duyar and Mr. Abbott's articulated hostility with Plaintiff's safety concerns, Plaintiff contacted Rubin Pulliam, the Human Resource Supervisor of the Parks Department.

16. Plaintiff showed Mr. Pulliam where in the Occupational and Safety Health Administration book (OSHA) and the Louisville Metro Safety Policy book his concerns were rooted.

17. Mr. Pulliam expressed that he would discuss these issues with management, including Ms. Duyar.

18. Mr. Pulliam did discuss Plaintiff's concerns with management.

19. Mr. Pulliam then brought Plaintiff's concerns to other members of Louisville Metro Government who work outside the Parks Department.

20. Contemporaneously with Plaintiff expressing his safety concerns, Plaintiff also expressed his concerns of racial discrimination.

21. Plaintiff noticed that Mr. Abbott disciplined Black people differently, and worse, than white counterparts.

22. In particular, Plaintiff was called to a disciplinary hearing in early November 2021 of Vincent Watkins, a Black male and direct subordinate employee of Plaintiff's.

23. Abbot made several baseless accusations and even seemed to concoct evidence supporting these baseless accusations against Watkins.

24. Prior to this disciplinary hearing, Watkins had complained of racial hostility from the Parks Department management.

25. At the hearing, Plaintiff stuck up for Watkins, questioning the evidence against him and calling in to question why Plaintiff, as Watkins' supervisor, role in the chain of command was bypassed, especially when he noticed the accusations and evidence against Watkins was so dubious.

26. Plaintiff told Mr. Pulliam about a racist comment Abbot made at a monthly branch meeting. Only Abbott, Duyar and one other Parks Department employee were present.

27. Mr. Pulliam conducted Watkins' November disciplinary hearing.

28. On November 19, 2021, Defendant fired Plaintiff. Ms. Duyar specifically cited Plaintiff being “argumentative” as the reason.

COUNT I
REPRISAL IN VIOLATION OF KRS §61

29. Plaintiff adopts and realleges paragraphs 1 through 28 of this Complaint as if set forth fully herein.

30. The Defendant’s retaliatory actions against Plaintiff, in which it terminated his employment in direct response to his good faith understanding of actual or suspected mismanagement and/or waste and/or abuse of authority, are in violation of the KRS 61.102 and KRS 61.103.

31. As a direct and proximate result of the Plaintiff’s wrongful termination, he has suffered mental anguish, embarrassment and humiliation, and lost wages and benefits. He is entitled to recover for the same from the Defendant.

32. Defendant’s retaliatory treatment of Plaintiff continues to cause, and will cause him, to suffer substantial lost wages, mental anguish and substantial damages for pecuniary losses, as well as humiliation and damages to his personal dignity.

33. That the conduct, actions and/or inactions of Defendant was so grossly reckless and/or so grossly negligent and/or wanton and/or intentional so as to entitle him to an award of punitive or exemplary damages in an amount far in excess of that amount required to establish the jurisdiction of this Court.

COUNT II
RETALIATION IN VIOLATION OF KRS §344

34. Plaintiff adopts and realleges paragraphs 1 through 33 of this Complaint as if set forth fully herein.

35. The Plaintiff brings this Count II alleging retaliation for refusing to participate in discrimination in violation of KRS §344 et seq.

36. The Defendant terminated Plaintiff in retaliation for his refusal to partake in the discrimination of Vincent Watkins and/or his voicing his objections to Defendant's racial discrimination of Watkins.

37. As a direct and proximate result of the Plaintiff's wrongful termination, Plaintiff has suffered mental anguish, embarrassment and humiliation, and lost wages and benefits. Plaintiff is entitled to recover for the same from the Defendant.

38. Defendant's retaliatory treatment of Plaintiff continues to cause, and will cause him, to suffer substantial lost wages, mental anguish and substantial damages for pecuniary losses, as well as humiliation and damages to his personal dignity.

39. That the conduct, actions and/or inactions of Defendant was so grossly reckless and/or so grossly negligent and/or wanton and/or intentional so as to entitle Plaintiff to an award of punitive or exemplary damages in an amount far in excess of that amount required to establish the jurisdiction of this Court.

WHEREFORE, the Plaintiff, Mahlon Morton, respectfully demands judgment against the Defendant on his claim as follows:

1. Actual and compensatory damages in a fair and reasonable amount to be determined by the evidence, including lost compensation and benefits;
2. Reimbursement for costs and attorney fees expended herein;
3. Injunctive relief, including reinstatement of his position without loss of seniority;
4. Punitive damages;
5. Trial by jury;

6. Any and all further relief to which he is entitled under KRS 61.990(4) or any other relief he may appear entitled.

MORGAN POTTINGER MCGARVEY

By: /s/ Thomas R. Coffey
Thomas R. Coffey (Bar #91951)
401 South Fourth Street, Suite 1200
Louisville, KY 40202
(502) 589-2780

Presiding Judge: HON. ANN BAILEY SMITH (630350)

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VERIFICATION

I, Mahlon Morton, do hereby state that the allegations contained in the above Verified Complaint are true and correct to the best of my knowledge and belief.

Mahlon Morton

MAHLON MORTON

COMMONWEALTH OF KENTUCKY)

) SS:

COUNTY OF JEFFERSON)

Sworn to and subscribed before me by MAHLON MORTON this January 7, 2022.

Michele Smith

NOTARY PUBLIC

My Commission Expires:



Presiding Judge: HON. ANN BAILEY SMITH (630350)

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