

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

MARSHA MOORE,)	
)	Case #
Plaintiff,)	
)	
v.)	
)	
CALUMET TOWNSHIP OF LAKE,)	
COUNTY,)	
and)	
KIMBERLY K. ROBINSON,)	
individually and in her official capacity,)	
as Calumet Township Trustee,)	
)	
Defendants.)	
_____)	

COMPLAINT
AND DEMAND FOR JURY TRIAL

Plaintiff Marsha Moore, by and through Elizabeth D. Tate and Eric O. Clark, her undersigned attorneys of record, submits this Complaint for relief and Demand for Jury Trial pursuant to Federal Rules of Civil Procedure (“FRCP”) Rules 3, 7(a)1, 8(a), and 38(a, b):

1. Plaintiff's Three Claims

Count One: 42 U.S.C. 1983 – Violation of Right to Non-Political Association under the First Amendment by termination of employment

Count Two: 42 U.S.C. 1983 – Retaliation for exercise of First Amendment right of free political speech by termination of employment

Count Three: 42 U.S.C. 1983 – Violation of Fourteenth Amendment right to procedural due process with respect to a property right (job)

2. The Parties, Jurisdiction and Venue

1. Plaintiff Marsha Moore is, and has been at all times material to this Complaint, an adult resident of Lake County, Indiana.

2. The Defendant Calumet Township of Lake County is, and has been at all times material to this Complaint, a local governmental entity operating under Indiana state law, established in 1883, providing emergency relief and welfare benefits to low income and eligible residents in its Township consisting of the City of Gary, the Town of Griffith, and the unincorporated Calumet Township.

3. Defendant Kimberly K. Robinson is, and has been at all times material to this Complaint:

(A) The elected chief executive officer (“Trustee”) of Defendant Calumet Township of Lake County taking office in January of 2015; and

(B) Acting as Trustee under the color and authority of state law.

(C) The policy maker for the Calumet Township

4. All events alleged herein occurred within Lake County in the State of Indiana.

5. This Court has personal jurisdiction for the three claims herein because all arise from federal law to-wit: 42 U.S.C. 1983, as provided by 28 U.S.C. 1331 and 28 U.S.C. 1343(a)(3,4).

6. This Court (The U.S. District Court for Northern District of Indiana, Hammond Division) is the proper venue for this action pursuant to 28 U.S.C. 1391(b)(1,2).

3. General Fact Allegations

7. In the November 4, 2014 election, Lake County voters elected Defendant Kimberly K. Robinson as the new Calumet Township Trustee in which she defeated the incumbent Trustee, Mary Elgin. Robinson took office in January, 2015.

8. Plaintiff Marsha Moore was employed by the Defendant Calumet Township of Lake County continuously from March, 1990 until she was fired by Defendant Robinson on December 29, 2016.

9. Moore was a competent and satisfactory employee at all times while employed by the Calumet Township and Robinson had no good cause to terminate her employment.

10. While employed by the Calumet Township, Moore held positions that were non-managerial and non-executive which did not call for a high level of skill or education, nor did she formulate policy for the Calumet Township. She carried out the policies of the Trustee in the operations of the office with minimal discretion. When terminated she had two clerical subordinates, and she did not report directly to the Trustee.

11. The Calumet Township had established a long-standing custom, policy and practice of not terminating employees without cause, for using

progressive discipline for its employees, and for providing for a due process appeal procedure for any terminations.

12. Moore had worked under Mary Elgin as the Calumet Township for many years and believed that she had performed very well as its Trustee. She exercised her First Amendment rights of free speech and association and publicly supported and campaigned for Elgin in the November, 2014 election cycle stating that she was well qualified and deserved to be re-elected but did so only as a citizen on her own time and not while on the job.

13. During the election campaign in 2014, Robinson had observed that Moore was supporting and campaigning for Elgin and was overheard commenting that, if she won the election, she would get rid of Moore and hire persons who were “loyal” to her.

14. On December 29, 2016, Robinson fired Moore from her Calumet Township job, giving as the reason that it was a “layoff”. However, there was no need for any “layoffs” by the Calumet Township and Robinson hired Sherrese Ward to replace Moore at a salary that was \$7,000 higher than Moore’s had been. Ward was less qualified for the position than Moore had been. Ward was an active campaigner and supporter of Robinson in the 2014 Trustee election, whereas Moore had supported Elgin.

15. The termination of Moore was part of a pattern and practice of Robinson throughout 2015 and 2016 in firing non-policy maker Calumet Township employees who had supported Elgin and hiring her own election supporters to replace them after she took office in January, 2015.

16. Trustee Robinson, acting for Calumet Township, and for her own political revenge motives, fired Moore in retaliation for her having spoken out in support of Elgin during the election campaign and because she wanted to impose a “patronage” or spoils system in her office to discriminate against

persons who had supported her opponent in the political campaign for Trustee.

17. Moore objected to her termination and told Robinson that she wanted a hearing and an appeal on her termination, but Robinson told her that since she was being “laid off” she had no right to any hearing or appeal of her termination.

18. As the direct and proximate result of the Defendants’ termination of Moore’s employment after almost twenty-seven years, Moore has suffered damages including, inter alia ,the loss of her job at Calumet Township and lost income, lost retirement and other employee benefits, a reduced standard of living, lost personal relationships with co-workers at Calumet Township, emotional distress, sadness, loss of self-esteem, worry about finding future employment after being fired by the Defendants, and damage to her future employment prospects.

19. Moore should be awarded punitive damages against Defendant Robinson because she either intentionally violated the federal constitutional rights of Moore under the First and Fourteenth Amendments or acted with reckless or callous indifference to such constitutional rights.

4. Demand for Jury Trial

Plaintiff Moore demands a trial by jury pursuant to the Seventh Amendment to the United States Constitution and FRCP Rule 38(a,b).

5. Relief Requested

Count One: 42 U.S.C. 1983 – Violation of Right to Non-Political Association under the First Amendment by termination of employment

1. Compensatory damages, including, inter alia, emotional distress damages, harm to reputation, and other general tort damages.

2. Punitive damages against Defendant Robinson
3. Injunctive relief to be determined by the Court
4. Reasonable attorney's fees and expert fees incurred herein, pursuant to 42 U.S.C. 1988 (b)(c), and FRCP Rule 54(d)2.
5. Taxable costs incurred herein, pursuant to FRCP Rule 54(d)1, and 28 U.S.C. 1920.

Count Two: 42 U.S.C. 1983 – Retaliation for exercise of First Amendment right of free political speech by termination of employment

1. Compensatory damages, including, inter alia, emotional distress damages, harm to reputation, and other general tort damages.
2. Punitive damages against Defendant Robinson
3. Injunctive relief to be determined by the Court
4. Reasonable attorney's fees and expert fees incurred herein, pursuant to 42 U.S.C. 1988 (b)(c), and FRCP Rule 54(d)2.
5. Taxable costs incurred herein, pursuant to FRCP Rule 54(d)1, and 28 U.S.C. 1920.

Count Three: 42 U.S.C. 1983 – Violation of Fourteenth Amendment right to procedural due process with respect to a property right (job)

1. Compensatory damages, including, inter alia, emotional distress damages, harm to reputation, and other general tort damages.
2. Punitive damages against Defendant Robinson

3. Injunctive relief to be determined by the Court

4. Reasonable attorney's fees and expert fees incurred herein, pursuant to 42 U.S.C. 1988 (b)(c), and FRCP Rule 54(d)2.

5. Taxable costs incurred herein, pursuant to FRCP Rule 54(d)1, and 28 U.S.C. 1920.

Respectfully submitted,

/s/ Elizabeth D. Tate

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