

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANTOINETTE HODGE,)	Civil Action No.
)	
Plaintiff,)	
)	
v.)	
)	
CITY OF UNIONTOWN,)	
a municipal corporation,)	
MARTIN GATTI, KIMBERLY)	
MARSHALL, and JOHN and/or)	Jury Trial Demanded.
JANE DOE(S),)	
)	
Defendants.)	Electronically Filed.

COMPLAINT IN A CIVIL ACTION

COMES NOW, the Plaintiff, ANTOINETTE HODGE, by and through her attorneys, LAW OFFICES OF JOEL SANSONE, JOEL S. SANSONE, ESQUIRE, MASSIMO A. TERZIGNI, ESQUIRE, and ELIZABETH A. TUTTLE, ESQUIRE, and hereby files this Complaint in a Civil Action as follows:

JURISDICTION AND VENUE

1. This is an action for the redress of grievances and in vindication of civil rights guaranteed to the Plaintiff under the Constitution of the United States and the laws enacted in furtherance thereof, including 42 U.S.C. § 1983.
2. This action is brought against the Defendants for violating Plaintiff's rights under the First and Fourteenth Amendments of the United States Constitution and 42 U.S.C. § 1983.
3. Jurisdiction is founded on 28 U.S.C. § 1331 and § 1343(3).
4. Venue is proper under 28 U.S.C. § 1391(b). All claims set forth herein arose in the Western District of Pennsylvania, and the Plaintiff resides in the Western District of Pennsylvania.

PARTIES

5. Plaintiff, Antoinette Hodge, is an adult individual who resides in Fayette County, Pennsylvania.

6. Defendant, City of Uniontown (“Uniontown”), is now, and was at all times relevant to this Complaint, a municipal corporation existing by laws of the Commonwealth of Pennsylvania, with administrative offices located at 20 North Gallatin Avenue, Uniontown, Pennsylvania, 15401.

7. Defendant, Martin Gatti (“Gatti”), is now, and was at all times relevant to this Complaint, a duly elected City of Uniontown Councilman, purporting to act within the full scope of his authority and office and under color of state law and pursuant to the statutes, ordinances, regulations and customs and usages of Defendant Uniontown. Defendant Gatti is the brother-in-law of Defendant Kimberly Marshall.

8. Defendant, Kimberly Marshall (“Marshall”), is now, and was at all times relevant to this Complaint, the duly appointed and acting City of Uniontown Clerk, purporting to act within the full scope of her authority and office and under color of state law and pursuant to the statutes, ordinances, regulations and customs and usages of Defendant Uniontown. Defendant Marshall is the sister-in-law of Defendant Gatti.

9. Defendant(s), John and/or Jane Doe(s), unknown in name and number, were at all times relevant to this Complaint engaged in the illegal acts described hereinafter below.

10. The actions of the individual Defendants, and each of them, described hereinbelow are part of an unlawful pattern and course of conduct intended to harm the Plaintiff. Each of the acts described below were committed with reckless disregard and/or deliberate indifference to the constitutional rights of the Plaintiff.

11. Each of the acts described hereinbelow was done by the individual Defendants under the color and pretense of the law. As a direct and proximate result thereof, the Defendants violated the Plaintiff's constitutional rights, as stated herein.

FACTUAL ALLEGATIONS

12. Plaintiff, Antoinette Hodge, is an African-American female.

13. On or about November 5, 2019, Plaintiff was duly elected to the position of City of Uniontown Treasurer.

14. Plaintiff believes, and therefore avers, that Defendant Gatti, a Caucasian male, and Defendant Marshall, a Caucasian female, entered into a conspiracy to prevent the Plaintiff from assuming the office to which she had been duly elected.

15. Plaintiff further believes, and therefore avers, that she was targeted by Defendants Gatti and Marshall on the basis of her race, African-American.

16. Shortly after Plaintiff's election, a representative of the Fayette County Election Bureau informed the Plaintiff that the necessary documentation regarding the certification of the results of Plaintiff's election would be provided directly to Defendant Uniontown.

17. Possession of this certificate, as referenced hereinbefore above, was a prerequisite to the Plaintiff assuming her duly elected office of Treasurer.

18. Plaintiff believes, and therefore avers, that the necessary documentation regarding the certification of the results of her election was timely provided to Defendant Marshall, in her capacity as Defendant Uniontown's duly appointed Clerk.

19. On or about November 25, 2019, a representative of Defendant Uniontown informed the Plaintiff that she was required to submit an application to be bonded, pursuant to The Third Class City Code. *See* 11 Pa. C.S. § 11402.

20. Shortly thereafter, Plaintiff contacted Defendant Uniontown's solicitor, Timothy Witt, Esquire ("Witt"), regarding the proper bonding procedure. At that time, Attorney Witt informed the Plaintiff that Defendant Uniontown usually completed bond applications on behalf of its elected officials through its clerk, Defendant Marshall.

21. Plaintiff completed the bond application, as requested, and returned it to Attorney Witt.

22. During this time, Plaintiff, Attorney Witt and the Chairman of the Fayette County Democratic Party, George Rattay ("Rattay") made repeated requests for the certification of Plaintiff's election to representatives of Defendant Uniontown.

23. On or about December 23, 2019, approximately forty-eight (48) days after Plaintiff's election to the office of Treasurer, Defendant Marshall provided the Plaintiff and Attorney Witt with the necessary documentation regarding the certification of the results of Plaintiff's election.

24. Plaintiff believes, and therefore avers, that the actions of Defendant Marshall, as described hereinbefore above, were taken in furtherance of her conspiracy with Defendant Gatti to prevent the Plaintiff from assuming the office to which she had been duly elected on the basis of her race, African-American.

25. On or about December 28, 2019, Plaintiff received notice from Mark Fike ("Fike") of Sprowls Insurance Group, that Defendant Uniontown's preferred bonding company, Penn National, was unable to provide her with the necessary bond, allegedly as the result of a problem with Plaintiff's credit report.

26. Plaintiff believes, and therefore avers, that Mr. Fike is related to Defendants Gatti and/or Marshall.

27. Mr. Fike informed the Plaintiff that the alleged problem was uncovered by LexisNexis National Credit File during Plaintiff's bond application process.

28. The stated reason for Plaintiff's denial is patently false and unworthy of belief. Plaintiff was bonded during her previous employment and is currently bonded in her position as a trustee for a non-profit organization.

29. In response to Mr. Fike's claim, Plaintiff contacted LexisNexis regarding the alleged problem. At that time, a representative of LexisNexis informed the Plaintiff that LexisNexis had not provided any person or entity with Plaintiff's credit report.

30. Thereafter, Plaintiff contacted Attorney Witt regarding the difficulty in acquiring the necessary bond, as described hereinbefore above. During their conversation, Plaintiff asked Attorney Witt if she was permitted to acquire the bond herself. Attorney Witt confirmed that Plaintiff's proposal was permissible, as long as the terms of the bond complied with The Third Class City Code.

31. On or about December 31, 2019, Plaintiff acquired the necessary and appropriate bond through BondExchange.

32. On that same date, Plaintiff was contacted by Defendant Uniontown's incoming mayor, William Gerke ("Gerke"). Mr. Gerke informed the Plaintiff that she was required to sit for a mandated exam before she could assume the office of Treasurer. Mr. Gerke also informed the Plaintiff that she was required to submit an Affidavit of Residency.

33. Plaintiff believes, and therefore avers, Defendant Marshall, in her capacity as Defendant Uniontown's duly appointed Clerk, was responsible for informing the Plaintiff of the mandated exam and Affidavit of Residency, as described hereinbefore above.

34. Defendant Marshall did not inform the Plaintiff of the mandated exam or the Affidavit of Residency.

35. Plaintiff believes, and therefore avers, that the actions of Defendant Marshall, as described hereinbefore above, were taken in furtherance of her conspiracy with Defendant Gatti to prevent the Plaintiff from assuming the office to which she had been duly elected on the basis of her race, African-American.

36. On or about January 1, 2020, Plaintiff sat for and passed the mandated exam.

37. Thereafter, Plaintiff provided all information and/or documentation necessary to her installation as Treasurer to Attorney Witt. At that time, Attorney Witt informed the Plaintiff that she would be sworn-in as Defendant Uniontown's Treasurer on Monday, January 6, 2020, at Defendant Uniontown's regularly scheduled council meeting.

38. On or about January 3, 2020, at approximately 5:00 p.m., Attorney Witt provided all information and/or documentation necessary to Plaintiff's installation as Treasurer to Defendant Marshall.

39. On or about January 3, 2020, Councilman Francis Palumbo ("Palumbo") told Mr. Gerke that Defendant Gatti had informed him that he had cancelled the Plaintiff's bond. Mr. Gerke then informed the Plaintiff of the same.

40. Plaintiff believes, and therefore avers, that the actions of Defendant Gatti, as described hereinbefore above, were taken in furtherance of his conspiracy with Defendant Marshall to prevent the Plaintiff from assuming the office to which she had been duly elected on the basis of her race, African-American.

41. On or about January 6, 2020, Plaintiff contacted a representative of BondExchange, Elle LNU ("Elle"). At that time, Plaintiff inquired if her bond had in fact been revoked. In response, Elle informed the Plaintiff that a BondExchange manager would contact her.

42. Elle then asked the Plaintiff if she was “black” or “white.” Plaintiff answered that her race was African-American. In response, Elle stated “that sums it up.”

43. Shortly thereafter, a BondExchange manager, Jackson LNU (“Jackson”) contacted the Plaintiff. With Jackson’s permission, Plaintiff joined Mr. Gerke, in his capacity as incoming mayor of Defendant Uniontown, to the call.

44. During that call, Jackson informed the Plaintiff and Mr. Gerke that Defendant Gatti had cancelled Plaintiff’s bond at approximately 6:00 p.m. on or about January 3, 2020, shortly after Attorney Witt submitted Plaintiff’s documentation, as described hereinbefore above. Defendant Gatti informed BondExchange that he had been “authorized” to cancel the Plaintiff’s bond by Defendant Uniontown and that he was doing so because of “incriminating evidence” allegedly uncovered by Plaintiff’s mandated background search.

45. Defendant Gatti knew, or should have known, that he was not authorized to cancel Plaintiff’s bond.

46. Furthermore, the stated reason for Defendant Gatti’s actions is patently false and unworthy of belief. Plaintiff’s mandated background check did not uncover any inappropriate and/or illegal behavior that would necessitate the revocation of her bond.

47. Jackson also informed the Plaintiff and Mr. Gerke that Defendant Gatti had referred to the Plaintiff as “colored.”

48. Plaintiff believes, and therefore avers, that the actions of Defendant Gatti, as described hereinbefore above, were taken in furtherance of his conspiracy with Defendant Marshall to prevent the Plaintiff from assuming the office to which she had been duly elected on the basis of her race, African-American.

49. As a direct result of the unlawful actions of Defendants Gatti and Marshall, as described hereinbefore above, Plaintiff was not sworn-in as Defendant Uniontown's Treasurer by a quorum of Defendant Uniontown's Council at its regularly scheduled council meeting on January 6, 2020.

50. At that time, other successful candidates were sworn-in by a quorum of Defendant Uniontown's Council. These individuals assumed the offices to which they were duly elected, which included: Mayor, Councilman and City Controller.

51. Each of these candidates, as described hereinbefore above, are Caucasian.

52. Plaintiff was confronted by Defendant Marshall after the council meeting. At that time, Defendant Marshall aggressively approached and verbally attacked the Plaintiff and stated, *inter alia*, "We'll get you."

53. Plaintiff believes, and therefore avers, that the actions of Defendant Marshall, as described hereinbefore above, were taken in furtherance of her conspiracy with Defendant Gatti to prevent the Plaintiff from assuming the office to which she had been duly elected on the basis of her race, African-American.

54. Plaintiff further believes, and therefore avers, that Defendants Gatti and Marshall intentionally treated her differently than other, similarly situated candidates, as described hereinbefore above, because of her race, African-American.

COUNT I:

PLAINTIFF v. ALL DEFENDANTS

VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS,
SPECIFICALLY, §1983 AND THE FIRST AMENDMENT
OF THE UNITED STATES CONSTITUTION

RETALIATION

55. Plaintiff incorporates by reference Paragraphs 1 through 54 as though fully set forth at length herein.

56. Plaintiff claims damages for the injuries set forth herein under 42 U.S.C. §1983 against Defendants Gatti and Marshall for violations of Plaintiff's constitutional rights under color of law.

57. At all times relevant hereto, pursuant to the First Amendment to the United States Constitution, Plaintiff had the right to be free from retaliation for engaging in protected political activity.

58. As described hereinbefore above, Plaintiff's right to be free from retaliation was violated when Defendants Gatti and Marshall prevented the Plaintiff from assuming the office to which she had been duly elected.

59. The actions of Defendants Gatti and Marshall deprived the Plaintiff of rights guaranteed to her by the First Amendment to the United States Constitution.

60. The actions of Defendants Gatti and Marshall were willful, wanton and/or done with a reckless disregard for the rights of Plaintiff, thereby subjecting Defendants Gatti and Marshall to punitive damages.

61. As a direct and proximate result of the acts mentioned hereinbefore above, perpetrated by Defendants Gatti and Marshall, Plaintiff suffered the following injuries and damages:

- a. violation of her constitutional rights under 42 U.S.C. § 1983 and the First Amendment;
- b. Plaintiff was prevented from assuming the office to which she had been duly elected; and
- c. economic damages related to any and all medical, legal, and/or other consequential costs; and
- d. such other damages as may become apparent through the discovery process.

WHEREFORE, Plaintiff demands compensatory general damages against the Defendants, and each of them, jointly and severally, in the amount proven at trial; compensatory special damages including, but not limited to, costs of suit; reasonable attorney's fees as permitted by law; pre- and post-judgment interest as permitted by law; punitive damages against Defendants Gatti and Marshall, and each of them; and such other relief, including injunctive and/or declaratory relief, as this Court may deem proper.

JURY TRIAL DEMANDED

COUNT II:

PLAINTIFF v. ALL DEFENDANTS

VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS,
SPECIFICALLY, 42 U.S.C. §1983 AND THE FOURTEENTH AMENDMENT
OF THE UNITED STATES CONSTITUTION

EQUAL PROTECTION – RACE DISCRIMINATION

62. Plaintiff incorporates by reference Paragraphs 1 through 61 as though fully set forth at length herein.
63. Plaintiff is a member of a protected class.

64. Defendants Gatti and Marshall, and each of them, prevented the Plaintiff from assuming the office to which she had been duly elected on the basis of her race, African-American, as described more fully hereinbefore above.

65. Caucasian candidates were sworn-in and assumed the offices to which they were duly elected.

66. The failure to install the Plaintiff as Treasurer, as described hereinbefore above, while permitting Caucasian candidates to be sworn-in, constituted different treatment of the Plaintiff from other candidates similarly situated to the Plaintiff because the Plaintiff is African-American.

67. There was, and is, no rational basis for the difference in treatment between the Plaintiff and the Caucasian candidates, described above.

68. The actions of Defendants Gatti and Marshall were willful, wanton and/or done with a reckless disregard for the rights of Plaintiff, thereby subjecting Defendants Gatti and Marshall to punitive damages.

69. As a direct and proximate result of the acts mentioned hereinbefore above, perpetrated by Defendants Gatti and Marshall, Plaintiff suffered the following injuries and damages:

- a. violation of her constitutional rights under 42 U.S.C. § 1983 and the Fourteenth Amendment;
- b. Plaintiff was prevented from assuming the office to which she had been duly elected;
- c. economic damages related to any and all medical, legal, and/or other consequential costs; and
- d. such other damages as may become apparent through the discovery process.

WHEREFORE, Plaintiff demands compensatory general damages against the Defendants, and each of them, jointly and severally, in the amount proven at trial; compensatory special damages including, but not limited to, costs of suit; reasonable attorney's fees as permitted by law; pre- and post-judgment interest as permitted by law; punitive damages against Defendants Gatti and Marshall, and each of them; and such other relief, including injunctive and/or declaratory relief, as this Court may deem proper.

JURY TRIAL DEMANDED

COUNT III:

PLAINTIFF v. ALL DEFENDANTS

VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS,
SPECIFICALLY, 42 U.S.C. §1983 AND THE FOURTEENTH AMENDMENT
OF THE UNITED STATES CONSTITUTION

SUBSTANTIVE DUE PROCESS

70. Plaintiff incorporates by reference Paragraphs 1 through 69 as though fully set forth a length herein.

71. The acts of Defendants Gatti and Marshall constitute a violation of the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

72. The Due Process Clause of the Fourteenth Amendment prohibits the government from depriving any person of life, liberty or property. This includes the prohibition of certain arbitrary and wrongful government acts regardless of the fairness to implement them.

73. Defendants Gatti and Marshall, and each of them, prevented the Plaintiff from assuming the office to which she had been duly elected on the basis of her race, African-American, as described more fully hereinbefore above.

74. Because of the Defendants' acts, Plaintiff was deprived of a protected liberty interest in

pursuing an occupation, to wit, the office of Treasurer.

75. The actions of the Defendants constitute an arbitrary and unconscionable abuse of government authority.

76. The actions of Defendants Gatti and Marshall were willful, wanton and/or done with a reckless disregard for the rights of Plaintiff, thereby subjecting Defendants Gatti and Marshall to punitive damages.

77. As a direct and proximate result of the acts mentioned hereinbefore above, perpetrated by Defendants Gatti and Marshall, Plaintiff suffered the following injuries and damages:

- a. violation of her constitutional rights under 42 U.S.C. § 1983 and the Fourteenth Amendment;
- b. Plaintiff was prevented from assuming the office to which she had been duly elected;
- c. economic damages related to any and all medical, legal, and/or other consequential costs; and
- d. such other damages as may become apparent through the discovery process.

WHEREFORE, Plaintiff demands compensatory general damages against the Defendants, and each of them, jointly and severally, in the amount proven at trial; compensatory special damages including, but not limited to, costs of suit; reasonable attorney's fees as permitted by law; pre- and post-judgment interest as permitted by law; punitive damages against the Defendants Gatti and Marshall, and each of them; and such other relief, including injunctive and/or declaratory relief, as this Court may deem proper.

JURY TRIAL DEMANDED

COUNT IV:

PLAINTIFF v. DEFENDANTS GATTI AND MARSHALL

VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS, SPECIFICALLY, 42 U.S.C.A § 1985(3) AND THE FIRST AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION

CONSPIRACY

78. Plaintiff incorporates by reference Paragraphs 1 through 77 as though fully set forth at length herein.
79. The aforementioned actions of Defendants Gatti and Marshall constituted a conspiracy to deny Plaintiff equal protection of the laws, her protected liberty interest in pursuing an occupation and her right to be free from retaliation for engaging in protected political activity, thereby violating 42 U.S.C. §1985(3).
80. Defendants Gatti and Marshall acted in concert with one another to fabricate information in order to unlawfully prosecute Plaintiff for an offense that she did not commit.
81. The conspiracy of Defendants Gatti and Marshall was motivated by a race-based, invidiously discriminatory animus, as described more fully hereinbefore above.
82. The actions of Defendants Gatti and Marshall were willful, wanton and/or done with a reckless disregard for the rights of Plaintiff, thereby subjecting Defendants Gatti and Marshall to punitive damages.
83. As a direct and proximate result of the acts mentioned hereinbefore above, perpetrated by Defendants Gatti and Marshall, Plaintiff suffered the following injuries and damages:
- a. violation of her constitutional rights under 42 U.S.C. § 1983, the First Amendment and the Fourteenth Amendment;
 - b. Plaintiff was prevented from assuming the office to which she had been duly elected;

- c. economic damages related to any and all medical, legal, and/or other consequential costs; and
- d. such other damages as may become apparent through the discovery process.

WHEREFORE, Plaintiff demands compensatory general damages against the Defendants Gatti and Marshall, and each of them, jointly and severally, in the amount proven at trial; compensatory special damages including, but not limited to, costs of suit; reasonable attorney's fees as permitted by law; pre- and post-judgment interest as permitted by law; punitive damages against the Defendants Gatti and Marshall, and each of them; and such other relief, including injunctive and/or declaratory relief, as this Court may deem proper.

COUNT V

PLAINTIFF v. DEFENDANT UNIONTOWN

VIOLATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS,
SPECIFICALLY, 42 U.S.C. §1983,
AND THE FIRST AND FOURTEENTH AMENDMENTS
OF THE UNITED STATES CONSTITUTION

MUNICIPAL LIABILITY

84. Plaintiff incorporates by reference Paragraphs 1 through 83 as though fully set forth at length herein.

85. Plaintiff claims damages for the injuries set forth herein under 42 U.S.C. §1983 against Defendant Uniontown for violations of Plaintiff's constitutional rights under color of law.

86. As described hereinbefore above, Plaintiff was not sworn-in as Defendant Uniontown's Treasurer by a quorum of Defendant Uniontown's Council at its regularly scheduled council meeting on January 6, 2020, as a direct result of the unlawful actions of Defendants Gatti and Marshall.

87. Defendant Uniontown, by and through its elected and appointed officials, acted in reckless disregard for Plaintiff's constitutional rights and deprived the Plaintiff of equal protection of the laws, her protected liberty interest in pursuing an occupation and her right to be free from retaliation for engaging in protected political activity,

88. By reason of the aforesaid conduct, the Plaintiff's civil rights as guaranteed by 42 U.S.C. §1983 and under the First and Fourteenth Amendments to the Constitution of the United States were violated by Defendant Uniontown.

89. As a direct and proximate result of the acts mentioned hereinbefore above, perpetrated by Defendant Uniontown, Plaintiff suffered the following injuries and damages:

- a. violation of her constitutional rights under 42 U.S.C. § 1983, the First Amendment and the Fourteenth Amendment;
- b. Plaintiff was prevented from assuming the office to which she had been duly elected;
- c. economic damages related to any and all medical, legal, and/or other consequential costs; and
- d. such other damages as may become apparent through the discovery process.

WHEREFORE, Plaintiff demands compensatory general damages against Defendant Uniontown in the amount proven at trial; compensatory special damages including, but not limited to, costs of suit; reasonable attorney's fees as permitted by law; pre- and post-judgment interest as permitted by law; and such other relief, including injunctive and/or declaratory relief, as this Court may deem proper.

JURY TRIAL DEMANDED

Respectfully submitted,

LAW OFFICES OF JOEL SANSONE

s/ Joel S. Sansone

Joel S. Sansone, Esquire

PA ID No. 41008

Massimo A. Terzigni, Esquire

PA ID No. 317165

Elizabeth A. Tuttle, Esquire

PA ID No. 322888

Counsel for Plaintiff

Law Offices of Joel Sansone

Two Gateway Center, Suite 1290

603 Stanwix Street

Pittsburgh, Pennsylvania 15222

412.281.9194

Dated: January 7, 2020