

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**BARI BLAKE WOOD**, *an individual*,

Plaintiff,

vs.

Case No. 20-cv-  
Hon.  
Mag.

**36<sup>TH</sup> DISTRICT COURT, JUDGE**  
**WILLIAM C. McCONICO**, *an employee*,  
*sued in his personal and official capacity*,  
**LAWANDA CROSBY**, *an employee*, *sued in*  
*her personal and official capacity, jointly and*  
*severally*,

Defendants.

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**DEBORAH GORDON LAW**

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

NOW COMES Plaintiff BARI BLAKE WOOD, by and through her counsel,

**Deborah Gordon Law**, and complains against Defendants as follows:

## **JURISDICTION AND PARTIES**

1. This is an action by Bari Blake Wood against the 36<sup>th</sup> District Court, Judge William C. McConico, and LaWanda Crosby for First Amendment Retaliation, violation of the Michigan Whistleblower statute, and termination in violation of Michigan Public Policy.

2. This Court has federal subject matter jurisdiction pursuant to 42 U.S.C. § 1983, 28 U.S.C. § 1331, and 28 USC § 1367.

3. Plaintiff Bari Blake Wood (“Plaintiff”) is a resident of Michigan and resides in the Eastern District of Michigan.

4. Defendant 36<sup>th</sup> District Court is organized under the laws of the State of Michigan, and is located in the Eastern District of Michigan.

5. Defendant Judge William C. McConico (hereafter “Defendant McConico”) is the Chief Judge of Defendant 36<sup>th</sup> District Court.

6. Upon information and belief, Defendant McConico is a resident of Michigan and resides in the Eastern District of Michigan.

7. Defendant Lawanda Crosby (hereafter “Defendant Crosby”) is the Interim Court Administrator, and upon information and belief, is a resident of Michigan and resides in the Eastern District of Michigan.

8. Plaintiff sues Defendants McConico and Crosby in both their individual and official capacities.

9. At all times material to this Complaint, Defendant McConico acted under color of law, meaning under color of the statutes, codes, ordinances, regulations, policies, customs and usages of the State of Michigan and/or 36<sup>th</sup> District Court.

10. The events giving rise to this matter occurred in the Eastern District of Michigan, and as a result venue lies in the Eastern District of Michigan pursuant to 28 U.S.C. § 1391.

**Plaintiff Assists in the 36<sup>th</sup> District Court's Restructuring**

11. Plaintiff has been an attorney since 2008. She has been licensed to practice law in Michigan since 2010.

12. In 2013 and 2014, Plaintiff served as Chief of Staff to the Honorable Michael J. Talbot, who was appointed as Special Judicial Administrator of the 36<sup>th</sup> District Court by the Supreme Court of Michigan.

13. Plaintiff assisted Judge Talbot in making fiscal, case processing, administrative, and judicial changes to the 36<sup>th</sup> District Court to address chronic management problems and a multi-million-dollar budget deficit.

14. Many changes that Plaintiff helped implement were unpopular with Defendants and their employees.

**Plaintiff Joins the Court as a Magistrate, and is Soon Nominated  
Chief Magistrate**

15. In January 2016, Plaintiff was appointed as a Magistrate Judge for the 36<sup>th</sup> District Court by then-Chief Judge Nancy M. Blount.

16. Plaintiff was appointed the Chief Magistrate on November 15, 2017.

17. In this position, Plaintiff was responsible for presiding over a docket of cases as a Magistrate Judge.

18. As Chief Magistrate, Plaintiff also provided oversight and guidance to the Court's other Magistrate Judges.

**As Chief Magistrate, Plaintiff Addressed Potential Legal and Civil Rights  
Violations**

19. Plaintiff's performance was at all times satisfactory or better.

20. Throughout her time as Chief Magistrate, Plaintiff continued to address potential legal and civil rights violations she observed were occurring in the adjudication of criminal cases by Court personnel.

21. For example, Plaintiff created written guidance and training materials for the Magistrate Judges on topics such as how to conduct legally proper misdemeanor and felony arraignment hearings, and small claims and informal hearings.

22. Prior to Plaintiff putting these measures in place, the only training Defendants provided for Magistrate Judges was verbal training from their fellow Magistrates upon their appointment.

23. Plaintiff also notified the Court of several other issues, particularly concerning areas where the Court's practices fell short of legal requirements.

24. In 2018, Plaintiff observed that Court personnel approved search warrants that seemed to lack crucial legal requirements.

25. During Plaintiff's own initial training, she was instructed to approve warrants presented by or on behalf of certain police officers.

26. This was a violation of the U.S. Const., Am. IV; MI Const. 1963, art. 1, § 11; MCL 780.651(1); MCL 780.653; and MCL 780.654, which set forth essential requirements for warrants such as probable cause and particularity.

27. In fall 2018, Plaintiff advised the Magistrate Judges of these issues. She also notified then-Chief Judge Blount. Plaintiff reported that she believed the Court's practices regarding warrants violated the above laws, and jeopardized individuals' civil rights.

28. Police officers and prosecutors who dealt regularly with the Court were extremely upset with the changes Plaintiff advocated, which resulted in a significantly higher volume of rejected arrest warrants.

29. Beginning in approximately 2013, the 36<sup>th</sup> District Court joined with other Michigan district courts to pool resources to provide arraignment hearings on weekends and holidays at a suburban facility. This was referred to as the “Weekend and Holiday Arraignment Program” or “WHAP.”

30. A large percentage of the arraignment hearings being conducted under the “WHAP” were on behalf of the 36<sup>th</sup> District Court.

31. During Plaintiff’s WHAP training in December 2018, she observed that the Court’s arraignment hearings were not being conducted in accordance with the U.S. and Michigan Constitutions and Michigan law, including MCR 6.104, MCR 6.106(F), and MCR 6.106(D).

32. In or around January 2019, Plaintiff notified then-Chief Judge Blount and the Court Administrator of these issues. Plaintiff reported that she believed the way felony arraignment hearings were being conducted violated the law and individuals’ civil rights.

33. Former Chief Judge Blount and the Court Administrator told Plaintiff this “was not the Court’s problem,” and instructed her not to raise these concerns any further.

**The ACLU of Michigan Files a Lawsuit against Plaintiff and Other 36<sup>th</sup>  
District Court Officials**

34. In or around March 2019, an acquaintance of Plaintiff told her that the ACLU of Michigan would soon initiate litigation against the 36<sup>th</sup> District Court.

35. Plaintiff's acquaintance indicated that the suit would concern unconstitutional felony arraignment hearings, and in particular the setting of bond.

36. Plaintiff immediately emailed the 36<sup>th</sup> District Court's in-house counsel and advised him of the potential legal violations she had observed with regard to felony arraignments. Plaintiff asked for a legal opinion regarding aspects of how the Court set bond.

37. Plaintiff also met with then-Chief Judge Blount and notified her of the potential for forthcoming litigation.

38. Plaintiff advised the Magistrate Judges of the potential litigation, her email to the Court's in-house counsel, and his response, so they could make educated determinations on whether and how to entertain bond arguments at arraignment hearings.

39. On April 14, 2019, a class of plaintiffs represented by the ACLU sued Chief Judge Blount, and other Magistrate Judges, including Plaintiff, in their official capacities in the U.S. District Court for the Eastern District of Michigan for violations of their civil rights stemming from felony arraignments. *Davontae Ross, et. al. v. Hon. Nancy M. Blount, et. al.*, 2:19-cv-11076 (hereinafter "the ACLU litigation").

40. Notably, the ACLU litigation concerns felony arraignments that took place after Plaintiff notified the Court of potential legal issues with how its officials were conducting felony arraignments.

**Defendants Target Plaintiff because her Refusal to Overlook Legal Violations Jeopardized their Legal Defense**

41. On May 29, 2019, Plaintiff met with the other Magistrate Judges, the Chief Judge, Chief Judge Pro Tem, the Court's in-house counsel, the Court Administrator, and outside counsel representing the Court officials named as defendants in the ACLU litigation.

42. During this meeting, Plaintiff was questioned at length about her conversation with her acquaintance regarding the potential for litigation.

43. Plaintiff explained that she advised the Court of the basis for the potential lawsuit before the events giving rise to it occurred, including issues with the conduct of felony arraignments.

44. On August 9, 2019, Plaintiff met with outside counsel representing the Court officials who are defendants in the ACLU lawsuit.

45. Plaintiff unequivocally told counsel that not only did she advise the Court of the legal basis for the potential lawsuit before the facts giving rise to it occurred, but she also advised the Court of similar legal issues with regard to warrants and felony arraignments on multiple occasions.



46. During this meeting, counsel expressed that Defendants were concerned that Plaintiff's knowledge of and attempts to redress the Court's potential legal violations would negatively impact their defense of the lawsuit filed against them.

47. On November 22, 2019, Defendant McConico was appointed as Chief Judge of the 36<sup>th</sup> District by the Michigan Supreme Court.

48. Shortly after Defendant McConico was appointed, he was briefed on the ACLU litigation, including Plaintiff's attempts to forewarn the Court about the legal issues it presented.

49. During these briefings, Defendant McConico also referenced Plaintiff's prior work with Judge Talbot during the 36<sup>th</sup> District Court's reorganization.

**Defendants Terminate Plaintiff in Retaliation for her Prior Attempts to Redress Legal Violations and to Protect their Position in the ACLU Litigation**

50. On December 26, 2019, the Court Administrator notified Plaintiff that Defendant McConico decided to remove Plaintiff from the Chief Magistrate position without any advance notice or explanation.

51. On or about January 1, 2020, Defendant Crosby officially assumed the position as the Interim Court Administrator. She was apprised of the ACLU litigation and the associated issues as set forth above before or upon assuming this position.

52. On January 9, 2020, Defendants terminated Plaintiff's employment effective immediately.

53. Plaintiff was never provided a reason for her termination.

54. Outside counsel notified Plaintiff that under the Federal Rules, her termination eliminated her as a defendant from the ACLU litigation.

55. Because the lawsuit named Plaintiff in her official capacity, Defendants were eager to neutralize the binding effect of her testimony and other evidence. As a defendant named in her official capacity, Plaintiff would essentially speak for the Court.

56. Defendants terminated Plaintiff because she had a history of reporting and seeking to remedy legal violations by the Court, and because these actions threatened their defense against the ACLU litigation.

**COUNT I**  
***42 USC § 1983 – First Amendment Retaliation***

57. Plaintiff repeats and realleges all paragraphs as if fully set forth herein.

58. The First Amendment to the United States Constitution provides that, "Congress shall make no law abridging the freedom of speech."

59. Plaintiff engaged in Constitutionally protected speech when she notified Defendants of potential legal violations in the approval of warrants, conduct of felony arraignments, and the potential for litigation; and when she reiterated these potential legal violations in preparing to defend against the ACLU litigation.

60. This speech was on a matter of public concern, as its content included such topics as whether the Court violated individuals' civil and Constitutional rights.

61. Plaintiff's speech was not pursuant to her official duties.

62. Plaintiff's interest as a citizen in speaking on these matters and bringing Defendants' wrongdoing to light outweighed Defendants' interest as an employer in promoting the efficiency of the public services they performed through their employees.

63. Plaintiff's interest as a citizen in speaking on these matters was significant, as they concerned substantial matters of law, ethics, and public safety that she was well informed of and entitled to make.

64. Plaintiff's speech had no impact on the efficiency of the Court, and therefore Defendants had no interest in curtailing this speech to promote the efficiency of the public services they performed through their employees.

65. Defendants feared Plaintiff's past, present, and future speech would jeopardize their defense of the ACLU litigation, particularly because she was a named party. As a defendant named in her official capacity, Plaintiff would essentially speak on behalf of the Court.

66. Defendants therefore terminated Plaintiff's employment, which, under Fed. R. Civ. P. 25 and 17 had the immediate effect of eliminating her as a party from the litigation.

67. Plaintiff's termination resulted in the loss of pay, retirement and other benefits, as well as her future employment opportunities, reputation, honor, and good standing in the community. This action is sufficiently adverse so as to deter a person of reasonable firmness from exercising their right to free speech.

68. Defendants' decision to terminate Plaintiff was motivated, at least in part, by Plaintiff's exercise of her First Amendment right to free speech.

69. Defendants retaliated against Plaintiff for exercising her First Amendment right to free speech.

70. Defendants acted with deliberate indifference to Plaintiff's presumed and actual innocence.

71. Defendants agreed to, approved, and ratified this unconstitutional conduct.

72. It would have been plainly obvious to a reasonable official that such actions or inaction would deprive or lead to the deprivation of Plaintiff's constitutional rights.

73. Defendants' actions and inaction, as set forth above, were fundamentally unfair to Plaintiff.

74. There exists no rational relationship between Plaintiff's actual conduct and the discipline imposed against her by Defendants.

75. Defendants, by their agents, representatives, and employees acting under color of state law and in concert with one another, by their conduct, showed intentional, outrageous, and reckless disregard for Plaintiff's constitutional rights.

76. The acts of Defendants and their agents, representatives, and employees represent official policy of the 36<sup>th</sup> District Court and State of Michigan and are attributable to the 36<sup>th</sup> District Court and State of Michigan.

77. At all times material hereto, Plaintiff had a clearly established right to free speech which a reasonable public official would have known.

78. As a direct and proximate result of Defendants' unlawful actions, Plaintiff suffered irreparable harm, injury, and damages, including but not limited to loss of employment and retirement benefits; loss of employment opportunities; negative publicity surrounding her removal restricting, if not destroying, future employment opportunities; damage to Plaintiff's standing and associations in her community and imposition of a stigma or other disability that forecloses her freedom to take advantage of other employment opportunities; loss of career opportunities and earning capacity; mental and emotional distress; humiliation and embarrassment; and loss of personal and professional reputation.

**COUNT II**  
***Wrongful Termination – Public Policy Tort***

79. Plaintiff repeats and realleges all prior paragraphs as if fully set forth herein.

80. Defendants must meet the minimum standards and rules proscribed by the Constitutions of Michigan and the United States and Michigan statute for the approval of warrants and the conduct of arraignment hearings, and must endeavor to carry out practices that will further protect individuals' civil rights and prevent the miscarriage of justice.

81. Plaintiff had a good faith belief that she was being asked to violate laws, statutes, regulations, and/or rules promulgated pursuant to law with regard to the conduct of arraignment hearings and approval of warrants.

82. During her employment with Defendants, Plaintiff refused to violate laws, statutes, regulations, and/or rules promulgated pursuant to law, and refused to acquiesce in the violations of laws, statutes, regulations, and/or rules promulgated pursuant to law by advising the Court and other Magistrate Judges of the issues, and assisting in promulgating guidance regarding these issues.

83. In particular, Plaintiff failed and refused to violate or acquiesce in the violation of the U.S. and Michigan Constitutions, MCL 780.651(1), MCL 780.653, MCL 780.654, MCR 6.104, MCR 6.106(F), MCR 6.106(D), and MCR 6.102, which safeguard individuals' civil rights in the approval of warrants and in the conduct of arraignment hearings.

84. Plaintiff's termination was carried out in retaliation for her failure and refusal to violate or acquiesce in the violation of laws. Moreover, Plaintiff's repeated

refusal to acquiesce in these violations jeopardized Defendants' defense of the ACLU litigation.

85. Plaintiff's termination violated clearly established public policy of the State of Michigan in that an employer may not discharge an employee where the alleged reason for the discharge of the employee is the failure or refusal to violate a law in the course of employment.

86. The actions of Defendants, their agents, representatives, and employees were intentional, wanton, willful, malicious and taken in bad faith, in deliberate disregard of and with reckless indifference to the rights and sensibilities of Plaintiff.

87. As a direct and proximate result of those actions, the terms, conditions, and privileges of Plaintiff's employment was adversely affected, and Plaintiff was unlawfully terminated.

88. As a further direct and proximate result of Defendants' wrongful acts, Plaintiff has sustained injuries and damages including but not limited to: loss of earnings and earning capacity; loss of career opportunities; loss of fringe benefits; mental anguish; anxiety about this future, physical and emotional distress, humiliation and embarrassment; loss of professional reputation; damage to her good name and reputation; and loss of the ordinary pleasures of everyday life, including the right to pursue gainful employment of her choice.

**COUNT III**  
***Michigan Whistleblower Protection Act***

89. Plaintiff realleges all prior paragraphs as if they were fully set forth herein.

90. Plaintiff was an employee and Defendants were her employers covered by and within the meaning of the Whistleblowers' Protection Act, MCL 15.361 *et seq.* (WBPA).

91. Defendants must meet the minimum standards and rules proscribed by the Constitutions of Michigan and the United States and Michigan statute for the approval of warrants and the conduct of arraignment hearings, and must endeavor to carry out practices that will further protect individuals' civil rights and prevent the miscarriage of justice.

92. Defendants terminated Plaintiff because she reported the legal violations she observed in the approval of warrants and conduct of felony arraignments to a public body, Defendant 36<sup>th</sup> District Court.

93. By virtue of the acts described in the preceding paragraphs, Defendants violated the Constitutions of Michigan and the United States and Michigan statute, and/or Plaintiff reasonably believed that Defendants violated them, and Plaintiff reported these violations.



94. Defendants knew Plaintiff's history of reporting legal violations by the Court, including with regard to the approval of warrants and conduct of felony arraignment hearings.

95. The retaliatory conduct of Defendants, their agents, representatives, and employees, including in committing, directing and/or condoning Plaintiff's termination violated the Whistleblower's Protection Act.

96. Defendants' actions, and those of their agents, representatives, and employees, were intentional, wanton, willful, malicious and taken in bad faith, in deliberate disregard of and with reckless indifference to the rights and sensibilities of the Plaintiff.

97. As a further direct and proximate result of Defendants' wrongful acts, Plaintiff sustained injuries and damages including but not limited to loss of earnings and benefits, mental anguish, anxiety about her future, physical and emotional distress, humiliation and embarrassment, loss of personal and professional reputation, damage to her good name and reputation, and loss of the ordinary pleasures of everyday life.

### **RELIEF REQUESTED**

For all the foregoing reasons, Plaintiff demands judgment against Defendants as follows:

#### **A. LEGAL RELIEF**

1. Compensatory, economic, and noneconomic damages in whatever amount Plaintiff is found to be entitled;
2. A judgment for lost wages and benefits, past and future, in whatever amount Plaintiff is found to be entitled;
3. Exemplary damages in whatever amount Plaintiff is found to be entitled;
4. Punitive damages in whatever amount Plaintiff is found to be entitled; and
5. An award of interest, costs and reasonable attorney fees.

**B. DECLARATORY & EQUITABLE RELIEF**

1. An order from this Court requiring the 36<sup>th</sup> District Court to remove the termination related to the claims in this case from Plaintiff's record;
2. An injunction from this Court prohibiting any further acts of discrimination, intimidation, or retaliation;
3. An award of interest, costs, and reasonable attorney fees; and
4. Whatever other declaratory and/or equitable relief appears appropriate at the time of final judgment.

Dated: April 1, 2020

**DEBORAH GORDON LAW**

/s/Deborah L. Gordon (P27058)

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**JURY DEMAND**

Plaintiff Bari Blake Wood, by her attorneys **Deborah Gordon Law**, demands  
a trial by jury of all the issues in this cause.

Dated: April 1, 2020

**DEBORAH GORDON LAW**  
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