

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

REBEKAH JONES,

Plaintiff,

v.

Case No.: _____

**FLORIDA DEPARTMENT OF
HEALTH, JOSEPH A. LADAPO,
in his official capacity, and
SHAMARIAL ROBERSON, individually,**

Defendants.

_____ /

COMPLAINT

Plaintiff sues Defendants, and states:

JURISDICTION, VENUE, PARTIES

1. This action for monetary damages, for declaratory and injunctive relief, and for other equitable and ancillary relief is brought under the Florida Public Whistleblower Act, §§ 112.3187 and 112.31895, Florida Statutes, and the First Amendment of the United States Constitution, pursuant to 42 U.S.C. §1983. These claims are, individually, valued in excess of Fifty Thousand Dollars (\$50,000.00), exclusive of costs, interest, & attorney's fees.

2. Plaintiff Rebekah Jones is a female citizen of the United States and a citizen and resident of the State of Florida and has so resided at all times material

hereto.

3. Defendant Florida Department of Health is a department of the State of Florida with its principal place of business in Tallahassee, Florida. It is sued under the Florida Public Whistleblower Act.

4. Defendant Joseph A. Ladapo is Surgeon General of the State of Florida and Secretary of the Department of Health. As such, he is head of the Department of Health. He is sued for prospective equitable relief only under 42 U.S.C. §1983. His principal place of business is in Leon County, Florida. He serves under, and at the pleasure of, the Governor.

5. Defendant Shamarial Roberson is the former Deputy Secretary of the Florida Department of Health. She is sued in her individual capacity under 42 U.S.C. §1983. She is a resident of Leon County, Florida.

6. Substantially all the transactions and occurrences herein occurred in Leon County, Florida.

CONDITIONS PRECEDENT

7. All conditions precedent have been fulfilled, waived, or excused.

FACTUAL ALLEGATIONS

8. Plaintiff Rebekah Jones worked for Defendant Florida Department of Health in its Disease Control and Health Protection (DCHP) office from September 28, 2018, until the FDOH illegally terminated her employment on May 21, 2020.

9. Jones began working in DCHP's Geographic Information Systems (GIS) Unit as a GIS Analyst; she took over the responsibilities of a GIS Manager in August 2019 and was officially promoted to the position in November 2019.

10. As the GIS Manager, Jones's duties included: maintaining FDOH's access to the GIS databases; maintaining server structure and data acquisition; managing contracts and purchasing for the GIS office; hiring and termination of personnel; leading and assisting with special research projects regarding the Hepatitis A virus, influenza, toxic algae, red tide, environmental hazards, geolocation software and technology, and emergency response functions, including the design, maintenance and distribution of publicly available datasets, platforms and applications.

11. In February 2020, Jones was activated as part of Emergency Support Function's Health and Medical COVID-19 response unit (known as the ESF-08 response team within the Florida Department of Emergency Management's State Emergency Response Team (SERT)).

12. As part of the ESF-08 team, Jones worked approximately 10 hours per day, every day (no days off), on the COVID-19 pandemic monitoring the infection rates and reporting the same. In addition, she was still running ongoing GIS projects. This relentless schedule lasted through May 2020.

13. In March 2020, Jones created a COVID "dashboard" where the public

could monitor the numbers of positive COVID-19 cases throughout the state.

14. As a result of the pandemic, numerous businesses were closed throughout the state. In late April 2020, Governor Ron DeSantis ordered the FDOH to develop criteria to *expedite* the re-opening of businesses on a county-by-county basis.

15. DeSantis publicly claimed that the “reopening” of Florida during the pandemic would be accomplished through a “data and science-driven” approach.

16. This “data and science-driven” approach to reopening, as defined by the State, required counties to have less than a 10% (reported) COVID-19 infection positivity rate or a decreasing positivity rate.

17. On Friday, April 24, 2020, Dr. Carina Blackmore, Director for the FDOH’s Division of Disease Control and Health Protection, directed Jones to develop new data for a reopening plan with a composite “score card” for each county based on its readiness to reopen.

18. Dr. Blackmore ordered Jones to create a mockup of a dashboard design for a new webpage for the public to view the “score cards” and to have it live by the end of the weekend.

19. This new webpage would be publicly available to enable the public (and researchers) to track the number of cases—infections and hospitalizations—statewide.

20. Jones took great care to ask repeatedly for clarification and direction throughout the process of creating the dashboard elements and the underlying data for the new reopening process and associated dashboard tab—communicating regularly with all the pertinent FDOH epidemiologists and database administrators.

21. But discrepancies started appearing in the data, which concerned Jones; she sought advice from the FDOH Bureau of Epidemiology (Epi) on how to use the data properly in constructing each county’s “score card,” but her concerns remained.

22. Despite the discrepancies, FDOH Deputy Secretary Shamarial Roberson, Dr. Blackmore, FDOH Chief of Staff Courtney Coppola, and Scott Pritchard, lead epidemiologist and DOH Interim Director of Infectious Disease, were constantly pressuring Jones and others working on the dashboard to produce “something” to be released to the public by the end of the weekend that would determine each county’s eligibility to begin a phased reopening.

23. Jones and her team were directed to weight the data that they had; Jones demanded that it be clearly noted to the public that the data was weighted, with the parameters noted, so that others could independently verify the information as part of the open data mission Jones and DOH maintained up until that point in the pandemic,.

24. Jones and her team were also directed to not update the data twice a day, only once, and then, only after unidentified “leadership” reviewed the data

before it went live to the public.

25. On the morning of April 26, 2020, Jones presented the new website dashboard and county criteria to Roberson, along with Coppola and a representative from the Governor's office who did not introduce herself, at the State Emergency Operations Center (SEOC) in Tallahassee.

26. During Jones's presentation of the dashboard, Roberson said, "I don't like this." Jones asked what she did not like, and Roberson said, "any of it."

27. As Jones clicked through the counties to pull up each one's "score card" showing that some counties had 15% or 20% positivity rates, Roberson repeatedly shook her head and said "no, no, no."

28. Roberson asked which criteria were keeping most counties from being eligible to reopen, and Jones told her that positivity was the primary criterion that excluded most rural counties from meeting the benchmark of being able to reopen.

29. Roberson said that Jones should "just change" the numbers to 10% to meet the criteria for those counties. Jones was astounded by the request to falsify data and said she could not do that.

30. Roberson became frustrated and said, "I once had a data person who said to me, 'you tell me what you want the numbers to be, and I'll make it happen.'" Jones was shocked that Roberson was telling her to manipulate data to intentionally mislead the public during a public health crisis, and again said that she could not do

that.

31. Coppola asked about the results and Roberson expressed her dissatisfaction with the results. Coppola asked to click through the counties and was similarly dissatisfied with the actual numbers stating, “we can’t tell Jackson and Franklin counties they can’t open, but Miami-Dade and Broward that they can,” later adding that it would be a “political nightmare.”

32. It was apparent that Roberson and Coppola simply wanted to expedite reopening the counties whether the data supported it or not.

33. Roberson left the room and upon her return announced that the state was going to exempt all counties with fewer than 75,000 residents from the mandated criteria.

34. Jones presented alternatives to calculating trends over time so that rural counties could be assessed with the same criteria, but not be impacted by small changes that weren’t necessarily trends, and Roberson told her “no.”

35. Roberson told Jones that she would be provided with a table that said “yes” or “no” to each county’s ability to reopen safely; Jones replied that she would not make any manual entries that contradicted the actual data.

36. Over the next few hours, while Jones worked on the new dashboard from the SEOC, she received orders from Roberson to change data.

37. Jones alerted the Epi team of the proposed changes to their

methodology and Dr. Blackmore fell in line with Roberson's exemption plan stating that people in rural counties, "naturally socially distance" without evidence and contrary to epidemiological science.

38. Jones became despondent by the orders to falsify data and texted family members, "more people are gonna die because of this and that's not what I agreed to."

39. As the days wore on, the data was more manipulated. Out-of-state COVID-19 patients, as well as potential in-state patients who did not provide an address, were excluded from the totals.

40. Jones told her immediate supervisor, Craig Curry, that Roberson asked her to manipulate the data and mislead the public. Curry told Jones that the Epi was asked to manipulate the data before Roberson directed Jones to do so, but Epi said "no" as well.

41. In the end, an outside vendor was hired to do the calculations and determine eligibility by county without consultation with Jones, Epi, or the other DOH data managers beyond executive leadership. Data came from the Governor's office, not DOH. The results they produced matched the *pre-written* report that Roberson attempted to get Jones to manually enter.

42. On May 4, 2020, Pritchard told Jones to "delete" the data so that no one could see it, then remove the ability for anyone—whether members of the public,

the press, or state or federal officials—to download the public data that Jones was publishing since the dashboard first launched in March.

43. Jones told Pritchard that it was a bad idea, that the dashboard played a vital role in informing the public about the spread of the disease. She further told him that before she would hide data, she wanted the order in writing from her supervisor, Curry.

44. Several hours later, Curry issued a directive from Dr. Blackmore to delete the data and remove the capability of anyone to access it.

45. Jones replied to Curry that, “this is the wrong call,” then executed the instruction as ordered and deleted the data at 6:11 p.m.

46. Within an hour of following the directive, as data feeds across the country went down and the dashboard began malfunctioning, Curry told Jones to restore the data. Blackmore later commented, “let’s get the web populated in a way that doesn’t expose the raw data to those who don’t *need* access.”

47. After 10:00 p.m. that same night, Blackmore and Roberson called Jones asking how the data was published, where it could be accessed, and how to hide it without crashing the dashboard.

48. They also accused Jones of publishing case-line data for non-Florida residents without approval, with Roberson insisting that non-residents were not included in the daily report issued by Epi. Jones informed Roberson she was

mistaken, and sent a screenshot of that morning's Epi report, which *did* include non-residents in the case line data.

49. On May 6, 2020, Curry informed Jones that she was removed from the dashboard and another analyst was taking over; he gave no reason for her removal.

50. At that point, Jones threatened to quit, but Curry asked her to stay on board and encouraged her to take time off.

51. On May 7, 2020, the dashboard and its data components crashed and the data files were corrupted. Curry immediately called Jones and asked her to repair the website, which she did by manually updating files and fixing corrupted files and the new staff's numerous mistakes.

52. In fact, over the next four days, Curry asked Jones to repair the dashboard that the new staff continued to crash.

53. On May 14, 2020, Jones asked Curry how to file a whistleblower complaint regarding Roberson's orders to manipulate data, her reassignment from the dashboard, and "gross mismanagement." Jones told Curry that she feared being retaliated against and felt compelled to file a whistleblower complaint.

54. On Friday, May 15, 2020, at the end of the business day, Curry went to Jones's office and discouraged her from filing a whistleblower complaint. He told Jones that her suspicions were likely right, but maybe it would be better to just get another job outside of DOH. Jones reiterated her request for information on how to

formally file her whistleblower complaint and Curry told her the steps to file one.

55. Curry reported Jones' intention to file a whistleblower complaint to Roberson before Roberson decided to fire Jones.

56. Unbeknownst to Jones, as far back as May 6, 2020, Curry, on instructions from Roberson and Blackmore, had been working with Tiffany Hicks from Human Resources (HR) on how to take adverse personnel action against Jones.

57. In the course of encouraging Jones to stay and discouraging her filing a whistleblower complaint, Curry knew the firing was imminent.

58. On Monday, May 18, 2020, Jones took paid annual leave.

59. That same day, May 18, 2020, Curry and Hicks called Jones and told her she had two options: resign or be terminated. They gave her until Thursday, May 21, 2020 at 5:00 p.m. to make her decision.

60. Jones asked why she was being fired and they told her it was Roberson's decision.

61. Curry and Hicks had already been discussing the possible rationales that could be contrived for firing Jones for almost two weeks.

62. These excuses mostly concerned constitutionally protected speech Jones had made as a private citizen on her personal social media pages.

63. That same day, press reports appeared in *Florida Today* about Jones being reassigned from the COVID-19 dashboard.

64. Also that same day, Jones received a termination letter from Blackmore stating her termination was effective May 25, 2020. The letter provided no reason for the firing.

65. During a press conference on May 19, 2020, DeSantis said Jones's firing was a "non-issue," adding that he understood Jones was "tired" and "on vacation."

66. Shortly after the press conference, DeSantis's spokesperson, Helen Ferre, claimed Jones was terminated for "insubordination," providing no specifics of the (false) allegation.

67. The next day, May 20, 2020, during a press conference with then-Vice President Mike Pence, DeSantis falsely claimed that Jones was under active investigation for sexual harassment, questioned her credentials as a scientist, and accused Jones of "not listening" to DOH officials.

68. On May 21, 2020, DeSantis claimed Jones's firing was "related" to a pending criminal charge.

69. The illegal termination has caused humiliation, embarrassment, general emotional distress, damage to her reputation, disruption of her life, severance of professional relationships, and lost wages. In addition, she has had to hire undersigned counsel to vindicate her rights and suffer the costs of litigation.

COUNT I
FLORIDA PUBLIC WHISTLEBLOWER'S ACT
§§112.3187-31895, FLA STAT.
(Against Florida Department of Health)

70. Plaintiff realleges paragraphs 1-69.

71. Plaintiff meets the definition for “employee” as defined in §112.3187(3)(b), Fla. Stat.

72. The Florida Department of Health (DOH) is an “agency” as defined in §112.3187(3)(a), Fla. Stat.

73. As detailed herein, Plaintiff objected to and refused to manipulate and falsify COVID-19 data to provide to the public during the pandemic as mandated by her supervisors.

74. Plaintiff's objections and resistance to providing false data to the public regarding a deadly disease was because doing so would be an actual or perceived violation of § 839.13, Florida Statutes.

75. Plaintiff's supervisors demanding that she falsify data to the public during a deadly pandemic constitutes gross mismanagement, waste of resources, malfeasance, and, even more importantly, represents an immediate injury to the public health, safety, and welfare, including the possibility of death to members of the public.

76. Plaintiff's objections fall squarely under § 112.3187(5), Florida Statutes, because the requested illegal acts violated state law, created a public health,

safety and welfare risk, and constituted malfeasance.

77. As detailed herein, Plaintiff went to her immediate supervisor to ask for the proper method to “blow the whistle” on these illegal or perceived illegal acts; however, before she was able to complete her whistleblower complaint, Defendant preemptively fired her in anticipation of the complaint.

78. Terminating an employee that the employer knows is going to file a whistleblower complaint is a common tactic to illegitimately prevent a written complaint.

79. After her objections and notice that she was about to file a whistleblower complaint, Plaintiff was the victim of the ultimate adverse retaliatory act: termination.

80. These actions were taken against Plaintiff after Plaintiff objected to and/or reported matters that Plaintiff reasonably suspected were and/or actually were violations of law.

81. These reports were made to supervisors and/or other persons within Plaintiff's chain of command who could remedy the violations. After reporting these matters, adverse action was taken against Plaintiff, including, without limitation, the baseless discharge from her position.

82. Under §112.3187(4), Florida Statutes, DOH is prohibited from taking adverse personnel action against persons like Plaintiff, who disclose the types of

information Plaintiff did and threaten to file a formal complaint.

83. Under §112.3187(3)(c), “adverse personnel action” is defined as “the discharge, suspension, transfer or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment or independent contractor.”

84. Plaintiff maintains that the actions of all employees within DOH who affected her employment adversely did so in retaliation against her for “whistleblowing” activities.

85. The false and damaging statements of DeSantis, as ultimate authority over the Department of Health, were made in retaliation for Jones protected conduct.

86. As a direct and proximate results of the actions taken against her by Defendant, Plaintiff has suffered injury, including but not limited to past and future wage losses, loss of benefits, and other tangible and pecuniary damages as well as intangible damages. These damages have occurred in the past, are occurring at present, and will occur in the future.

87. In addition, Plaintiff has had to seek legal counsel to vindicate her rights and has incurred and will continue to incur attorney’s fees and costs as a result of Defendant’s actions.

COUNT II
FIRST AMENDMENT – OFFICIAL CAPACITY
(Against Ladapo)

88. Plaintiff realleges paragraphs 1-69.

89. Plaintiff exercised her First Amendment rights by alerting the public that the pandemic was more rampant throughout the State than the State was telling the public.

90. Defendant DOH terminated Plaintiff in retaliation for complaining about the State's falsehoods minimizing the rampant pandemic numbers throughout the state and its suppression of the truth from the public.

91. Defendant DOH terminated Plaintiff because of her protected speech.

92. That speech included the statements of Jones to Roberson, Blackmore, Coppola, Curry, and others that she objected to falsifying data and refused to do so.

93. The misrepresentations and falsifications Jones was ordered to implement, or tolerate and ignore, included Covid positivity data of rural counties, use of weekly rather than daily data to create misleading impressions, exclusion of out-of-state Covid-19 patients, and exclusion of in-state patients who did not provide an address.

94. The foregoing actions of Defendant DOH constitute retaliation against Plaintiff in violation of the First Amendment.

95. The acts of DOH as described herein were taken under color of state

law, custom, or usage.

96. The acts of DOH as described herein were purposeful and arise from an official policy or custom.

97. The Fourteenth Amendment of the United States Constitution guarantees that no state shall deprive any person of liberty without due process of law. The First Amendment of the United States Constitution, applicable to the states under the Fourteenth Amendment, guarantees the right of freedom of speech—a right which stands at the very apex of constitutional protection when exercised, as here, in political speech aimed at protesting the restrictive conduct of government on matters of the most grave public concern.

98. Defendant DOH's actions violated 42 U.S.C. § 1983.

99. Plaintiff is entitled to equitable and ancillary relief to remedy the violations described above.

100. Plaintiff has suffered damages because of the Defendant's unlawful actions.

101. In addition, Plaintiff has had to seek legal counsel to vindicate her rights and has incurred and will continue to incur attorney's fees and costs as a result of Defendant's actions which are compensable pursuant to 42 U.S.C. § 1988.

COUNT III
FIRST AMENDMENT – INDIVIDUAL CAPACITY
(Against Roberson)

102. Plaintiff realleges paragraphs 1-69.

103. Plaintiff exercised her First Amendment rights by alerting the public that the pandemic was more rampant throughout the State than the State was telling the public.

104. Defendant Roberson terminated Plaintiff in retaliation for complaining about the State's falsehoods minimizing the rampant pandemic numbers throughout the state, as well as suppressing the truth from the public.

105. The misrepresentations and falsifications Jones was ordered to implement, or tolerate and ignore, included Covid positivity data of rural counties, use of weekly rather than daily data to create misleading impressions, exclusion of out-of-state Covid-19 patients, and exclusion of in-state patients who did not provide an address.

106. Persons to whom Jones complained who were in a position to correct the falsification and suppression of information include Roberson, Blackmore, Curry, Coppola, and Pritchard.

107. Defendant Roberson terminated Plaintiff because of her protected speech.

108. The foregoing actions of Defendant Roberson constitute retaliation

against Plaintiff in violation of the First Amendment.

109. Plaintiff's rights to be free from government retaliation based her exercise of First Amendment rights were clearly established.

110. The acts of Roberson as described herein were taken under color of state law, custom, or usage.

111. The acts of Roberson as described herein were purposeful and arise from an official policy or custom.

112. The Fourteenth Amendment of the United States Constitution guarantees that no state shall deprive any person of liberty without due process of law. The First Amendment of the United States Constitution, applicable to the states under the Fourteenth Amendment, guarantees the right of freedom of speech—a right which stands at the very apex of constitutional protection when exercised, as here, in political speech aimed at protesting the restrictive conduct of government on matters of the most grave public concern.

113. The acts of Roberson violated 42 U.S.C. § 1983.

114. Plaintiff has suffered damages because of the Defendant's unlawful actions.

115. In addition, Plaintiff has had to seek legal counsel to vindicate her rights and has incurred and will continue to incur attorney's fees and costs as a result of Defendant's actions which are compensable pursuant to 42 U.S.C. § 1988.

PRAYER OF RELIEF

WHEREFORE, Plaintiff prays for the following relief:

- a) that process issue and this Court take jurisdiction over this case;
- b) award a declaratory judgment against Defendants and for the Plaintiff;
- c) award judgment for damages against Defendants and for the Plaintiff;
- d) award Plaintiff lost wages and benefits;
- e) award Plaintiff compensatory damages for garden variety emotional distress in an amount to be determined by the enlightened conscience of the jury;
- f) award Plaintiff punitive damages against Roberson, individually, in an amount to be determined by the enlightened conscience of the jury;
- g) award reinstatement for the Plaintiff, remedying all benefits of which Plaintiff has been unlawfully deprived;
- h) judgment against Defendant and for Plaintiff permanently enjoining Defendant from future violations of law enumerated herein;
- i) award Plaintiff prejudgment interest;
- j) award Plaintiff reasonable attorney's fees, expenses, and costs of litigation;
- k) award Plaintiff such other and further relief as is appropriate.

JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

Respectfully submitted this 13th day of March 2023,

/s/ Richard E. Johnson

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