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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION**

KENNETH R. PARK

Plaintiff,

v.

**LANEE DANFORTH, an individual; ROBIN
LYNN HOWARD, an individual.**

Defendants.

CASE NO. 6:23-CV-805

**COMPLAINT FOR DEPRIVATION
OF CIVIL RIGHTS UNDER
42 U.S.C § 1983**

Jury Trial Demand

I. JURISDICTION AND VENUE

1. This is an action for damages for violations of the United States Constitution brought under 42 U.S.C. § 1983. This court has jurisdiction over Plaintiff's federal claims under 28 U.S.C. § 1331 and 28 USC § 1343(3) and (4).

2. Venue is proper in this district and division pursuant to 28 U.S.C. § 1391 and LR

3-2 in that the claims and events giving rise to this action alleged herein occurred in the County of Lincoln, Oregon.

II. PARTIES

3. Plaintiff Kenneth R. Park (“Park”) is a Citizen of the United States and a legal resident of the State of Oregon. He currently resides in Sherwood, Oregon. During the relevant period, Plaintiff was an employee of the Lincoln County District Attorney’s Office in Newport, Oregon.

4. At all material times, Defendant Lane Danforth (“Danforth”) is a legal resident of the State of Oregon. Danforth was sworn in as the Lincoln County District Attorney on Monday January 4, 2021. She was elected to her position on May 19, 2020. Danforth is named in her individual capacity and is a “person” for purposes of 42 U.S.C. § 1983.

5. At all material times, Defendant Robin Lynn Howard (“Howard”) is a legal resident of the State of Oregon. Howard is the Chief Deputy District Attorney in the Lincoln County District Attorney’s Office. Howard is named in her individual capacity and is a “person” for purposes of 42 U.S.C. § 1983.

III. FACTUAL ALLEGATIONS

6. Park was appointed by District Attorney Michelle Branam (Branam) as a Deputy District Attorney 3 for Lincoln County on November 23, 2015. His position was represented by the Lincoln County Employees Association (Hereinafter LCEA).

7. At the time of Park’s employment, he had completed over 25 years in law enforcement including 15 years as an undercover narcotics agent and 5 years as a criminal prosecutor. Prior to his appointment, Park had prosecuted over 750 jury trials and hundreds of non-jury trials involving felonies and misdemeanors.

8. On January 17, 2020, following the resignation of Branum, Governor Kate Brown appointed Attorney Jonathan Cable (Cable) to serve as District Attorney until the next general election. The position was up for election in the May 19, 2020, primary.

9. Cable, as the incumbent filed to run for District Attorney. Park had previously filed

to run for the position before Cable's appointment. Danforth also filed to run for the position. At the time, Danforth was also a Deputy District Attorney with Lincoln County.

10. On April 6, 2020, Park suspended his May primary campaign and threw his support behind Cable. In a statement to the news media, Park said he was suspending his campaign after observing Cable's work ethic, changes Cable had made to counteract the scheduling issues of the Circuit Court, and Cable's positive, hard-working attitude he had brought to the District Attorney's Office. Park stated Cable had dramatically improved the morale of the office given his appointment of a new chief deputy and hiring a new office manager.

11. In the same April 6, 2020, statement Park was critical of Danforth noting she had very little experience in the practice of law; even less experience prosecuting cases; and no observable management qualities. Park was also critical of Danforth misleading political advertising.

12. Park would continue to openly endorse Cable in the media and community.

13. Although Park withdrew from the race, he remained on the ballot securing 1,253 votes.

14. Danforth prevailed in the race and took office on Monday January 4, 2021. Upon assuming her office, she immediately removed the existing chief deputy, installing Howard who had supported Danforth in her campaign. Danforth removed the office manager.

15. On or between June 1, 2021, and June 30, 2021, Danforth and Howard filed an allegation with Lincoln County HR, that Park had filed a false motion to the Lincoln County Circuit Court. Park was interviewed by Lincoln County HR and Danforth. Park never heard anything further about the issue.

16. On the weekend of October 9-10, 2021, Deputy Chief Counsel Stephanie J. Tuttle (hereinafter Tuttle) on behalf of the Attorney General Ellen Rosenbaum contacted Park by telephone stating that she would be making a formal written offer of employment as an Assistant Attorney General (Wildlife Resource Prosecutor) in the Criminal Justice Division at the Oregon Department of Justice (Hereinafter DOJ). On Monday October 11, 2021, Tuttle

emailed the offer. The position was at a Step 7 which at the time was \$12,334 (non-PERS rate) per month (\$148,008 a year) plus State Benefits. Park accepted the offer on that same day. Tuttle advised Park that she would follow-up with start dates. Park was prepared to start immediately.

17. On or between Monday October 11, 2021, and October 15, 2021, Park advised Danforth that he was offered, and had accepted a position at the DOJ, and would give his two weeks' notice as soon as he was advised of the start date. Based on information and belief, Howard also became aware of this information during this time.

18. On Wednesday November 24, 2021, Danforth sent an email to all Deputy District Attorneys with a new set of rules for the office. Deputy District Attorneys were ordered to sign the new rules or resign by 5:00 pm that day.

19. Park openly opposed these new office rules as he believed they violated the Oregon Public Employees Collective Bargaining Act (PECBA) and the contract between LCEA and Lincoln County. While he complied with Danforth's order, he communicated on behalf of the other Assistant District Attorneys, his concerns to the then Union President Dave Wood and County Counsel Kristin Yuille. Danforth and Howard became aware of Park's concerns.

20. Based on information and belief, Danforth, or Howard directly or through an intermediary who supported Danforth's election campaign provided negative information to DOJ about Park.

21. Not hearing anything further from Tuttle or DOJ, Park emailed Tuttle on Monday November 29, 2021, requesting an update on his start date at DOJ. On Friday December 2, 2021, Tuttle called Park by phone telling him that DOJ withdrew their offer of employment.

22. On January 1, 2022, Park became President of the LCEA. As the President of the LCEA Park dealt with the issue of whether the November 24, 2021, directive from the District Attorney violated the PECBA. Park worked with the attorney for LCEA and the Lincoln County Counsel to obtain a retraction of the November 24, 2021, order from Danforth.

23. Danforth ultimately retracted the order, but in doing so, advised the Deputy District

Attorneys that they were not to work more than eight hours per day, were not to receive any more comp time and were removed from special assignments such as the Major Crime Team and Crash Team. Park and others viewed these changes as retaliation against the Deputies for having opposed Danforth's November 24, 2021, order.

24. In his capacity as LCEA President, Park spoke out about Danforth's actions. Park also dealt with personnel issues including an issue of discipline by Danforth and Howard involving another Deputy District Attorney.

25. On January 20, 2022, Park was summoned to Howard's office and placed on administrative leave for allegedly failing to disclose exculpatory evidence to the defense four years earlier in the 2018 criminal case of *State v. Rexroad*. The *State v. Rexroad* case involved a drug charge against the defendant Rexroad. The defendant pleaded guilty to possession of a controlled substance and supplying contraband. However, the State Police Crime Lab later showed the item tested negative for controlled substances. The allegation was that Park failed to disclose this exculpatory evidence to the defense.

26. Neither Danforth nor Howard ever discussed this matter with Park nor was Park given an opportunity to explain the circumstances before being summarily placed on administrative leave.

27. Danforth notified the Oregon State Police to investigate Park's actions. In turn the Federal Bureau of Investigation and the US Attorney became involved in this investigation.

28. The evidence clearly showed that Park did in fact disclose this exculpatory evidence to the defense as soon as he learned of it. Moreover, a subsequent review of the District Attorney's office records show that this information was disclosed to the defense even before Park himself learned of it.

29. In January 2022 Lincoln County conducted an investigation into the District Attorney's allegations against Park. On January 28, Park was advised by the Human Resources Director that the County's investigation had been completed and that he was cleared of all allegations; he was told to return to work on January 31, 2022. After that point a struggle

ensued between Lincoln County management and the District Attorney.

30. When Park tried to return to work on January 31, he was given a letter from the District Attorney's office advising him that he was once again being placed on administrative leave by Danforth and Howard. Park was told that he was not to function as a Deputy District Attorney and that he could only be reinstated by Danforth.

31. A short time later Park was advised by County Counsel and the HR Director that the January 31 letter placing Park on administrative leave (for a second time) was rescinded; Park was advised to telework from home. Park's computer was returned to him, but he was locked out of Prosecution by Karpel (aka PBK) - the District Attorney's computer program. The program is an essential tool for a deputy district attorney in carrying out their duties.

32. On February 1, 2022, Park through his attorney Jonathan H. Cable (Cable), notified Danforth and Howard that their actions against Park were retaliatory. The letter was copied to Lincoln County HR.

33. As the result of Cable's letter Lincoln County retained the law firm of Beery, Elsner & Hammond, LLP to conduct the investigation of Danforth and Howards actions. Park fully cooperated with the investigators.

34. On February 10, 2022, Park learned that Danforth had filed a bar complaint against him regarding the *State v. Rexroad* matter.

35. On March 25, 2022, Danforth sent an email to the entire District Attorney's office staff about her problems with Lincoln County management and her concerns about Park. While Park was not identified by name, the letter clearly accused Park of misconduct, and everyone in the office knew who she was referring to.

36. On April 4, 2022, without consulting Park or advising him of the opportunity for a name clearing hearing, Howard made public allegations against Park by posting a message on the District Attorney's Facebook page. In the post the District Attorney described the feud between she and the Lincoln County Commissioners regarding the hiring of a detective within the DA's office. The District Attorney made extensive comments regarding the investigation of

and allegations against Park (although, once again, not specifically using his name). Many of the allegations raised by Danforth against Park were republished to the public two days later in an article "DA sought investigation of deputy prosecutor" published in the April 6, 2022, edition of the *Newport News Times* and on April 7, 2022, in the *YachatsNews* where Park is identified by name.

37. On Friday, April 15, 2022, at 8:50 pm Danforth emailed a letter to Park advising him that she was revoking his appointment as a Deputy District Attorney pursuant to *ORS 8.780*. In the letter Danforth advised Park that the investigation of him "is still pending," but that she would "reconsider this decision" after she reviewed the completed investigation, and he would "have an opportunity to discuss this matter" with her before she makes a "final decision" regarding his appointment and employment as a Deputy District Attorney. Park was notified on this same day that all his personal items in his office had been packed.

38. On May 6, 2022, Park served through his then attorney Loren W. Collins (Collins), a Notice of Tort Claim on Danforth notifying her of his intent to pursue claims against her.

39. The independent investigation by Beery, Elsner & Hammond, LLP (investigators) was completed in June 2022. In a June 16, 2022, supplemental report, the investigators were highly critical of Danforth's behavior towards Park.

40. The investigators concluded that Danforth's actions toward Park were bullying, and constituted repeated unreasonable actions towards Park, which were intended to intimidate creating a risk to the health and safety of Park. The investigators also sustained nine (9) other allegations related to Danforth's actions toward Park.

41. Based on information and belief Danforth and Howard knew or had reason to know that the investigation they had requested by OSP in conjunction with the FBI, and the US Attorney's Office had been completed, and they determined no action against Park was warranted. Neither Danforth nor Howard ever told Park, Lincoln County HR, or the Oregon State Bar of this significant development.

42. On or between June 16, 2022, and July 28, 2023, Danforth became aware that a

public records request had been made encompassing the June 16, 2022, supplemental report by Beery, Elsner & Hammond, LLP highly critical of Danforth's behavior toward Park.

43. On July 28, 2022, Danforth ask LCEA representative Kevin Keaney (hereinafter Keaney) to ask Park if he wished to resign.

44. On August 3, 2022, the County released the June 16, 2022, report to the news media. It would later be reported extensively in the Newport News Times.

45. On that same day, Keaney communicated to Danforth that Park had no intention of resigning. In response Danforth informed Park through Keaney that she had no intention of ever reinstating him as a Deputy District Attorney. As a consequence, Park was forced to try to find new employment.

46. On October 1, 2022, Park was forced to take a position at the Benton County District Attorney's Office.

47. On December 13, 2022, Park through Collins supplemented his tort claim notice given Park's discharge from employment.

48. On January 30, 2023, the Oregon State Bar formally cleared Park of all allegations by Danforth.

FIRST CLAIM FOR RELIEF

42. U.S.C. § 1983

Violations of Plaintiff's Constitutional Rights of Free Speech and Right of Association

Claims against Danforth in her personal capacity

49. Park realleges paragraphs 1 through 48 and though fully set forth herein.

50. Defendant Danforth in her personal capacity, based on the authority she possessed due to her position as Lincoln County District Attorney, used color of law to intentionally deprive Plaintiff Park of his rights.

51. Park engaged in protective speech when he, as a citizen of Lincoln County, spoke out about matters of public concern via the conduct described above, including but not limited to:

- a. Voicing his opinions on who he believed was the more qualified candidate to be the next Lincoln County District Attorney.
- b. Communicating his formal endorsement of Danforth's opponent Jonathan Cable.
- c. Voicing his concerns about Danforth's lack of experience as a Prosecutor and attorney.
- d. Voicing his concerns about Danforth's misleading and possibly illegal political advertising.
- e. His communications with the news media regarding matters of public concern.

52. Park engaged in further protective speech as a Deputy District Attorney, and later as President of the LCEA speaking out about matters of public concern via the conduct described above, including but not limited to:

- a. Voicing his concerns that Danforth's November 24, 2021, directive to Deputy District Attorneys violated the PECBA.
- b. Voicing his concerns when Danforth failed to follow long established HR policies and procedures that governed the Deputy District Attorneys and staff of the District Attorney's Office.
- c. Voicing his concerns over how Danforth handled discipline of Deputy District Attorneys.
- d. Voicing his concerns with the Lincoln County Human Resources Department who historically handled all HR matters for the District Attorney's Office.

53. Park engaged in further protective activity when he associated with:

- a. Lincoln County Citizens who supported Danforth's opponents.
- b. Candidates who were running against Danforth in the election for District Attorney.

- c. Members of the LCEA who raised concerns about Danforth's actions toward LCEA members and her violations of the PECBA.
- d. When he as a member of the LCEA elected to become its Union President.
- e. When as the LCEA president he participated in correcting Danforth's illegal actions against LCEA members.

54. Defendant Danforth directly or by and through Howard engaged in actions designed to discourage Park's protected free speech and rights of association, and was motivated in substantial part because Plaintiff Park exercised his free speech rights, and rights of association as described above, including, but not limited to:

- a. Placing Park under a heightened level of scrutiny on his past performance as a deputy district attorney in comparison with the other deputy district attorneys in the office.
- b. Filing a trumped-up allegation that Park had filed a false motion to the Lincoln County Circuit Court.
- c. Providing negative information to DOJ resulting in Park losing the DOJ position he had already accepted.
- d. Placing Park on administrative leave on January 20, 2022, for the false allegation raised in the *State v. Rexroad* case, without talking with Park, or allowing him to respond to the false allegation raised.
- e. Failing to let Park perform his duties as a Deputy District Attorney after his being cleared of the false allegation associated with the *State v. Rexroad* case.
- f. Filing a Bar Complaint against Park associated with the *State v. Rexroad* case.
- g. Communicating in an email with the entire District Attorney's Office about her concerns over Park.
- h. Making public allegations against Park on the District Attorney Facebook page without providing Park with a Name Clearing Hearing in advance of making those public comments.

- i. Revoking Park's appointment as a Deputy District Attorney.
- j. Failing to notify Park and his attorney that the investigation she had instigated with the OSP, FBI, and US Attorney's office resulted in no action against Park being warranted.
- k. Taking concerted steps against Park to damage his excellent reputation as an effective deputy district attorney.
- l. Refusing to reinstate Park, even though he had been cleared by her own investigation.
- m. Failing to notify the Oregon State Bar that Park had been cleared of the allegations which were the basis of her Bar Complaint.
- n. Terminated Park's employment as a Deputy District Attorney.

55. Defendant Danforth's adverse actions, for which she was the final decision-making authority, were done with deliberate indifference to Plaintiff's rights to engage in free speech and freedom of association under the First Amendment.

56. As a direct and proximate result of Defendant Danforth's violations of the United States Constitution, Park has suffered economic loss in the form of back pay, front pay, lost benefits, and out of pocket expenses, in an amount to be proven at trial, plus interest.

57. As a direct and proximate result of Defendant Danforth's violations of the United States Constitution, Plaintiff has suffered noneconomic damages in the form of emotional and mental distress, degradation, embarrassment, humiliation, injury to his personal and professional reputation, loss of self-esteem and dignity. Plaintiff is entitled to non-economic damages in an amount to be proved at trial.

58. The actions by Defendant Danforth as alleged herein were intentional, willful, and with reckless disregard to Plaintiff's Constitutional and statutory rights. Such conduct exceeds the bounds of social toleration and is of the type that punitive damages deter. Park, therefore, requests an award of punitive damages.

59. Park has hired legal counsel to prosecute his claims and he is entitled to recovering of his reasonable attorneys' fees and costs incurred, including expert witness fees pursuant to 42 U.S.C. § 1988 and 42 USC §2000e-5(k).

SECOND CLAIM FOR RELIEF
42. U.S.C. § 1983
Violations of Plaintiff's Due Process Rights
Claims against Danforth in her personal capacity

60. Park realleges paragraphs 1 through 48, 51-through 54 as though fully set forth herein.

61. Defendant Danforth in her personal capacity, based on the authority she possessed due to her position as Lincoln County District Attorney, used color of law to intentionally deprive Plaintiff Park of his rights.

62. Defendant Danforth engaged in actions designed to deprive Park's procedural and substantive due process rights under the 14th Amendment of the United States Constitution. Her efforts to deprive him of those rights include those alleged above.

63. Defendant Danforth's adverse actions, for which she was the final decision-making authority, were done with deliberate indifference to Plaintiff's Due Process rights under the 14th Amendment of the United States Constitution.

64. As a direct and proximate result of Defendant Danforth's violations of the United States Constitution, Park has suffered economic loss in the form of back pay, front pay, lost benefits, and out of pocket expenses, in an amount to be proven at trial, plus interest.

65. As a direct and proximate result of Defendant Danforth's violations of the United States Constitution, Plaintiff has suffered noneconomic damages in the form of emotional and mental distress, degradation, embarrassment, humiliation, injury to his personal and professional reputation, loss of self-esteem and dignity. Plaintiff is entitled to non-economic damages in an amount to be proved at trial.

66. The actions by Defendant Danforth as alleged herein were intentional, willful, and with reckless disregard to Plaintiff's Constitutional and statutory rights. Such conduct exceeds

the bounds of social toleration and is of the type that punitive damages deter. Park, therefore, requests an award of punitive damages.

67. Park has hired legal counsel to prosecute his claims and he is entitled to recovering of his reasonable attorneys' fees and costs incurred, including expert witness fees pursuant to 42 U.S.C. § 1988 and 42 USC §2000e-5(k).

THIRD CLAIM FOR RELIEF
42. U.S.C. § 1983

Violations of Plaintiff's Constitutional Rights of Free Speech and Right of Association
Claims against Howard in her personal capacity

68. Park realleges paragraphs 1 through 48, 51-through 54 as though fully set forth herein.

69. Defendant Howard in her personal capacity, based on the authority she possessed due to her position as Chief Deputy District Attorney and handling HR matters for the Lincoln County District Attorney's office, used color of law to intentionally deprive Plaintiff Park of his rights.

70. Defendant Howard directly or in collusion with Danforth engaged in actions designed to discourage Park's protected free speech and rights of association and was motivated in substantial part because Plaintiff Park exercised his free speech rights, and rights of association as described above.

71. Defendant Howard's adverse actions, for which she was the final decision-making authority, were done with deliberate indifference to Plaintiff's rights to engage in free speech and freedom of association under the First Amendment.

72. As a direct and proximate result of Defendant Howard's violations of the United States Constitution, Park has suffered economic loss in the form of back pay, front pay, lost benefits, and out of pocket expenses, in an amount to be proven at trial, plus interest.

73. As a direct and proximate result of Defendant Howard's violations of the United

States Constitution, Plaintiff has suffered noneconomic damages in the form of emotional and mental distress, degradation, embarrassment, humiliation, injury to his personal and professional reputation, loss of self-esteem and dignity. Plaintiff is entitled to non-economic damages in an amount to be proved at trial.

74. The actions by Defendant Howard as alleged herein were intentional, willful, and with reckless disregard to Plaintiff's Constitutional and statutory rights. Such conduct exceeds the bounds of social toleration and is of the type that punitive damages deter. Park, therefore, requests an award of punitive damages.

75. Park has hired legal counsel to prosecute his claims and he is entitled to recovering of his reasonable attorneys' fees and costs incurred, including expert witness fees pursuant to 42 U.S.C. § 1988 and 42 USC §2000e-5(k).

FOURTH CLAIM FOR RELIEF
42. U.S.C. § 1983
Violations of Plaintiff's Due Process Rights
Claims against Howard in her personal capacity

76. Park realleges paragraphs 1 through 48, 51-through 54 as though fully set forth herein.

77. Defendant Howard in her personal capacity, based on the authority she possessed due to her position as Chief Deputy District Attorney and handling HR matters for the Lincoln County District Attorney's office, used color of law to intentionally deprive Plaintiff Park of his procedural and substantive due process rights under the 14th Amendment of the United States Constitution.

78. Defendant Howard directly or in collusion with Danforth engaged in actions designed to deprive Park's due process rights. Her efforts to deprive him of those rights include those alleged above. Defendant Howard's adverse actions, for which she was the final decision-making authority, were done with deliberate indifference to Plaintiff's Due Process rights under the 14th Amendment of the United States Constitution.

79. As a direct and proximate result of Defendant Howard's violations of the United States Constitution, Park has suffered economic loss in the form of back pay, front pay, lost benefits, and out of pocket expenses, in an amount to be proven at trial, plus interest.

80. As a direct and proximate result of Defendant Howard's violations of the United States Constitution, Plaintiff has suffered noneconomic damages in the form of emotional and mental distress, degradation, embarrassment, humiliation, injury to his personal and professional reputation, loss of self-esteem and dignity. Plaintiff is entitled to non-economic damages in an amount to be proved at trial.

81. The actions by Defendant Howard as alleged herein were intentional, willful, and with reckless disregard to Plaintiff's Constitutional and statutory rights. Such conduct exceeds the bounds of social toleration and is of the type that punitive damages deter. Park, therefore, requests an award of punitive damages.

82. Park has hired legal counsel to prosecute his claims and he is entitled to recovering of his reasonable attorneys' fees and costs incurred, including expert witness fees pursuant to 42 U.S.C. § 1988 and 42 USC §2000e-5(k).

WHEREFORE, Plaintiff Kenneth Park prays for this Court to grant judgment in favor of Plaintiff and against Defendants granting the following monetary and equitable relief:

1. On all of Plaintiff's Claims for relief, an award of economic damages including back pay, front pay, lost benefits, and out of pocket expenses, in an amount to be proven at trial, and pre-judgment interest in an amount to be determined at trial;

2. On all Plaintiff's Claims for relief, an award of noneconomic damages for emotional and mental distress, degradation, embarrassment, humiliation, injury to his personal and professional reputation, loss of self-esteem and dignity and other compensatory damages in an amount to be determined at trial;

3. On all Plaintiff's Claims for relief, an award of attorney fees, expert expenses, and costs and disbursements.

4. On all Plaintiff's Claims for relief against the individual Defendants, punitive damages in an amount to be determined at trial;

5. On all Plaintiff's Claims for relief, a Declaration that Defendants violated Plaintiff's rights of free speech, freedom of association, and his due process rights.

7. Such further or alternative relief in favor of Plaintiff as the Court deems appropriate.

DATED this 2nd day of June, 2023.

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Plaintiff demands a trial by jury.

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