

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

|                           |   |                                |
|---------------------------|---|--------------------------------|
| Andrea Boxill, et al.,    | : |                                |
| Plaintiffs                | : |                                |
| -vs-                      | : | Civil Action No. 2:16-cv-126   |
| James P. O’Grady, at al., | : | Judge Michael Watson           |
| Defendants                | : | Magistrate Judge Terrence Kemp |

**FIRST AMENDED COMPLAINT**

**I. INTRODUCTION, PARTIES & JURISDICTION**

1. At all times pertinent hereto, Plaintiff Andrea Boxill was employed the State of Ohio, Franklin County Municipal Court (hereafter, “FCMC”);

2. At all times pertinent hereto, Andrea Boxill was employed by FCMC in the position of Coordinator, Specialty Dockets; ,

3. At all times pertinent hereto, Defendants Carrie Glaeden, Michael T. Brandt and James P. Green were elected Judges of the FCMC. In 2013, Defendant Green was Administrative and Presiding Judge; and Defendants Glaeden and Green, formed the Court’s Personnel Committee [hereafter, “the Committee”]. Glaeden was Chairperson of that Committee. Both continued as members of the Personnel Committee in 2014. In 2014, Defendant Michael T. Brandt assumed the position of Administrative and Presiding Judge. Individually, and through the Committee, the Defendants had control of the terms

and conditions of Plaintiff's' employment, including, but not limited to, promotions, demotions and termination. All Defendant Judges are sued in their individual capacities;

4. At all times pertinent hereto, Defendant Emily Shaw was the Administrator of the FCMC. She reported to the Defendant Judges. She possessed the authority to affect the terms and working conditions of Plaintiff and all other employees of the FCMC. She is sued in her individual capacity;

6. The Court has jurisdiction of this case under federal question jurisdiction, §28 U.S.C. §1331;

7. Venue is proper in this Court pursuant to 28 U.S.C. §1391;

8. Federal claims asserted by Plaintiff are brought to vindicate rights guaranteed Plaintiff under 42 U.S.C. §1983 and under 42 U.S.C. §1981;

9. The actions taken against Plaintiff as addressed herein were done with the knowledge of, or in reckless disregard of, Plaintiff's federally-protected rights;

## **II. FACTS: CONCERTED ACTION AND UNWRITTEN POLICY**

10. Commencing in 2007, in response to complaints by judicial secretary Michelle Ceneskie and court interpreter Brenda Williams regarding abusive treatment by then-Judge Janet Grubb, Defendant Brandt, and then-Judge Harland Hale, the Defendants herein formulated a concealed plan and policy that female FCMC employees asserting complaints about abusive and discriminatory treatment at the hands of Judges would be discouraged and intimidated into silence. Such plan and policy included using their positions to conceal complaints from the full body of the Judges of the Court;

11. Thereafter, Williams was terminated while on leave under the Family & Medical Leave Act, and Ceneskie was demoted from her secretarial position and reassigned to the Probation Department. Other judicial secretaries were either demoted to the Probation Department or transferred from the offending Judge and intimidated into silence;

12. The Defendants imposed upon then-Court Administrator Keith Bartlett the responsibility of cooperating with this plan and policy, and carrying out the concealment of accusations and evidence of discrimination. Defendant Shaw was employed by FCMC during this period, and was also recruited into carrying out the plan and policy. When she was subsequently hired as Court Administrator, her cooperation in this plan and policy continued. She instructed her subordinates, Abbie Armitage, Human Resources Manager, and Holly Gleason, Assistant Court Administrator, to carry out the Judge's direction as well;

13. This plan and policy's intent was imposed upon Plaintiff, as is set out below;

### **III. ACTIONS TAKEN IN FURTHERANCE OF THE PLAN**

14. Plaintiff re-alleges Paragraphs 1 through 13 as if fully set forth herein;

15. Ms. Boxill, as Specialty Dockets Coordinator, reported to Judge Scott Vanderkarr;

16. Not long after his election to the bench in November, 2011, Defendant James P. O'Grady began making hostile comments to Plaintiff directed at her personally and to her supervision of Specialty Docket staff;

17. These comments, which mirrored sexist and racist allusions O'Grady had directed at Plaintiff when he had been Bailiff to Judge Vanderkarr in the past, began to cause Plaintiff concern. At the same time, Defendant Brandt was resistant to Plaintiff's efforts to further the work of the Specialty Docket, and hostile and intimidating to Plaintiff personally;

18. When O'Grady's conduct began to interfere with her ability to succeed in her work, Plaintiff began to express concerns to Judge Vanderkarr. Vanderkarr seemed reluctant to take any action, though it was apparent his relationship with O'Grady was deteriorating;

19. After O'Grady's harassment did not abate, Plaintiff reported his conduct, and that of Defendant Brandt, to Court Administration. Her reports were made to Keith Bartlett, and to Defendant Green. In both instances, she expressed her concern that O'Grady's treatment of her, and her staff, was motivated by her being an African-American female;

20. In the period leading up to April, 2013, Plaintiff continued to report ongoing harassment to Administrative Magistrate Katherine Graham and she spoke more than once about it to Armitage. No administrator or Judge acted on these reports, but each discouraged Plaintiff from any action;

21. In the period following April, 2013 and up to and including March, 2014, in response to Plaintiff's expressions of discrimination, Defendants began removing responsibilities and diminishing Plaintiff's abilities to function as coordinator. Defendants' intent, as with Ms. Barry, was to create an intolerable work environment, as a result of which Plaintiff would either resign or would allow Defendants to find a pretext to terminate her employment;

22. In that period, in a meeting in which Shaw and Armitage were present, when Plaintiff learned that Defendants had given a male subordinate a \$14,000.00 per year increase in salary with no commensurate consideration of her contributions, she again expressed her conviction that the Court was discriminating against her as a result of the “old boy’s network” that protected Judges like Brandt and O’Grady from censure. Defendants ignored Plaintiff’s concerns, because it was their intent to create an intolerable situation for Plaintiff;

23. On March 17, 2014, Judge Vanderkarr wrote a letter to Defendant Brandt, with copies to Shaw and Glaeden, in which he reported O’Grady’s creation of a hostile work environment. In response, after conferring with the other Defendants, Brandt directed Shaw to inform Vanderkarr that he, Vanderkarr needed to rewrite the letter to “tone it down.” Shaw actually wrote the second letter which was dated March 18, 2014. That letter specifically identified a female administrator, Holly Gleason, as one victim of O’Grady’s conduct and concluded, “I am concerned that, if left unaddressed, Judge O’Grady’s behavior may result in future litigation that could subject the Court to liability, possibly for the creation and continuation of a hostile work environment, and the payment of damages.”;

24. Defendants knew that Vanderkarr’s concerns were memorializing complaints made to him by Plaintiff. On or around March 25, 2014, in retaliation, Plaintiff was formally demoted by Defendants. Defendants appointed Assistant Court Administrator Holly Gleason as her direct supervisor. Gleason, at the direction of Defendants, began imposing increasing unwarranted scrutiny of Plaintiff and her staff’s activities. O’Grady, as

part of this pattern, recruited “a team of Judges” to monitor Plaintiff and her staff and frankly announced that he was “targeting” Specialty Docket staff. Defendants began bypassing Plaintiff on issues that were hers to address, and going directly to the Caucasian male subordinate who lacked her experience and qualifications;

25. Shortly after receiving notice of the demotion, Plaintiff attended a meeting with Glaeden, during which Ms. Boxill again reiterated her concerns of hostile work environment and informed Glaeden that she, Ms. Boxill, would never have been demoted if she had been a white male. Glaeden dismissed her concerns, because she knew that Plaintiff’s accusation was accurate;

26. Following Plaintiff’s demotion in March, 2014, knowing that her tenure at FCMC was being forced to an end, and suffering from great emotional distress, Plaintiff began seeking employment outside the Court, and on August 6, 2014, resigned;

27. Plaintiff requested an exit interview, and demanded that Armitage, Glaeden and Brandt attend. In that interview, Plaintiff reiterated a number of specific instances of O’Grady’s harassment and intimidation, and reiterated that his conduct was motivated by her gender and race. Armitage took notes, and later produced a document she titled “Exit Interview.” Although the document accurately cited a number of instances of harassment Plaintiff had recounted at the interview, it omitted all reference to Plaintiff’s claim of discrimination. Armitage, in so omitting this information, was carrying out the plan and practice of protecting abusive Judges;

28. Subsequently, on September 10, 2014, Armitage conducted a telephone interview of Plaintiff, during which she was asked to amplify on a number of instances of

O'Grady's conduct. Plaintiff did, and in that call again addressed the discrimination issue. Armitage later prepared a memorandum of that interview. As with the earlier document, Armitage omitted any mention of Plaintiff's claims of discrimination;

29. Armitage's omissions of Plaintiff's expressions of discriminatory treatment by the Court were intentional, and in furtherance of the plan and policy previously adopted by Defendants. No investigation of any of the Plaintiff's complaints, nor of those made by Ms. Barry, was ever conducted. Defendants concealed those complaints from the full body of Judges of the FCMC;

#### **IV. FIRST CLAIM: FIRST AMENDMENT RETALIATION: CONSPIRACY & CONCERTED ACTION**

30. Plaintiff re-alleges Paragraphs 1 through 29 as if fully set forth herein;

31. This Claim, as well as the Second, Third and Fourth Claims, is brought pursuant 42 U.S.C. §1983 to vindicate Plaintiff's rights under the Equal Protection Clause of the Fifth Amendment to the Constitution of the United States, through the Fourteenth Amendment;

32. Plaintiff engaged in protected expression under the First and Fourteenth Amendments as identified above, such expression being matters of public concern;

33. As identified above, Defendants entered into a meeting of the minds the goal of which was, and is, to conceal discrimination and abusive treatment by FCMC Judges, and to silence those making complaints about matters of public concern;

34. The overt acts in effectuation of the conspiracy to retaliate against Plaintiff include, but are not limited to (1) facilitating a continuing hostile work environment

following Plaintiff's complaints of discrimination and intimidation of Specialty Docket staff; (2) removing job responsibilities; (3) demoting Plaintiff; (4) giving unwarranted duties and pay increases to Plaintiff's white male subordinate; (5) manipulating the situation with Judge Vanderkarr in order to have a pretext to ignore the known hostile work environment; (6) constructively discharging Plaintiff; and, (7), reporting Plaintiff to the Chemical Dependency Professionals Board in an attempt to interfere with her professional standing and ability to practice her profession;

35. Defendants' actions would chill a person of ordinary firmness from engaging in protected expression, and actually intimidated Plaintiffs;

36. As a direct and proximate result, Plaintiff has suffered extreme emotional distress and anguish, suffered physical pain and suffering, lost income and employment opportunities, permanent loss of earning capacity, and will experience such injuries and losses in the future;

**V. SECOND CLAIM: CLAIM OF FIRST AMENDMENT RETALIATION:  
DEFENDANT SHAW**

37. Plaintiff re-alleges Paragraphs 1 through 36 as if fully set forth herein;

38. Defendant Shaw retaliated against Plaintiff, for her having engaged in protected activity;

39. As a direct and proximate result, Plaintiff has suffered extreme emotional distress and anguish, suffered physical pain and suffering, lost income and employment opportunities, permanent loss of earning capacity, and will experience such injuries and losses in the future;



**VI. THIRD CLAIM: CLAIM OF FIRST AMENDMENT RETALIATION:  
DEFENDANTS GREEN, GLAEDEN AND BRANDT**

40. Plaintiff re-alleges Paragraphs 1 through 39 as if fully set forth herein;

41. Defendants Green, Glaeden and Brandt individually and/or collectively, retaliated against Plaintiff, for her having engaged in protected expression, as set forth above;

42. As a direct and proximate result, Plaintiff has suffered extreme emotional distress and anguish, suffered physical pain and suffering, lost income and employment opportunities, permanent loss of earning capacity, and will experience such injuries and losses in the future;

**VII. FOURTH CLAIM: CLAIM OF FIRST AMENDMENT RETALIATION:  
DEFENDANT O'GRADY**

43. Plaintiff re-alleges Paragraphs 1 through 42 as if fully set forth herein;

44. Defendant O'Grady retaliated against Plaintiff for her having engaged in protected expression, as set forth above;

45. As a direct and proximate result, Plaintiff has suffered extreme emotional distress and anguish, suffered physical pain and suffering, lost income and employment opportunities, permanent loss of earning capacity, and will experience such injuries and losses in the future;

**VIII. FIFTH CLAIM: EQUAL PROTECTION GENDER DISCRIMINATION**

46. Plaintiff re-alleges Paragraphs 1 through 45 as if fully set forth herein;

47. This Claim is brought pursuant 42 U.S.C. §1983 to vindicate Plaintiff's rights under the Equal Protection Clause of the Fifth Amendment to the Constitution of the United States, through the Fourteenth Amendment;

48. O'Grady's conduct and actions, as set forth above, constituted gender discrimination against Plaintiff in violation of the Equal Protection Clause;

49. The actions of the Defendants Glaeden, Green, Brandt and Shaw, individually and/or collectively, constituted gender discrimination against Plaintiff in violation of the Equal Protection Clause by their facilitation of O'Grady's unlawful conduct and actions and in the specific actions taken against Plaintiff in which they participated and/or directed;

50. As a direct and proximate result, Plaintiff has suffered extreme emotional distress and anguish, suffered physical pain and suffering, lost income and employment opportunities, permanent loss of earning capacity, and will experience such injuries and losses in the future;

**IX. SIXTH CLAIM: EQUAL PROTECTION AND SECTION 1981 RACE DISCRIMINATION/RETALIATION**

51. Plaintiff re-alleges Paragraphs 1 through 50 as if fully set forth herein;

52. This Claim is brought pursuant 42 U.S.C. §1983 to vindicate Plaintiff Andrea Boxill's rights under the Equal Protection Clause of the Fifth Amendment to the Constitution of the United States, through the Fourteenth Amendment and her correlative rights under 42 U.S.C. §1981;

53. O'Grady's conduct and actions, as set forth above, constituted race discrimination and retaliation against Plaintiff in violation of the Equal Protection Clause;

54. The actions of the Defendants Glaeden, Green, Brandt and Shaw constituted race discrimination and retaliation against Plaintiff in violation of the Equal Protection Clause by their facilitation of O'Grady's unlawful conduct and actions and in the specific actions taken against Plaintiff in which they participated and/or directed;

55. As a direct and proximate result, Plaintiff has suffered extreme emotional distress and anguish, suffered physical pain and suffering, lost income and employment opportunities, permanent loss of earning capacity, and will experience such injuries and losses in the future;

WHEREFORE, Plaintiff demands judgment of Defendants, jointly and severally, as follows:

1. An Award of compensatory damages in such amount as the jury deems just;
2. An Award of punitive damages in such amount as the jury deems just, for a total demand of two million dollars (\$2,000,000.00), or such amount as the jury deems just in excess of that amount;
3. An Award of the attorney fees and costs incurred by Plaintiff in this case, under 42 U.S.C. §1988;
4. Such other equitable relief as the Court deems just.

Respectfully submitted,

/s/ Michael Garth Moore  
Michael Garth Moore (0025047)  
341 South Third Street Suite 100-204

Columbus, Ohio 43215  
Telephone 888-318-0075  
mike@mgmoorelaw.com

Trial Counsel for Plaintiff

**JURY DEMAND**

Plaintiff demands trial by a jury of twelve (12) persons as to all issues.

Respectfully submitted,  
/s/ Michael Garth Moore

**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing was filed through the Court's electronic filing system on April 3, 2017. Notice of this filing will be sent to all parties and counsel through the Court's filing system. Parties and counsel may access the filing through the Court's system.

Respectfully submitted,  
/s/ Michael Garth Moore