

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

CHRIS HERNANDEZ,)
)
 Plaintiff,)
)
 v.)
)
 CITY OF KANSAS CITY, MISSOURI,)
 (Serve: Marilyn Sanders, City Clerk)
 414 E. 12th Street, 25th Floor)
 Kansas City, MO 64106)
)
 Defendant.)

Case No.: _____

PETITION FOR DAMAGES

Plaintiff Chris Hernandez, by and through his attorneys, hereby states the following as his cause of action against Defendant City of Kansas City, Missouri.

1. Plaintiff Chris Hernandez is an individual who resides in Jackson County, Kansas City, MO 64113.
2. Defendant City of Kansas City, Missouri is a municipality organized under the laws of the State of Missouri and is in Jackson County, Missouri.
3. Plaintiff asserts this claim pursuant to §105.055.

FACTS

4. Plaintiff incorporates by reference the allegations of paragraphs 1 through 3, *supra*.
5. Plaintiff's position with Defendant was Communications Director.
6. On January 3, 2022, a meeting was held to discuss communication priorities for the upcoming year. Present at this meeting were the following individuals: Plaintiff, City Manager Brian Platt, Assistant City Manager Melissa Kozakiewicz, Content Creation Manager Rod Richardson, Media Relations Manager Maggie Green and Video Services Manager Brooke Givens.

7. The meeting took place in Mr. Platt's office.

8. During the meeting, the conversation turned to the discussion of strategies for dealing with the media. Mr. Platt suggested lying to the media and specifically asked, "Why can't we just lie to the media?"

9. Plaintiff answered, "That's not a good idea. We shouldn't do that."

10. Mr. Platt responded, "Why not? In Jersey, we had a mayor who would just make up numbers on the fly from the podium, and no reporters ever called him on it."

11. Plaintiff replied, "It would just take one reporter to call you on it and it would be a bad situation."

12. The conversation moved on but Plaintiff was clearly shocked that Mr. Platt would suggest this as a legitimate media strategy.

13. Plaintiff was not willing to put his credibility on the line for Mr. Platt. Plaintiff felt he had built a reputation for honesty and transparency for decades as both a journalist and communications director. Plaintiff did not want his reputation ruined while attempting to carry out these orders from Mr. Platt.

14. As the City prepared its annual event to kick off the "Summer of Street Resurfacing," Plaintiff and other staffers worked with Public Works to nail down the exact number of lane miles that would be resurfaced. This number is largely dependent on the budget, which goes into effect with the new Fiscal Year on May 1. There was discussion with Public Works, saying the number of miles would be in the high 200s, but agreeing the number would be rounded up. There was an email from Ms. Green as early as March 21, 2022 that stated that using the FY 22-23 numbers needed to wait for final budget approval by the Council. There was another email from Ms. Green, dated April 11, 2022, indicating that the media event was scheduled at least a

month in advance

15. The first draft of a news release stated, “nearly 300” but Mr. Platt told Plaintiff and other staffers to take out the word “nearly.” On May 2, 2022, Mr. Platt sent an email, asking Plaintiff to edit the graphic to simply say “300 miles” instead of “nearly 300 miles,” indicating that Mr. Platt knew the true number was lower. This draft of the news release showed that they had already decided that 300 lane miles was the promise they would make to the public.

16. On May 6, 2022, Mr. Platt tweeted that they would be doing “400 plus” lane miles.

17. After seeing these social media posts, Plaintiff’s first thought was where did Mr. Platt get that number? Plaintiff asked some other staffers and none of them were aware of any change in the number. Plaintiff feared that Mr. Platt was lying regarding the number.

18. On the morning of the media event, May 11, 2022, Plaintiff took Mr. Platt aside, and said, “I saw your post saying 400 plus lane miles – did something change?” Mr. Platt said, “Well, I talked to Shaw, so it’s fine.” Plaintiff said, “Okay, so does that mean we need to change the graphics and the news release, because everything says 300 lane miles.” Mr. Platt responded, “No, no, don’t do that, just go with 300.” Mr. Platt stated this in the tone of a kid who had gotten caught with his hand in the cookie jar. Plaintiff added, “Okay, let’s hope none of the reporters saw that and ask about the difference.” So Mr. Platt clearly knew that Plaintiff was concerned.

19. The final news release, issued on May 11, 2022 in conjunction with the media event on Linwood Boulevard, stated: “The City is finishing 300 lane miles of resurfacing from last year and will begin the 300 miles from this upcoming year in the next few weeks.”

20. After the news release, Plaintiff never saw or heard Mr. Platt use the 400 number again, so Plaintiff felt he had stopped Mr. Platt from continuing to lie regarding the number.

21. Plaintiff thought that Mr. Platt would view this as Plaintiff being in his way and

that Plaintiff would continue to fact-check him or call him out any time Mr. Platt lied.

22. Plaintiff was stressed out during the news conference and afterwards, wondering if any reporters would notice the discrepancy in the numbers and ask for clarification. It was clear to Plaintiff that Mr. Platt just wanted an even larger number and did not care if the number was true or not.

23. From a public relations perspective, Plaintiff thought they were lucky that no reporters noticed the discrepancy. From a management perspective, it convinced Plaintiff that Mr. Platt was serious with regard to lying regarding the numbers.

24. On May 26, 2022, Mr. Platt tweeted again regarding resurfacing and this time he used accurate numbers.

25. In late April or early May, 2022, the Kansas City Star newspaper was working on a story regarding potholes. The questions and data requests indicated that The Star was looking for negative angles to include in the story.

26. Mr. Platt was involved in development of the response to some of these questions. On the morning that the story was published, Mr. Platt was very upset and he began texting Plaintiff and other staffers at 7:00 a.m., He also made phone calls, saying “how can reporters be allowed to write a story like that?” and “This is false, we don’t have a problem with potholes, we don’t have a problem with service delivery.” Mr. Platt insisted that the numbers were wrong, even though the numbers had been given to the Star reporter by Public Works and were publicly posted on the City’s Open Data platform.

27. Mr. Platt wanted Plaintiff and other staffers to call the reporter and tell him that the numbers were wrong. This would have caused Plaintiff and other staffers to have to lie to the reporter. However, in their pushback, Plaintiff and Ms. Green focused on telling Mr. Platt that the

numbers were correct, just letting Mr. Platt vent at them.

28. Mr. Platt simply did not like that the story revealed that the City was filling fewer potholes, even though there was a good reason for it – the money had been switched to doing more street resurfacing, in order to prevent potholes in the future. But Mr. Platt was angry that the story focused on the potholes rather than the street resurfacing strategy that he had crafted.

29. On June 1, 2022, Plaintiff and Mr. Platt had a meeting over the noon hour at the Filling Station, a coffee shop on Gilham Road. It was very unusual for Mr. Platt to want to meet offsite because usually they just texted or talked on the phone.

30. Plaintiff and Mr. Platt discussed why Ms. Green had resigned. Plaintiff told Mr. Platt that Ms. Green had resigned and other staffers were leaving or refusing promotions because they were upset regarding the way that Mr. Platt and Ms. Kozakiewicz were treating them. Both Plaintiff and Mr. Platt left the meeting upset and frustrated.

31. Plaintiff knew he was taking a risk telling Mr. Platt about these issues but Plaintiff felt that nothing would change if he did not speak directly.

32. On August 4, 2022, Plaintiff was demoted, transferred and removed from his management role. Mr. Platt told Plaintiff that Ms. Kozakiewicz shared his vision and that Plaintiff did not

33. Plaintiff had excellent performance reviews, several promotions and no negative performance issues.

34. Plaintiff objected to the City Manager of the City of Kansas City, Missouri lying to the public. Plaintiff brought his complaints because the public deserves honesty from its officials.

CLAIM UNDER WHISTLEBLOWER §105.055

35. Plaintiff hereby incorporates the allegations contained in paragraphs 1-34 into this Claim of his Petition.

36. Plaintiff reported to Mr. Platt that Platt should not be dishonest to the news media and the public.

37. Plaintiff was demoted in his employment in retaliation for reporting not to be dishonest to the news media and the public to his employer.

38. As a result of engaging in this protected activity, Plaintiff has been retaliated against and subjected to discrimination and adverse employment actions, including the actions alleged in Count I.

39. As a direct and proximate result of the unlawful conduct of Defendant as set forth herein, Plaintiff has suffered damages which include emotional distress, pain and suffering, loss of past and future wages and benefits, a detrimental job record, career damage and diminished career potential, mental distress in the form of embarrassment, degradation, humiliation, anxiety, loss of enjoyment of life, loss of sleep, and other nonpecuniary losses. Plaintiff is also entitled to other appropriate equitable relief.

40. The conduct of Defendant was intentional, malicious, and/or outrageous and evidenced an evil motive or conscious disregard for the rights of Plaintiff and others similarly situated, entitling Plaintiff to an award of punitive damages.

41. Plaintiff is entitled to recover all his costs, expenses, expert witness fees, and attorneys' fees incurred in this matter as well as other appropriate equitable relief.

WHEREFORE, Plaintiff prays for judgment against Defendant, for actual, compensatory and punitive damages, all costs, expenses, expert witness fees and attorneys' fees incurred herein,

appropriate equitable relief, for interest at the highest lawful rate, and for such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on each of the allegations contained in this Petition that are triable before a jury.

BRATCHER GOCKEL LAW, L.C.

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