

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JOYCE GUIDRY GREEN AND	*	CIVIL ACTION NO.
MITCHEL GREEN	*	
	*	
VERSUS	*	SECTION
	*	
DENIS ROUSSELLE, JOYCE LAMKIN,	*	
SHARON BRANAN, MARY ANNE	*	MAGISTRATE
BULOT, AND THE PLAQUEMINES	*	
PARISH SCHOOL BOARD	*	
	*	

ORIGINAL COMPLAINT FOR DAMAGES
UNDER 42 U.S.C. § 1983, AND PENDENT
CLAIMS UNDER LOUISIANA LAW

Complainants Joyce and Mitchel Green allege the damages and causes of action arising from the facts set forth below.

Jurisdiction

1.

Federal Law Claims

Jurisdiction of this Court arises under 28 U.S.C. Sections 1331, 1337, 1343(a) and 1367(a); 42 U.S.C. §§ 1983, 1985, 1986 and 1988.

2.

Pendent State Law Claims

Jurisdiction of this Court for pendent claims is authorized by 28 U.S.C. § 1367 with respect to state law claims inasmuch as the amount in controversy exceeds \$75,000.00, exclusive

of interest and costs, and under F.R.Civ.P. 18(a), and arises under the doctrine of pendent jurisdiction as set forth in *United Mine Workers v. Gibbs*, 383 U.S. 715.

3.

Pendent claims arise from a violation of claimant's rights as set forth in those claims and as the rights violated are expressly guaranteed and protected under the 1974 Louisiana Constitution, particularly Art. 1 § 2 (due process of law), § 3 (right to individual dignity), § 5 (right to privacy), § 19 (right to judicial review), § 22 (access to courts); and under the laws of the State of Louisiana, including but not limited to LSA-C.C. art. 2315 (liability for acts causing damages), LSA-C.C. art. 2316 (negligence, imprudence or want of skill), LSA-C.C. art. 2317 (acts of others), LSA-C.C. art. 2320 (acts of servants), LSA-C.C. art. 2324 (solidary liability for conspiracy), (abuse of process and negligent misinformation); false arrest and malicious prosecution. *State v. Tate*, 171 So. 108, *Monell v. New York City Dept. of Social Services*, 436 U.S. 658; *City of Canton v. Harris*, 489 U.S. 387, *McMillian v. Monroe County*, 520 U.S. 781, *Bryan County Comm'r v. Brown*, 520 U.S. 397, and *Burge v. St. Tammany*, 187 F. 3d 452, C.A.5 (La. 1999), *Holly Ray Burns v. NOPD*, No. 05-30837, U. S. Fifth Circuit Court of Appeals (14 January 2008).

Venue

4.

Venue in the United States Courts for the Eastern District of Louisiana is proper under 28 U.S.C. § 1391(b) as all actions complained of took place in the Parish of Plaquemines, State of Louisiana, within the Eastern District of the United States District Court.

Parties

5.

Complainants Joyce and Mitchel Green (hereinafter sometimes referred to as “the Greens”) are persons of the age of majority, domiciled within the Eastern District of Louisiana. They are husband and wife.

6.

Plaquemines Parish School Board (“School Board”) is a political subdivision of the State of Louisiana, which legal entity is responsible for the policies, procedures, and practices implemented by and through its various members, agents, departments and employees, and is responsible for the injury and violations of the United States Constitutional and Louisiana Constitutional rights occasioned thereby.

7.

Denis Rousselle (“Rousselle”), a natural person, who at all times pertinent hereto directly participated in the harm caused to the Greens, which acts include but are not limited to knowingly making false statements concerning material matters to the investigators and/or prosecuting attorney and withholding material facts from the investigators and/or prosecuting attorney, and whose reporting to the prosecuting attorney was done in bad faith and without probable cause for doing so. He is sued in his individual and official capacity as he and others used their authority in a manner that deprived the Greens of their rights and which actions caused the injuries suffered by the Greens as set forth herein.

8.

School Board Member Sharon Branan (“Branan”), a natural person, who at all times pertinent hereto directly participated in the harm caused to the Greens, which acts include but are not limited to knowingly making false statements concerning material matters to the investigators and/or prosecuting attorney and/or withholding material facts from the investigators and/or prosecuting attorney. She is sued individually and in her official capacity as she and others used their authority in a manner that deprived the Greens of their rights and which actions caused the injuries suffered by the Greens as set forth herein.

9.

Mary Anne Bulot (“Bulot”), Executive Assistant, a natural person, who at all times pertinent hereto directly participated in the harm caused to the Greens, which acts include but are not limited to knowingly making false statements concerning material matters to the investigators and/or prosecuting attorney and/or withholding material facts from the investigators and/or prosecuting attorney. She is sued individually and in her official capacity as she and others used their authority in a manner that deprived the Greens of their rights and which actions caused the injuries suffered by the Greens as set forth herein.

10.

School Board President Joyce Lamkin (“Lamkin”), a natural person, who at all times pertinent hereto directly participated in the harm caused to the Greens, which acts include but are not limited to knowingly making false statements concerning material matters to the investigators and/or prosecuting attorney and/or withholding material facts from the investigators

and/or prosecuting attorney. She is sued individually and in her official capacity as she and others used their authority in a manner that deprived the Greens of their rights and which actions caused the injuries suffered by the Greens as set forth herein.

11.

ABC Insurance Company, a domestic or foreign corporation, licensed to do and doing business in the Parish of Plaquemines, which at all times pertinent hereto did provide to various co-defendants policies of insurance covering their activities and those of their employees and agents. When identified, the true name shall be substituted for the place name of ABC Insurance, and the complaint shall be amended pursuant to the Louisiana Direct Action Statute.

Statement of Facts

12.

On or about August 13, 2003, Plaintiff Joyce Green (“Joyce”) was employed by the School Board as a teacher.

13.

Joyce worked as a teacher until the destruction of Hurricane Katrina in August, 2005.

14.

On or about October, 2005, following the disaster of Hurricane Katrina, Joyce was brought into the School Board’s central office working outside of her classification to assist with disaster recovery efforts. On or about June 2006 a new position was created by the School Board, namely FEMA Coordinator, and Joyce was hired for that position.

15.

Joyce was the face of the School Board for FEMA. She attended all meetings between the State representatives/liaisons and the School Board associated with reimbursement for recovery related projects and was responsible for the administrative services associated therewith. She worked with FEMA to develop project worksheets, coordinate alignment of project worksheets in seeking reimbursement, and analyze cost options, as well as worked with FEMA and the State to maximize reimbursement of funds for rebuilding.

16.

On or about April 7, 2008, Joyce was promoted by the School Board to the position of Finance Director.

17.

Joyce continued to perform the FEMA Recovery duties for the School Board in addition to her new duties as Finance Director.

18.

In April, 2009, in connection with her position as Finance Director, Joyce told Superintendent Rousselle, her immediate supervisor, of some concerns she had with the School Board accounting department, including 12 months of un-reconciled statements and unpaid taxes, lack of structure and staff problems. Joyce made recommendations to Rousselle for corrective changes.

19.

Rousselle verbally approved Joyce's suggested corrective measures.

20.

In July, 2009, Joyce outlined in a letter the problems with the accounting department discussed with Rousselle in April, 2009.

21.

In August, 2009, Joyce followed up with an e-mail to Rousselle both her April, 2009 conversations and her letter of July, 2009, after Rousselle advised her that his lawyer said they could not make the proposed changes.

22.

During that same summer of 2009, consultants contracted by the State to assist applicants/sub-grantees, including the School Board, with disaster recovery and mitigation management services, initiated conversations with Joyce, as well as other similar sub-grantees, as to an applicant's ability to recapture eligible administrative activities and costs for reimbursement by FEMA.

23.

Joyce was advised that the eligible costs could include reimbursement for administrative activities she performed as they specifically related to disaster recovery efforts.

24.

Joyce confirmed this information with Walter "Kip" Nelson ("Nelson"), the State-Applicant Liaison/Project Management Technical Lead, and Tony Mills, Special Projects/Problem Resolution Officer.

25.

These conversations transpired over a period of time from approximately September, 2009 through May, 2010. See Exhibit 1 *in globo* attached hereto and incorporated by reference herein.

26.

Following initial confirmation with representatives of the Governor's Office of Homeland Security and Emergency Preparedness ("GOHSEP") regarding the reimbursement eligibility of these costs, Joyce discussed with Rousselle the ability to be reimbursed for the FEMA work she was and had been performing outside of her normal duties.

27.

After some initial reluctance to the idea of recapturing this time for Joyce to be paid, Rousselle said, "Let's do it." It was during this conversation that Joyce also told Rousselle that she would also seek reimbursement for the general fund as Joyce was advised by GOHSEP representatives that any administrative monies already received by the School Board would have to be repaid to FEMA/State if not justified

28.

In December, 2009, Joyce called Mark DeBosier, the Assistant Deputy Director of Disaster Recovery, ("Debosier") for the purpose of determining the appropriate hourly rate to charge for the administrative services she was performing for FEMA recovery.

29.

Debosier returned Joyce's call that same evening and discussed with her the Direct/Indirect program for reimbursement of administrative expenses.

30.

Joyce specifically made an inquiry to Debosier of whether the Direct/Indirect program applied to her and, more specifically, whether she could get paid under that program.

31.

Debosier indicated to Joyce that FEMA has reimbursed for work performed by individuals when such work was outside of, or in addition to, what they were hired to do.

32.

Debosier offered to meet with Rousselle to further explain the program.

33.

Following the Christmas and New Year holidays, Joyce informed Rousselle of Debosier's offer to come speak with him to explain how Joyce could get paid for the FEMA work she was doing on behalf of the School Board.

34.

Rousselle advised Joyce that he was going to "work" the matter through the School Board's finance committee and instructed Joyce to have Debosier come to the next finance committee meeting. He specifically indicated to her that he did not want it to look like he alone approved the additional pay.

35.

Joyce specifically asked Rousselle whether he was going to bring the matter before the School Board for approval, to which he replied in the negative stating that he wouldn't be able to get it through School Board Member Sharon Branan ("Branan").

36.

Joyce then contacted the chairman of the finance committee, School Board Member William Mertz ("Mertz"), to advise Mertz about Rousselle's plan to bring the matter before the finance committee.

37.

Mertz told Joyce that he did not see a problem with her being reimbursed as long as she had been and was indeed working extra hours performing the FEMA work.

38.

Mertz approved including Debosier on the finance committee agenda.

39.

Mertz told Joyce that the finance committee minutes would be included with the Board's package. He indicated that once the Board's minutes were approved, everything in the Board package, including the finance committee minutes, would be approved.

40.

Prior to Debosier's planned meeting with the finance committee, both Debosier and Nelson sent to Joyce a letter explaining the FEMA program under which the administrative services performed by her were eligible for reimbursement. See Exhibit 2 *in globo* attached hereto as if incorporated by reference herein.

41.

Debosier met with the finance committee on January 19, 2010.

42.

Prior to the meeting, Joyce reminded Rousselle why Debosier was attending, more specifically that Debosier was attending at Rousselle's request to explain the direct/indirect reimbursement program.

43.

At the finance committee meeting, Mertz asked Joyce to provide follow up information for inclusion in the School Board's package for its February, 2010 School Board meeting. See Exhibit 3 attached hereto as if incorporated by reference herein.

44.

Joyce prepared a typewritten sheet in response to Mertz's request for follow up information, which document listed her proposed hourly rate and the rate range given to her by Debosier. See Exhibit 4 attached hereto as if incorporated by reference herein.

45.

Prior to providing the Mertz requested document for inclusion in the School Board/finance committee package, Joyce first presented the document to Rousselle for review.

46.

Rousselle initially glanced at the document and returned it to her saying that "It looks good."

47.

Joyce insisted at that time that Rousselle read it and confirm that he approved it. She specifically told Rousselle that Mertz had requested the information in follow up to the finance committee meeting with Debosier.

48.

Rousselle sat, read and approved the document. Joyce e-mailed the document to Mertz on January 27, 2010 and followed up with same on January 31, 2010.

49.

Joyce e-mailed the document to Mary Anne Bulot, Executive Assistant, to put in the Board package. See Exhibit 5 attached hereto as if incorporated by reference herein.

50.

Joyce later told Rousselle that other employees could be paid for the work they did as well under the same program to which Rousselle replied "No, everyone would want to do FEMA work, and I don't want to deal with that."

51.

Joyce further advised Mertz of Rousselle's position regarding other employees.

52.

In a further effort to ensure the appropriateness of such reimbursement and pay to her, Joyce discussed with the auditor Terri Kitto ("Kitto") the reimbursement program. Kitto also advised Joyce she saw no problems with it.

53.

Kitto later asked for copies of paperwork Joyce received from GOHSEP, and Joyce forwarded same to Kitto via e-mail. See Exhibit 6 attached hereto as if incorporated by reference herein.

54.

The February, 2010 School Board meeting minutes, including the finance committee meeting minutes and the proposed hourly rate for Joyce for recapturing of direct/indirect FEMA administrative services performed by her, were approved by the School Board at its March, 2010 meeting. See Exhibit 7 *in globo* attached hereto as if incorporated by reference herein.

55.

In April, 2010, the School Board implemented a timeline for having employee timesheets approved in order to streamline payroll runs.

56.

As a result of the timeline implemented by the School Board with regard to payroll, Joyce worked to put together her timesheets for the FEMA work so as not to be in violation of the School Board adopted timeline.

57.

Joyce presented two timesheets to Rousselle, one for Katrina and one for Gustav, along with the School Board meeting cover page and finance committee minutes, and specifically explained to him that those timesheets were for her to get paid for the work she had done with the FEMA projects.

58.

Rousselle signed both timesheets approving the payment to Joyce. See Exhibit 8 attached hereto as if incorporated by reference herein.

59.

Joyce gave the signed timesheets to Josiclyn Ortego (“Ortego”), Payroll Clerk, to process them for payment to Joyce.

60.

Ortego and Fonique Gladden, Payroll Accountant, advised Joyce that they would need Rousselle’s signature approving the hourly rate sheet in order to process payment.

61.

Joyce brought the hourly rate sheet to Rousselle and explained to him that it was something he had already approved and payroll needed in order for Joyce to get paid for the work she had done for FEMA.

62.

Rousselle indicated his approval by signing the hourly rate sheet. See Exhibit 9 attached hereto and incorporated by reference herein.

63.

Joyce returned the approved hourly rate to Ortego, and Ortego processed the timesheets for payment to Joyce.

64.

Because the amount of the check to Joyce exceeded the threshold for automatic signature, the check required two hand signatures.

65.

Ortego obtained the signature of the School Board President Joyce Lamkin and then gave the check to Joyce to obtain Rousselle’s signature. Ortego presented the check to Joyce in an

envelope. Joyce told her to keep the supporting documentation attached in case Lamkin had questions. It was at this time that Ortego informed Joyce that Lamkin had already approved and signed the check.

66.

Joyce presented the check to Rousselle for his signature noting to him that the check also required Lamkin's signature. Rousselle read it over and signed the check. Joyce deposited the check for payment. See Exhibit 10 attached hereto and incorporated by reference herein.

67.

Prior to this time and during the period of time starting in approximately August, 2009, certain finance/accounting staff members were displeased with the changes to the department Joyce had implemented, upon which they voiced their complaints to Rousselle.

68.

Joyce discussed these difficulties, along with accounting and audit concerns, with the auditor William Stamm, Board President Lamkin and Rousselle.

69.

Joyce also discussed these difficulties with Lamkin, Board Vice President Mertz, and District 1 Board Member Reverend Michael Jiles, upon which they met with Joyce and Rousselle in January, 2010.

70.

Following the meeting with Lamkin, Mertz, Jiles and Joyce, Rousselle returned the then current Chief Accountant to the position of assistant accountant and said he would send Joyce to management classes. Joyce followed up about classes but was never sent.

71.

Subsequently, an employee filed a grievance against Joyce after Joyce had reprimanded her for conduct Joyce believed could result in liability to the School Board. A subsequent reprimand of this employee by Joyce followed for insubordination when the employee refused to perform her duties.

72.

Joyce met with the Personnel Director Monica Wertz (“Wertz”) as a result of the grievance filed against her, and Rousselle told Joyce he was trying to keep the grievance from being forwarded to board members.

73.

When Joyce refused to change the same employee’s start time for the second time, having previously granted her permission to move from an 8:30 am time slot to an 8:00 time slot, Rousselle supported Joyce’s decision by stating that it was Joyce’s call and then later called Joyce and yelled at her for not granting the employee’s request complaining she had people sitting in the parking lot.

74.

In April, 2010, Joyce advised both Rousselle and School Board members that they could not use School Board money to pay for guests’ lodging expenditures when attending out of town meetings. See Exhibit 11 attached hereto as if incorporated by reference herein.

75.

Notwithstanding Joyce’s advice, in April, 2010, Rousselle instructed Debbie Boles, Executive Assistant, to pay the guests’ meal expenditures and not ask questions.

76.

In May, 2010, clearly furious with Joyce and the audit review, School Board Member Branán asked Joyce if the performance agreement with Johnson Controls had been cancelled to which inquiry Joyce answered “no.”

77.

School Board members were displeased that the contract had not yet been cancelled and reviewed the resolution calling for the cancellation of the contract, which resolution placed responsibility for cancelling the contract with Rousselle and Lamkin. See Exhibit 12 *in globo* attached hereto and incorporated by reference herein.

78.

Branán wrongly faulted Joyce with failure to cancel the contract and demanded that Joyce be disciplined. Mertz said it was a “witch hunt.”

79.

Branán sent School Board members Rousselle and Bulot an e-mail dated May 13, 2010 demanding that Joyce be fired. See Exhibit 13 attached hereto and incorporated by reference herein.

80.

Following the audit review, Rousselle informed Joyce that “we need to be worried about our jobs.” See Exhibit 14 attached hereto and incorporated by reference herein.

81.

It was at this time that Rousselle and Branán, together with their servants and employees, conspired and embarked on a mission to have Joyce wrongfully fired, placing blame on Joyce for

the failure to have the Johnson Control's contract cancelled and for the problems documented in the audit review, which problems had existed for years but for which they sought to make Joyce the scapegoat. They used the FEMA reimbursement as their mechanism.

82.

Shortly thereafter, an investigation ensued regarding small gifts of money Joyce had given to some staff members as appreciation for a job well done.

83.

Joyce was unaware of any ethical prohibition to giving such gifts of appreciation as it had been the practice of the administration to give money to clerical staff for secretary's day and on information and belief employees had given the superintendent cash money for Christmas.

84.

On Saturday, May 22, 2010, Rousselle went to Joyce's office after Joyce had called the Technology Director to let him know her computer was not working and asked her if she knew what was going on regarding the money she had given to some employees. Rousselle informed Joyce at that time that she could lose her job as a result.

85.

Rousselle then instructed Joyce to leave until Monday but not before telling her that he had never approved her getting the "extra" FEMA pay and mentioned to her that the District Attorney was involved in reviewing the matter.

86.

On Monday, May 24, 2010, Rousselle, in the company of Monica Wertz, Personnel Director, called Joyce into Rousselle's office and Rousselle told Joyce that he was sorry that it

had come to this but that he needed a finance director he could trust. Branam was in the School Board office that same morning.

87.

Rousselle told Joyce at that time that it was not about the FEMA money because he said "I signed those documents" but it was about the money she had given employees. He asked her to turn in her phone and key and presented to her at that time a letter of resignation for her signature.

88.

Joyce refused to sign the letter of resignation.

89.

Wertz escorted Joyce to her office where Joyce was instructed to pack her personal items and was escorted out of the building.

90.

Joyce later received a letter dated May 26, 2010, which letter referenced a suspension, notwithstanding the fact that she clearly had been wrongly discharged on May 24, 2010.

91.

On Wednesday, May 26, 2010, Joyce received a phone call from Bulot advising Joyce that Rousselle wanted to meet with her. A meeting was scheduled for Monday, May 31, 2010.

92.

At the May 31, 2010 meeting, Rousselle presented Joyce with a list of questions regarding the FEMA timesheets and changed his story at this time telling her that he thought the money would be reimbursed to the general fund, not paid to Joyce.

93.

Some time on or after May 24, 2010, Bulot went through Joyce's computer files and e-mails. On information and belief, Bulot shared these e-mails with Rousselle and others, however the named Defendants failed to disclose e-mails of pertinent reimbursement discussions to the investigator and/or prosecuting attorney, which e-mails would have cleared Joyce of any alleged wrongdoing.

94.

On May 31, 2010, Rousselle asked Joyce to return the money she had been paid for the FEMA work. Joyce wrote a personal check made payable to the School Board in the amount of \$46,535.12 and presented the check to Rousselle. That check was deposited for collection by the School Board.

95.

On Monday, June 7, 2010, Joyce received a telephone call from a union representative advising that Rousselle wanted her to resign by June 11, 2010.

96.

Joyce met again with Rousselle on July 22, 2010, at which time Rousselle came into the meeting holding up a paper falsely claiming, "I have a letter that says FEMA never told you that you could get paid."

97.

To this date, Defendants have never submitted to GOHSEP Joyce's timesheets for a final determination as to eligibility of those expenses and, on information and belief, have never otherwise reimbursed FEMA the relevant monies for indirect administrative expenses received

by the School Board related to FEMA administrative work performed by Joyce for which she has not been paid.

98.

On or before the 23rd day of September, 2010, Defendants, their agents, servants and employees, played an active part in the initiation of the criminal proceedings against Joyce by making false claims and withholding exculpatory evidence that would have cleared petitioner of any wrongdoing.

99.

On the 24th day of September, 2010, Joyce was falsely arrested by the Plaquemines Parish Sheriff's Office, detained and wrongfully charged with two counts of Felony Theft and Malfeasance in Office.

100.

Joyce was wholly innocent and was forced by the Defendants' actions to submit to court proceedings.

101.

Upon further examination by the District Attorney, the said charges were dismissed.

102.

The said prosecution and criminal charges and hearings were instituted and procured by the Defendants, their agents, servants and employees in this action, unlawfully and maliciously and without any reasonable cause whatsoever therefore.

103.

The influence the Defendants exerted in the commencement and/or continuation of the criminal proceedings against Joyce Green were with actual malice.

104.

By reason of the false arrest, detention and malicious prosecution of Joyce, she was subjected to great indignities, humiliation and ridicule in being so charged and greatly injured her credit and circumstances and was then and there prevented and hindered from performing and transacting her necessary affairs and business, and she was caused to suffer severe emotional distress.

105.

The Greens have suffered damages as the direct and proximate cause of the actions and/or omissions of the Defendants as set forth herein.

106.

Each and all of the acts of Defendants alleged herein were done by them, their agents, servants and employees, and each of them under the color and pretense of the statutes, ordinances, regulations, customs and usages of the School Board.

107.

Joyce did not commit any illegal act for which she was charged, either before or at the time she was falsely accused, arrested, maliciously prosecuted and deprived of her constitutional rights as set forth in the Constitution of the United States, particularly 42 U.S.C. § 1983.

108.

Although Defendant School Board knew or should have known of the fact that this pattern of conduct was carried out by its agents, servants and employees, the School Board did not take any steps or make any effort to halt this course of conduct and/or to make redress to the Greens injured thereby.

Count No. 1

Actions Under 42 U.S.C. § 1983

109.

Petitioners re-allege and incorporate by reference the allegations in paragraphs 1 – 108 above with the same force and effect as if herein set forth.

110.

At all times relevant herein, the conduct of all Defendants were subject to 42 U.S.C. §§ 1983, 1985, 1986 and 1988.

111.

42 U.S.C. § 1983 is clear. Every person who, under color of any statute, ordinance, regulation, custom, or usage of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

112.

Such civil suits [also suits in equity] arise under 42 U.S.C. § 1983-1988 and under Louisiana law, including but not limited to LSA-C.C. 2315, and conduct such as the acts otherwise prohibited by Louisiana criminal statutes such as 14:36, *et seq*, and 18 U.S.C. § 245(b)(2)(B). These criminal statutes do not of themselves give rise to civil actions but do identify the conduct and damages that can be redressed in civil actions.

113.

Acting under the color of law, Defendants worked a denial of Joyce's rights, privileges or immunities secured by the U.S. Constitution or by Federal Law, to-wit:

- (a) Depriving Joyce of her liberty without due process of law by playing an active part in the initiation of the criminal proceedings against her without probable cause;
- (b) By making false claims and withholding exculpatory evidence that would have cleared Joyce from the outset of any wrongdoing;
- (c) By conspiring for the purpose of impeding and hindering the due course of justice with the intent to deny Joyce equal protection of the law;
- (d) By refusing or neglecting to prevent such deprivations and denials to Joyce thereby depriving her of her rights, privileges and immunities as guaranteed by the Fourth, Fifth, and Fourteenth Amendments to the U. S. Constitution;
- (e) By making defamatory statements against Joyce causing her a loss of liberty and property;
- (f) Such other acts as may be shown at a trial of this matter.

Count No. II

28 U.S.C. § 1367 Pendent Claims
Under Application of Louisiana Law

114.

Petitioners re-allege and incorporate by reference the allegations in paragraphs 1 – 108 above with the same force and effect as if herein set forth.

115.

Jurisdiction of this Court for pendent claims is authorized by 28 U.S.C. § 1367 with respect to the state law claims, inasmuch as the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and under F.R.Civ.P. 18(a) and arises under the doctrine of pendent jurisdiction as set forth in *United Mine Workers v. Gibbs*, 383 U.S. 715.

116.

Pendent claims arise from violation of claimant's rights as set forth in those claims and as the rights violated are expressly guaranteed and protected under the 1974 Louisiana Constitution, particularly:

Art. 1 § 2 (due process of law), § 3 (right to individual dignity), § 5 (right to privacy), § 19 (right to judicial review), § 22 (access to courts); and under the laws of the State of Louisiana, including but not limited to LSA-C.C. art. 2315 (liability for acts causing damages), LSA-C.C. art. 2316 (negligence, imprudence or want of skill), LSA-C.C. art. 2317 (acts of others), LSA-C.C. art. 2320 (acts of servants), LSA-C.C. art. 2324 (solidary liability for conspiracy), (abuse of process and negligent misinformation); false arrest and malicious prosecution. *State v. Tate*, 171 So. 108, *Monell v. New York City Dept. of Social Services*, 436 U.S. 658; *City of Canton v.*

Harris, 489 U.S. 387, *McMillian v. Monroe County*, 520 U.S. 781, *Bryan County Comm'r v. Brown*, 520 U.S. 397, and *Burge v. St. Tammany*, 187 F. 3d 452, C.A.5 (La. 1999), *Holly Ray Burns v. NOPD*, No. 05-30837, U. S. Fifth Circuit Court of Appeals (14 January 2008).

Count III

28 U.S.C. § 1367 Pendent Claims
Defamation Under Louisiana Law

117.

Petitioners re-allege and incorporate by reference the allegations in paragraphs 1 – 108 above with the same force and effect as if herein set forth.

118.

Defendants have defamed Joyce Green by doing the following:

- (1) Having accused Joyce Green of the crime of theft and malfeasance;
- (2) Having defamed Joyce Green by accusing her of actions which are of themselves criminal acts per se;
- (3) Having made other false and mistaken statements concerning Joyce Green which constitute defamation and abuse of process, negligent misinformation and negligent misrepresentation under Louisiana law;
- (4) Having defamed Joyce Green;
- (5) Having initiated false and malicious prosecution of Joyce Green by making false charges against her with the Plaquemines Parish Sheriff's Office and/or the Plaquemines Parish District Attorney;
- (6) Having committed tortuous acts which shall be discovered and presented to this tribunal during discovery and between now and the time of trial.

119.

Defendants have made false and/or mistaken statements concerning Joyce as to the nature and performance of and compensation for her FEMA related administrative management services in order to suggest that Joyce had committed state and/or federal crimes.

120.

Defendants have made and published statements through their own fault, which statements constitute defamation.

121.

Petitioner Joyce Green has suffered injury as a result of Defendants' defamatory statements and actions in defamation—such as those set forth and prohibited in *Trentecosta v. Beck* (La. 10/21/97), 703 So.2d 552, 559 (citing the Restatement (Second) of Torts § 558 (1977)); see *Cangelosi v. Schwegmann Bros. Giant Super Markets*, 390 So.2d 196, 198 (La.1980) (considering falsity as a fifth and separate element).

122.

Defendants have caused Joyce Green to incur costs, fees, and other out-of-pocket expenses as a result of misrepresentations and foundationless allegations made in Defendants' allegations to the Plaquemines Parish Sheriff's Office and/or the Plaquemines Parish District Attorney.

123.

Defendants are liable to Joyce Green for the following: (1) false and defamatory statements made against Joyce Green personally; (2) false and defamatory statements published to numerous third parties. Defendants are at fault for these statements pursuant to *Cangelosi v.*

Schwegmann Bros. Giant Super Markets, 390 So.2d 196, and their statements caused Joyce Green injury and damages as set forth herein.

124.

Defendants' statements and actions constitute defamation pursuant to *Costell v. Hardy*, 864 So.2d 129; *Fitzgerald v. Tucker*, 737 So.2d 706; *Trentacosta v. Beck*, 703 S.2d 552 at 559 (citing Restatement (Second) of Torts, § 558 (1977); *Sassone v. Elder*, 626 So. 2d 345.

(A) They made these defamatory statements through their own negligence---in reckless disregard for the falsity of the statements and the injuries that would result therefrom.

(B) In the alternative, they made these statements on purpose with the intent to disseminate false information about Joyce Green in an attempt to cause her harm, subject her to ridicule, and bring about other damages.

125.

Defendants' statements that Joyce Green converted monies from their public agency and/or related federal agencies are defamatory *per se* ---as those statements clearly and expressly accuse her of criminal conduct --- pursuant to *Kosmitis*, 685 So.2d at 1180, *Lemeshewsky*, 646 So.2d at 975.

126.

Defendants made their statements to numerous individuals including but not only law enforcement officers of the Parish of Plaquemines, and they published their statements to third parties including but not only its Courts.

127.

Defendants made false statements to third parties that petitioner Joyce Green converted money or resources belonging to them, breached her professional duties to them, falsified time or compensation owed to her, and otherwise used her position to take from their agency and the federal government money or other resources to which she was not entitled in compensation for the services she actually performed.

128.

The Louisiana Constitution [1974] does not protect defamatory statements or allegations as it specifically provides that every person is responsible for his abuse of the freedoms enumerated therein. Rather such persons will be held liable if a finding of fault is made. Louisiana Constitution Art. 1 § 7. Defendants are at fault for abusing the freedoms enumerated therein.

129.

The Defendants' misstatements of fact cross the threshold necessary to support this defamation action. The threshold issue in a defamation action is whether the complained of words are defamatory--that is, capable of a defamatory meaning. All of the Defendants named in this suit have acted in such a manner so as to have crossed that threshold. These statements and allegations specifically defamed Joyce Green in regard to her person.

130.

The Defendants jointly and severally were at fault in causing the defamation suffered by Joyce Green. Their fault was the cause of the defamation. The damages suffered by Joyce Green, including but not limited to a loss of liberty and property, were caused by the Defendants.

Defendants' actions encompass all elements necessary to prove Plaintiff's cause of action: fault, causation, and damages as established by the Louisiana Civil Code Art. 2315 and by the jurisprudence, specifically in *Wattlingly v. Lambert*, 408 So.2d 1126.

131.

The misstatements of facts made by Defendants against Joyce Green are defamatory as they expose Joyce Green to contempt, ridicule, and obloquy because they tend to deprive her of the benefits of public confidence or injure her personal and professional reputation

132.

Defendants' misstatements of fact contain language, which upon its face has a natural tendency to injure the reputation of Joyce Green. The misstatements of fact made by Defendants give the impressions in the minds of average persons that Joyce Green is guilty of crimes, particularly of crimes against them as clients.

133.

The statements made by Defendants against Joyce Green are "defamatory per se" as defined by the Louisiana Supreme Court in *Cangelosi v. Schwegmann Bros. Giant Supermarkets*, 390 So.2d 196 (La. 1980), where it cited *Trahan v. Ritterman*, 368 So.2d 191 (La. App. 1 Cir. 1979).

134.

As Defendants' words are "defamatory per se," falsity and malice are presumed, and the Defendants bear all burdens of rebutting that presumption.

135.

The Defendants' conduct was a cause-in-fact of Plaintiffs' injuries. But for the Defendants' conduct, the Greens would not have suffered the injuries and damages complained of herein.

136.

Defendants owed a duty to Joyce Green with respect to the publication of defamatory statements and allegations.

137.

The Defendants cannot assert privilege to exculpate them from their duty of liability to the Plaintiffs in this action. Their actions do not meet the standard or satisfy the elements necessary to assert Louisiana's "qualified privilege" protection.

138.

The Defendants made the defamatory statements of facts and allegations without probable cause to believe that those misstatements and allegations were true.

139.

Whether the Defendants made these statements intentionally or negligently is of no moment in Louisiana. *Cotonio v. Guglelmo*, 176 La. 421 (La. 1933). Defamatory statements can be made intentionally or negligently. Petitioners have pleaded in the alternative that the Defendants' acts were either negligent or intentional.

140.

Actual malice however is unnecessary to sustain an action for libel. Malice arising from the publication of a false and injurious charge, without probable cause for thinking the charges true, suffices.

141.

Defendants' acts impute malice. The Defendants can make no claim of qualified privilege as a result of their actions. *Weil v. Israel*, 8 So. 826.

142.

The Defendants are liable *in solido* for their actions according to the law as set forth in Louisiana Revised Statute 13:3415 and the attendant jurisprudence. *Jones v. Davis*, 233 So.2d 310 (La. App. 1970). Their insurers are liable for their actions as well.

Special Damages

143.

Defendants' misstatements of fact, unfounded and defamatory allegations and actions in pursuing criminal charges against Joyce Green have caused her to suffer special damages. Defendants and their insurance provider(s) are liable jointly and *in solido* to Joyce Green for the following special damages:

- (1) Court costs and all related costs for defending this action;
- (2) Additional out-of-pocket expenses incurred as a result of the criminal charges alleged and as a result of this civil action;
- (3) All attorney fees incurred as a result of the criminal charges alleged and as a result of this civil action;

- (4) All quantifiable costs discovered between now and the time of trial.

General Damages

144.

Defendants' misstatements of fact, unfounded and defamatory allegations and actions in pursuing criminal charges against Joyce Green have caused Joyce to suffer real and identifiable damages and injuries. Defendants' actions have in fact caused the Greens to suffer the following damages compensable under federal and state law, including but not only LSA-C.C. art. 2315:

- (1) Mental anguish over being falsely accused of crimes and the subsequent investigation by the Plaquemines Parish Sheriff's Office and/or the Plaquemines Parish District Attorney, arrest and detention;
- (2) Mental anguish over being falsely accused of breaches of professional conduct in the criminal prosecution and this civil action;
- (3) Mental anguish over being falsely accused of theft, conversion and other crimes in the criminal prosecution;
- (4) All damages for defamation arising under Louisiana law, including but not limited to La. C.C. art. 2315;
- (5) All damages for invasion of privacy pursuant to Louisiana law;
- (6) Threats of criminal action and related intimidation;
- (7) Verbal assault and related intimidation;
- (8) Mental anguish and related intimidation;
- (9) Humiliation and embarrassment;
- (10) Defamation and related injuries;

- (11) Loss of time expended on legal matters;
- (12) Loss of time expended in defense against criminal charges;
- (13) Loss of enjoyment of life;
- (14) Loss of consortium;
- (15) Loss of time and resources;
- (16) Loss of enjoyment of life;
- (17) All costs, attorney fees, and penalties under 42 U.S.C. § 1988 and state law which are proven by the facts set forth herein;
- (18) All other damages and costs discovered between now and the time of trial.

145.

Plaintiffs request a trial by jury.

WHEREFORE, Petitioners Joyce Guidry Green and Mitchel Green pray that the Defendants herein be duly cited and served with this Complaint and after due proceedings had and legal delays expired there be judgment herein in favor of your Petitioners in an amount as is just in the premises, together with legal interest from the date of judicial demand until paid, for exemplary damages, attorney fees and costs, and any and all other damages as are equitable in the premises.

Respectfully submitted,

/S/ DANIEL G. ABEL
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JOYCE GUIDRY GREEN AND
MITCHEL GREEN

CIVIL ACTION NO.

VERSUS

SECTION

DENIS ROUSSELLE, JOYCE
LAMKIN, SHARON BRANAN,
MARY ANN BULOT AND
THE PLAQUEMINES PARISH
SCHOOL BOARD

MAGISTRATE

VERIFICATION

BEFORE ME appeared Joyce and Mitchel Green, who after being sworn did testify as follows:

1.

I, Joyce Green, have personal knowledge of the facts as set forth in the attached complaint.

2.

The facts as set forth therein are true and correct according to my knowledge and belief.

3.

I, Mitchel Green, am the husband of Joyce Green, and have personal knowledge of certain of the facts as set forth in the attached complaint.

4.

The facts as set forth therein that I have knowledge of concern the actions the Defendants did wrongfully take against my wife, Joyce Green, and how their actions affected her and our relationship. Those facts are true and correct to the best of my personal knowledge and belief.

Further Affiant Sayeth Not


SWORN TO AND SUBSCRIBED BEFORE ME, this 17th day of August, 2012, in the Parish of Jefferson, State of Louisiana.



JOYCE GREEN



MITCHEL GREEN



NOTARY PUBLIC
BAR NO. 19352