

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT – 8th DIVISION
CIVIL ACTION NO. 06-CI-3201

STEPHANIE BASTIN

PLAINTIFF

vs.

**COMPLAINT
JURY TRIAL DEMANDED**

BOARD OF TRUSTEES OF UNIVERSITY OF KENTUCKY

DEFENDANT

Serve: Barbara Jones
Office of Legal Counsel
University of Kentucky
Lexington, KY 40506

KENNETH CLEVIDENCE,
In His Individual Capacity

DEFENDANT

Serve: Kenneth Clevidence
University of Kentucky
224 Frank D. Peterson Service Bldg. 0005
Lexington, KY 40506

Plaintiff Stephanie Bastin for her Complaint against defendants states as follows:

I

Nature of the Case

1. This is an action pursuant to the common law of Kentucky, KRS 61.102 and KRS 61.103, and the Kentucky Civil Rights Act, KRS Chapter 344 *et seq.*, arising from violations of plaintiff's rights secured by those authorities and statutes seeking recovery of compensatory and punitive damages, back pay, attorney's fees, costs and litigation expenses.

II

Jurisdiction and Venue

2. Fayette Circuit Court has jurisdiction over this matter pursuant to KRS 23A.010, KRS 344.450, and KRS 61.103(2). Venue is proper in Fayette Circuit Court because the claims asserted herein arose in Fayette County, Kentucky.

III

Parties

3. Plaintiff Stephanie Bastin (Bastin) is a citizen of the United States of America and a resident of Jessamine County, Kentucky.

4. Defendant Board of Trustees of the University of Kentucky (hereinafter referred to as “defendant”) is the body corporate of the University of Kentucky.

5. Defendant Kenneth Clevidence (Clevidence) is, upon information and belief, a resident of Fayette County, Kentucky. He is sued in his individual capacity.

IV

Facts Giving Rise to Lawsuit

6. Bastin is a woman and because of her female gender is a member of a protected class.

7. Bastin, at all times pertinent hereto and up to on or about February 28, 2006, was an employee of defendant within the meaning of KRS Chapter 344.

8. Bastin, at all times pertinent hereto and up to on or about February 28, 2006, was an “employee” of defendant within the meaning of KRS 61.102.

9. Defendant, at all times pertinent hereto, and up to on or about February 28, 2006, was Bastin's employer within the meaning of KRS 344.040 and KRS 61.102.

10. Clevidence, at all times pertinent hereto, was a "person" within the meaning of KRS 344.280.

11. Bastin, at all times pertinent hereto, was employed by defendant in the University of Kentucky Police Department.

12. Bastin provided exemplary service to defendant, earning numerous commendations and other indices of professional recognition and made substantial and material contributions to the university community.

13. At the time she was compelled to leave defendant's employment, Bastin held the position of assistant chief of police of the UK police department.

14. Bastin's employment was involuntarily ended due to medical reasons arising from and relating to wrongful conduct of defendants herein.

15. Bastin was constructively and wrongfully discharged from her employment by defendant.

16. Clevidence, during the time that Bastin was assistant chief of police, commanded Bastin to coerce and/or compel a junior officer of defendant's police department to drop or quash a citation she had issued to a senior member of defendant's administration.

17. Bastin refused Clevidence's command and in no way attempted to coerce or compel the junior officer to drop the citation.

18. Clevidence, in commanding Bastin to attempt to coerce or compel the junior officer to drop the citation, did so in anticipation and expectation that

the junior officer would appear or testify in an official proceeding and/or would be submitting a record or document or other object in an official proceeding related to the above-referenced citation.

19. Clevidence's command to Bastin to attempt to coerce or compel the junior officer to drop the citation sought to have her use her official authority and act in the course of her employment in do so.

20. Had Bastin acted as Clevidence commanded she would have violated KRS 524.040, 524.045, and 524.050.

21. Bastin's refusal to violate KRS 524.040, 524.045 and/or 524.050 in the course of her employment, as commanded by Clevidence, was a motivating factor in the termination of her employment.

22. Clevidence aided and abetted the unlawful and wrongful discharge of Bastin from her employment by defendant.

23. Bastin, while she was employed as defendant's assistant chief of police and working as a subordinate to Clevidence, was moved and compelled to inform Clevidence that various and numerous of his acts of mismanagement, abuse of authority, violations of defendant's policies were materially hampering and undermining the efficient operation of defendant's police department.

24. Bastin acted in good faith by informing Clevidence that his various and numerous acts of mismanagement, abuses of authority and violations of defendant's policies were materially undermining and hampering the efficient operations of defendant's police force.

25. Bastin's reports to Clevidence, as described above in paragraphs 23 and 24, are protected disclosures within the scope of KRS 61.102.

26. Bastin was subjected to discrimination based on her female sex in the terms and conditions of her employment, such discrimination including but not being limited to active and regular circumvention and undermining of her official authority, efforts to preclude and obstruct Bastin from increasing her professional stature and thereby enhance her opportunity for professional advancement and preclusion and obstruction of Bastin obtaining assignments and/or promotions that would increase her earnings.

27. A motivating factor for which Bastin was subjected to discrimination in the terms and conditions of her employment was her female sex.

28. Bastin was subjected to active and regular circumvention and undermining of her official authority, efforts to preclude and obstruct her from increasing her professional stature and enhancing her opportunities for professional advancement, precluding and obstructing her from obtaining assignments that would increase her earnings along with other injurious acts in retaliation and reprisal for her good faith reports to Clevidence that his various and numerous acts of mismanagement, abuses of authority and violations of defendant's policies were materially undermining and hampering the efficient operations of the police department.

29. Bastin was subjected to active and regular circumvention and undermining of her official authority, efforts to preclude and obstruct her from increasing her professional stature and enhancing her opportunities for professional advancement, precluding and obstructing her from obtaining assignments that would increase her earnings along with other injurious acts in

furtherance by Clevidence of his aiding and abetting of Bastin's constructive and wrongful discharge from employment a motivating factor for which was her refusal to violate KRS 524.040, 524.045 and 524.050 in the course of her employment as commanded by Clevidence.

30. As a direct and proximate result of the wrongful actions of defendant and Clevidence, Bastin has suffered, is suffering and is reasonably certain to suffer in the future injuries and damages including loss of income and benefits, emotional distress and mental anguish, embarrassment and humiliation and violation of her rights.

31. Defendants have acted with gross negligence and/or wanton and reckless indifference for Bastin's rights.

V

CAUSES OF ACTION

Count 1 – Aiding & Abetting Wrongful Discharge

32. Bastin incorporates paragraphs 1 through 31 hereof as if fully set forth herein.

33. A motivating factor for the termination of and Bastin's discharge from employment was her refusal to violate in the course of her employment KRS 524.040, 524.045 and 524.050.

34. Clevidence aided and abetted the wrongful termination and discharge of Bastin from defendant's employment.

35. As a result and proximate result of her wrongful discharge from employment and Clevidence's aiding and abetting of same, Bastin has suffered, is suffering and is reasonably certain to suffer in the future injuries and damages

including loss of income and benefits, emotional distress and mental anguish, embarrassment and humiliation.

Count 2 – Reprisal for Whistle Blowing

36. Bastin incorporates paragraphs 1 through 35 hereof as if fully set forth herein.

37. Bastin was subjected to reprisal and retaliation based on her protected disclosures in violation of KRS 61.102.

38. As a result and proximate result of the unlawful reprisal and retaliation to which she was subjected in violation of KRS 61.102, Bastin has suffered, is suffering and is reasonably certain to suffer in the future injuries and damages including loss of income and benefits.

Count 3 – Discrimination Based On Bastin’s Female Sex

39. Bastin incorporates paragraphs 1 through 38 hereof as if fully set forth herein.

40. Bastin was subjected to discrimination in the terms and conditions of her employment based on her female sex in violation of KRS 344.040.

41. As a direct and proximate result of the discrimination in the terms and conditions of her employment based on her female sex in violation of KRS 344.040, Bastin has suffered, is suffering and is reasonably certain to suffer in the future injuries and damages including loss of income and benefits, emotional distress and mental anguish and embarrassment and humiliation.

Count 4 – Aiding & Abetting Wrongful Sex Discrimination

42. Bastin incorporates paragraphs 1 through 41 hereof as if fully set forth herein.

43. Clevidence aided and abetted in violation of KRS 344.280(2) the discrimination to which Bastin was subjected in violation of KRS 344.040.

44. As a direct and proximate result of Clevidence's actions in violation of KRS 344.280(2), Bastin has suffered, is suffering and is reasonably certain to suffer in the future injuries and damages including loss of income and benefits, emotional distress and mental anguish, and embarrassment and humiliation.

VI

DEMAND FOR RELIEF

WHEREFORE, plaintiff Stephanie Bastin demands entry of judgment against defendants as follows:

(1) awarding her monetary damages in an amount to fairly compensate her for injuries pleaded herein, including loss of income and benefits, emotional distress and mental anguish, embarrassment and humiliation;

(2) Awarding her punitive damages to punish defendants' wrongful conduct and deter repetition of same;

(3) award her attorney's fees, costs and litigation expenses pursuant to CR 54, KRS 344.450 and KRS 61.990; and,

(4) all other relief to which she is entitled.

DEMAND FOR TRIAL BY JURY

Plaintiff demands pursuant to CR 38 trial by jury of all issues herein so triable.

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