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 Attorney(s) for the plaintiff

WALTER BERGLUND;

Plaintiff,

vs

STACY GRAY, RACHEL GREEN,
 LINDA ROSSER AND THE DEPTFORD:
 TOWNSHIP BOARD OF EDUCATION;

Defendants.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION
 GLOUCESTER COUNTY

Docket No. L 358-14

Civil Action

COMPLAINT

Walter Berglund by way of Complaint against the
 Defendants says:

PARTIES

1. The Plaintiff, Walter Berglund, is an individual residing at 885 Bankbridge Road, Sewell, County of Gloucester, New Jersey.
2. The Defendant, Stacy Gray, is an individual and an elected public official who serves as the Vice President of the Defendant, Deptford Township Board of Education.
3. The Defendant, Rachel Green, is an individual and an

elected public official who serves as the Vice President of the Defendant, Deptford Township Board of Education.

4. The Defendant, Linda Rosser, is an individual and an elected public official who serves as a Board Member and Chair Person of the Buildings and Grounds Committee of the Defendant, Deptford Township Board of Education.

5. The foregoing individual Defendants are sued in this matter in both their individual and official capacities.

6. The Defendant, Deptford Township Board of Education is a public entity created under the laws of the State of New Jersey and is charged with educating students residing within the Township of Deptford.

7. At all times mentioned in this complaint, Defendants were the agents and employees of their co-defendants and in doing the things alleged in this complaint were acting within the course and scope of such agency and employment.

FACTUAL ALLEGATIONS

8. The Plaintiff, Walter Berglund, from April, 2008 to May 23, 2012 served as a member of the defendant Board and was the Board President for three of his last four years of service.

9. On May 23, 2012, he resigned from the Board.

10. On Nov. 29, 2012 he was hired by the Board to fill the position of Supervisor of Buildings and Grounds for the District with a start date of Dec 3, 2012.

11. The aforesaid position is not an executive position that encompasses policy making.

12. On December 3, 2012, Walter Berglund commenced his duties as Supervisor of Buildings and Grounds and since then he has performed his duties in a manner which meets all reasonable expectations.

13. Notwithstanding the Plaintiff's good performance, the Defendants, Stacy Gray, Rachel Green and Linda Rosser have frequently stated that Walter Berglund's political associations are the reason he obtained his position and by virtue of such political associations he should be removed.

14. As Supervisor of Buildings and Grounds, Walter Berglund has ultimate responsibility for the proper supervision of custodial staff employed by the District and for insuring that they properly perform their duties.

15. As a supervisor of public employees Walter Berglund has a duty to see that said employees conduct themselves in conformance with the standards set forth at N.J.A.C. 4A:2-2.3, which standards prohibit in part: "Neglect of Duty;" "Insubordination;" "Failure to Perform Duties;" and, "Conduct Unbecoming a Public Employee."

16. In July of 2012, the Defendant Board appointed a certain part time employee to a full time custodian position.

17. This employee resides with and is engaged to be married

to the sister of one of the individual defendants.

18. Since being appointed by the Board, the aforesaid employee has engaged in an unbroken pattern of failure to perform his duties, neglect of duty, insubordination and conduct unbecoming a public employee.

19. Such conduct has been witnessed and reported to Walter Berglund by the aforesaid employee's direct supervisors and the building principals where he works.

20. In addition to such conduct the aforesaid employee has made statements to coworkers that he has nothing to worry about because of his connections to a Board Member, "I'm just here to collect a paycheck" and "I'll never be supervised by a white person."

21. In response to such conduct Walter Berglund has attempted to impose reasonable progressive discipline on the aforesaid employee.

22. Unfortunately written warnings and even probation did not result in him changing his conduct.

23. As a result on January 7, 2014 Walter Berglund suspended the aforesaid employee for two days due to his continuing misconduct.

24. That very evening Defendant, Linda Rossar, made a motion at the Defendant Board's regular meeting to replace Walter Berglund as Supervisor of Buildings and Grounds.

25. The aforesaid motion was made by Defendant Rosser without advance notice to Walter Berglund that his employment status was going to be discussed at a public meeting of the Board.

26. The aforesaid motion was made by Defendant Rosser during the open public session portion of the meeting notwithstanding the fact that it involved a personnel matter.

27. As a result the aforesaid conduct of Defendant Rosser was not only retaliatory but it also violated Walter Berglund's rights under the judicial doctrine known as "Rice Notification."

28. Although no action was taken on the motion made by Defendant Rosser, the Defendant Board at its next meeting on January 28, 2014, undertook discussion of Walter Berglund's employment status and this time voted in favor of replacing Walter Berglund and launching a search to identify a candidate to replace him as Supervisor of Buildings and Grounds.

29. The Defendants, Gray, Green, and Rosser, all voted in favor of this action.

30. Furthermore, the Defendant, Green, voted on this motion notwithstanding the fact that she had previously received an opinion that she had a conflict of interest in respect to matters involving Walter Berglund.

31. In addition to the foregoing, the Defendants have denied Walter Berglund a stipend for covering two positions.

32. According to custom an employee is entitled to a stipend

providing him with a temporary additional compensation if through unforeseen circumstances it is necessary to perform the regular duties of another employee in addition to his own.

33. Under this custom Walter Berglund is entitled to a stipend because the Assistant Building and Grounds Supervisor will be out of work for four months and during that period, Walter Berglund will have to perform his duties in addition to his own.

34. Walter Berglund's request for a stipend, however, has been rejected by the Defendants.

35. As a result of the aforesaid actions of the Defendants Walter Berglund has sustained and will sustain pecuniary damages, including lost income, wages and other benefits, which he would have enjoyed but for the actions of the Defendants.

36. As a direct result of the aforesaid actions of the Defendants, Walter Berglund has sustained and will sustain nonpecuniary damages in the nature of severe emotional distress, discomfort and mental anguish and sustained damage to his standing and reputation in his professional community.

37. All of the aforesaid actions of the Defendants were done intentionally and maliciously for the purpose of depriving Walter Berglund of his rights and were especially egregious.

First Count

38. The aforesaid actions of the Defendants in moving to terminate Walter Berglund and denying him a stipend were done on

account of his having disclosed the misconduct of an employee with a relationship with a Board Member and having refused to engage in a practice of overlooking such misconduct.

39. As a result the adverse actions taken against Walter Berglund constituted violations of the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-3.

40. As a result of these violations Walter Berglund sustained the damages set forth in ¶35 and ¶36 above.

41. Pursuant to N.J.S.A. 34:19-5, Walter Berglund is entitled to reasonable attorney fees and costs in the event he is a prevailing party on the claims asserted in this count.

Wherefore the Plaintiff Walter Berglund demands judgement against the Defendants for:

- a. Compensatory damages;
- b. Punitive Damages;
- c. Reinstatement;
- d. Interest;
- e. Attorney's fees and costs of suit; and,
- f. Such other and further relief as the Court deems just.

Second Count

42. The aforesaid actions of the Defendants in discussing the Plaintiff's status without a "Rice Notification" deprived Walter Berglund of rights and opportunities which cannot be restored after the fact.

43. As a result of such irreparable actions Walter Berglund sustained non pecuniary damages as forth in ¶36.

44. Due to the fact that the aforesaid acts like the denial of voting rights, are matters that cannot be adequately remedied after the fact, the Plaintiff is entitled to presumed damages.

Wherefore Plaintiff, Walter Berglund demands judgement against the Defendants for:

- a. Compensatory damages;
- b. Punitive Damages;
- c. Interest and costs of suit; and,
- d. Such other and further relief as the Court deems just.

Third Count

45. The aforesaid actions of the Defendants in moving to terminate Walter Berglund and denying him a stipend were done on account of his political associations.

46. As a result he has been penalized under color of state law for the exercise of his rights to association under the First Amendment.

47. As a result of these violations Walter Berglund sustained the damages set forth in ¶35 and ¶36 above.

48. Pursuant to 42 U.S.C. §1983 the Plaintiff is entitled to seek redress in the present court for the aforesaid violations of his constitutional rights.

49. Pursuant to 42 U.S.C. §1988, Walter Berglund is entitled

to reasonable attorney fees and costs in the event he is a prevailing party on the claims asserted in this count.

Wherefore the Plaintiff Walter Berglund demands judgement against the Defendants for:

- a. Compensatory damages;
- b. Punitive Damages as to the individual Defendants;
- c. Reinstatement;
- d. Interest;
- e. Attorney's fees and costs of suit; and,
- f. Such other and further relief as the Court deems just.

F. MICHAEL DAILY, JR., LLC
Attorney for the Plaintiff

BY: 
F. Michael Daily, Jr.

Jury Demand

Plaintiff herewith demands a jury trial as to all issues.

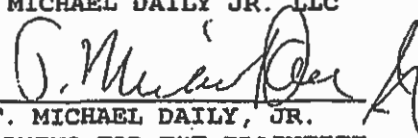
F. MICHAEL DAILY, JR., LLC
Attorney for the Plaintiff

BY: 
F. Michael Daily, Jr.

Certification Pursuant to R.4:5-1

It is hereby stated that the matter in controversy is not the subject of any other acting pending in any other Court, or of a pending arbitration proceeding to the best of my knowledge and

belief. I know of no other parties who should be joined in this action.

F. MICHAEL DAILY JR. LLC
BY: 
F. MICHAEL DAILY, JR.
ATTORNEYS FOR THE PLAINTIFF

Dated: February 10, 2014.