



West Virginia E-Filing Notice

CC-16-2022-C-17

Judge: C. Carter Williams

To: John-Mark Atkinson
johnmark@amplaw.com

NOTICE OF FILING

IN THE CIRCUIT COURT OF HARDY COUNTY, WEST VIRGINIA
Laiken Shoemaker v. Hardy County Commission
CC-16-2022-C-17

The following complaint was FILED on 7/18/2022 6:40:52 PM

Notice Date: 7/18/2022 6:40:52 PM

Kelly Shockey
CLERK OF THE CIRCUIT COURT
Hardy County
204 Washington St RM 237
MOOREFIELD, WV 26836

(304) 530-0230
kelly.shockey@courtswv.gov

COVER SHEET

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Hardy County Circuit Clerk
Kelly Shockey

GENERAL INFORMATION

IN THE CIRCUIT COURT OF HARDY COUNTY WEST VIRGINIA

Laiken Shoemaker v. Hardy County Commission

First Plaintiff:

Business Individual
 Government Other

First Defendant:

Business Individual
 Government Other

Judge:

C. Carter Williams

COMPLAINT INFORMATION

Case Type: Civil

Complaint Type: Other

Origin: Initial Filing Appeal from Municipal Court Appeal from Magistrate Court

Jury Trial Requested: Yes No **Case will be ready for trial by:** 7/17/2023

Mediation Requested: Yes No

Substantial Hardship Requested: Yes No

Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

- Wheelchair accessible hearing room and other facilities
- Interpreter or other auxiliary aid for the hearing impaired
- Reader or other auxiliary aid for the visually impaired
- Spokesperson or other auxiliary aid for the speech impaired
- Other: _____

I am proceeding without an attorney

I have an attorney: John-Mark Atkinson, P.O. Box 549, Charleston, WV 25322

SERVED PARTIES

Name: Hardy County Commission
Address: 204 Washington Street, Moorefield WV 26836
Days to Answer: 20 **Type of Service:** Filer - Private Process Server

Name: Lucas J. See
Address: 204 Washington Street Room 104, Moorefield WV 26836
Days to Answer: 20 **Type of Service:** Filer - Private Process Server

IN THE CIRCUIT COURT OF HARDY COUNTY, WEST VIRGINIA

LAIKEN SHOEMAKER,

Plaintiff,

v.

Civil Action No. _____

HARDY COUNTY COMMISSION and
LUCAS J. SEE, individually and as
Prosecuting Attorney of Hardy County,
West Virginia.

Defendants.

COMPLAINT

PARTIES

1. The Plaintiff, Laiken Shoemaker, is a resident of Hardy County, West Virginia.
2. Defendant Hardy County Commission is a political subdivision created and existing under the laws of the State of West Virginia. W.Va. Code §7-1-1, et seq.
3. Defendant Lucas J. See is a resident of Hardy County, West Virginia and the elected Prosecuting Attorney of Hardy County, West Virginia.

FACTS

4. At all times relevant herein, Plaintiff Laiken Shoemaker was employed by Defendant Hardy County Commission as a Legal Secretary to perform work in the Hardy County Prosecutor's Office.
5. As a Legal Secretary in the Hardy County Prosecutor's Office, the Plaintiff was supervised and directed by the Hardy County Prosecutor, Defendant Lucas J. See.

6. The Plaintiff's duties, responsibilities, time of work and manner of work were controlled by Defendant Lucas J. See.

7. The Plaintiff was an employee of both the Hardy County Commission and the Hardy County Prosecutor, Lucas J. See.

8. The Defendant Hardy County Commission is an "employer" within the meaning of the West Virginia Human Rights Act. *See* W.Va. Code §5-11-3(d).

9. The Prosecuting Attorney of Hardy County (currently Defendant Lucas J. See) is an "employer" within the meaning of the West Virginia Human Rights Act. *See* W.Va. Code §5-11-3(d).

10. Defendant Lucas J. See is a "person" within the meaning of the West Virginia Human Rights Act. *See* W.Va. Code §5-11-3(a).

11. During her employment, Plaintiff consistently performed her duties in a satisfactory manner and met the reasonable expectations of the defendants.

12. During her employment, the Plaintiff was subjected to unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature by her direct supervisor, Defendant Lucas J. See. For instance, during her employment Plaintiff's supervisor Defendant Lucas J. See engaged in the following behavior:

a) Defendant See frequently made vulgar comments of a sexual nature to the Plaintiff in the workplace.

b) Defendant See frequently made vulgar comments and inappropriately touched another employee in the office, Jessica Liller. Plaintiff observed this behavior.

c) Defendant See frequently made comments about the way the Plaintiff dressed and her body. Defendant See made comments about the Plaintiff's breasts.

d) Defendant See touched the Plaintiff inappropriately while at work.

e) Defendant See eventually began propositioning the Plaintiff for sex. In conjunction with these efforts, he informed the Plaintiff that she "owed him" for her position of employment.

f) Defendant See frequently pulled his penis out at work and requested the Plaintiff to give him oral or vaginal sex.

g) Defendant See used his position, power and stature to compel the Plaintiff to engage in sexual acts with him. On each occasion where such acts occurred the interaction began with Plaintiff rejecting Defendant See's advances.

h) At times Defendant See would lock the door to the office and/or block the Plaintiff's path of exit in order to initiate a sexual encounter with the Plaintiff. Defendant See did not have justification or consent to restrain the Plaintiff to a bounded area.

13. Defendant Hardy County Commission knew or should have known that Defendant See was engaging in inappropriate conduct of a sexual nature in the workplace. However, Defendant Hardy County Commission did nothing to address the behavior.

14. The actions of the defendants had the purpose or effect of unreasonably interfering with Plaintiff's work performance and/or creating an intimidating, hostile, or offensive working environment.

15. In late 2021, Jessica Liller made a complaint to the West Virginia State Police regarding Defendant See's behavior. Subsequently, Plaintiff Laiken Shoemaker also informed the State Police of the sexual harassment she suffered at the hands of Defendant See.

16. Shortly thereafter, the Plaintiff and Jessica Liller were placed off work by the Defendants. This action was taken as a direct response to the complaints of sexual harassment/hostile work environment.

17. Defendant Hardy County Commission was aware of the nature of the Complaint made by the Plaintiff and Mrs. Liller.

18. Defendant Hardy County Commission did nothing to investigate the allegations.

19. Despite its knowledge (or willful ignorance) Defendant Hardy County Commission chose not to pursue or enact a resolution to remove Defendant See from office pursuant to W.Va. Code §6-6-7(b)(1)(A).

20. To this date Plaintiff and Mrs. Liller remain off work while Defendant See continues to operate as the Hardy County Prosecutor without any repercussions.

21. The defendants failed to take appropriate action to address the complaints of the Plaintiff and Mrs. Liller and instead punished them for making the complaints.

22. Defendant Hardy County Commission, by its action and/or inaction, has ratified the conduct of Defendant See.

FIRST CAUSE OF ACTION
(Sexual Harassment)

23. The defendants' actions/inactions as detailed above constitute sexual harassment and/or created a hostile work environment for the Plaintiff, in violation of the West Virginia Human Rights Act.

24. Alternatively, to the extent the defendants are not subject to the West Virginia Human Rights Act, the Plaintiff asserts that the defendants violated a substantial public policy in West Virginia against sexual harassment in the workplace. *See Williamson v. Greene*, 200 W. Va. 421, 423, 490 S.E.2d 23, 25 (1997).

25. As a direct and proximate result of the defendants' aforesaid actions, Plaintiff has suffered, and will continue to suffer, loss of the benefits of employment in an amount to be proven at trial.

26. As a direct and proximate result of the defendants' actions, Plaintiff is entitled to damages for indignity, embarrassment, humiliation, emotional distress, annoyance and inconvenience (as well as all other permissible compensatory damages) in an amount to be determined by the jury.

27. Defendants acted with actual malice toward the Plaintiff or a conscious, reckless and outrageous indifference to the health, safety and welfare of others warranting an assessment of punitive damages against the defendants.

28. Defendants' actions were willful and malicious and violated the West Virginia Human Rights Act entitling the Plaintiff to attorney fees and costs pursuant to West Virginia Code §5-11-13 and/or the decisions of the West Virginia Supreme Court of Appeals.

29. Plaintiff's claims under the West Virginia Human Rights Act are permissible pursuant to W.Va. Code § 29-12A-4(c)(5).

30. The Governmental Tort Claims and Insurance Reform Act is inapplicable to this cause of action pursuant to the reasoning contained in Kerns v. Bucklew, 178 W.Va. 68, 357 S.E.2d 750 (1987).

SECOND CAUSE OF ACTION
(Retaliation)

31. As described above, the defendants removed the Plaintiff from her position of employment because she opposed practices of the defendants that were in violation of the West Virginia Human Rights Act and/or made a complaint of sexual harassment/hostile work environment. This retaliation is a violation of the West Virginia Human Rights Act. See W. Va. Code §5-11-9(7).

32. Alternatively, to the extent the defendants are not subject to the West Virginia Human Rights Act, the Plaintiff asserts that the defendants violated a substantial public policy in West Virginia against age retaliation for engaging in protected conduct under the West Virginia Human Rights Act. See Williamson v. Greene, 200 W. Va. 421, 423, 490 S.E.2d 23, 25 (1997).

33. As a direct and proximate result of the defendants' aforesaid actions, Plaintiff has suffered, and will continue to suffer, loss of the benefits of employment in an amount to be proven at trial.

34. As a direct and proximate result of the defendants' actions, Plaintiff is entitled to damages for indignity, embarrassment, humiliation, emotional distress, annoyance and inconvenience (as well as all other permissible compensatory damages) in an amount to be determined by the jury.

35. Defendants acted with actual malice toward the Plaintiff or a conscious, reckless and outrageous indifference to the health, safety and welfare of others warranting an assessment of punitive damages against the defendants.

36. Defendants' actions were willful and malicious and violated the West Virginia Human Rights Act entitling the Plaintiff to attorney fees and costs pursuant to West Virginia Code §5-11-13 and/or the decisions of the West Virginia Supreme Court of Appeals.

37. Plaintiff's claims under the West Virginia Human Rights Act are permissible pursuant to W.Va. Code § 29-12A-4(c)(5).

38. The Governmental Tort Claims and Insurance Reform Act is inapplicable to this cause of action pursuant to the reasoning contained in Kerns v. Bucklew, 178 W.Va. 68, 357 S.E.2d 750 (1987).

THIRD CAUSE OF ACTION
(Battery)

39. The actions of Defendant See as described above constitute battery.

40. As a direct and proximate result of Defendant See's actions, Plaintiff suffered physical and/or mental injuries.

41. As a direct and proximate result of the Defendant See's aforesaid actions, Plaintiff is entitled to damages for, among other things, pain and suffering, loss of enjoyment of life, indignity, embarrassment, humiliation, emotional distress, annoyance, inconvenience as well as all other allowable compensatory damages in an amount to be determined by the jury.

42. Defendant See acted with actual malice toward the Plaintiff or a conscious, reckless and outrageous indifference to the health, safety and welfare of others warranting an assessment of punitive damages against him.

43. The actions of Defendant see entitles the Plaintiff to an award of attorney fees and costs.

FOURTH CAUSE OF ACTION
(False Imprisonment)

44. The actions of Defendant See as described above constitutes false imprisonment of the Plaintiff.

45. As a direct and proximate result of Defendant See's actions, Plaintiff suffered physical and/or mental injuries.

46. As a direct and proximate result of the Defendant See's aforesaid actions, Plaintiff is entitled to damages for, among other things, pain and suffering, loss of enjoyment of life, indignity, embarrassment, humiliation, emotional distress, annoyance, inconvenience as well as all other allowable compensatory damages in an amount to be determined by the jury.

47. Defendant See acted with actual malice toward the Plaintiff or a conscious, reckless and outrageous indifference to the health, safety and welfare of others warranting an assessment of punitive damages against him.

48. The actions of Defendant see entitles the Plaintiff to an award of attorney fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Laiken Shoemaker prays for the following relief:

1. Damages as set forth in her Complaint, including punitive damages in an amount to be determined by the jury;
2. Pre-judgment interest as provided by law;
3. Attorney fees and costs; and
4. Such further relief as this Court may deem just and equitable.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES TRIABLE TO A
JURY.

LAIKEN SHOEMAKER,
By Counsel

/s/ John-Mark Atkinson
Mark A. Atkinson (WVSB #184)
Paul L. Frampton, Jr. (WVSB #9340)
John-Mark Atkinson (WVSB #12014)
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