

3. Grant a trial by jury on all issues so triable; and
4. Grant any further relief deemed necessary, proper, or just.

Respectfully submitted,

/s/Joseph B. Ervin

Joseph B. Ervin
Attorney for Plaintiff
State Bar No.



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TGV

NEWS

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IN THE SUPERIOR COURT OF EFFINGHAM COUNTY

SEP 28, 2023 11:49 AM

STATE OF GEORGIA

SHANE RAMSEY,)
Plaintiff,)
v.) Civil Action File No. S
EFFINGHAM SCHOOL DISTRICT, et al.)
Defendants.)

Civil Action File No. SUCV2023000096

**ORDER ON PLAINTIFF'S MOTION TO ADD PARTY
NEEDED FOR JUST ADJUDICATION**

Plaintiff Shane Ramsey has moved this Court pursuant to O.C.G.A. § 9-11-19 to add Jamie Wells to this civil action as a party needed for just adjudication. Over thirty (30) days having elapsed since the filing of said motion, no pretrial order having been entered, and no objection or response having been filed by any Defendant, and good cause appearing,

IT IS HEREBY ORDERED that Plaintiff's Motion to Add Jamie Wells as a Party Needed for Just Adjudication is **GRANTED**.

The Clerk of Court is directed to amend the record to reflect Jamie Wells as a party Defendant.

SO ORDERED THIS *28* day of September 2023.

~~F. GATES PEED~~, Chief Judge
Superior Court of Effingham County
Ogeechee Judicial Circuit

Order prepared by:
Joseph B. Ervin
GA Bar No.: 240996
Attorney for Plaintiff

**SUPERIOR COURT OF EFFINGHAM COUNTY
STATE OF GEORGIA**

SUMMONS

TO: WELLS, JAMIE

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

**Joseph Ervin
The Ervin Law Firm, P.C.
3710 Waters Avenue
Savannah, Georgia 31404**

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 28th day of September, 2023.

Clerk of Superior Court

Jason E. Bragg, Clerk
Effingham County, Georgia

NEWS

**SUPERIOR COURT OF EFFINGHAM COUNTY
STATE OF GEORGIA**

CIVIL ACTION NUMBER SUCV2023000096
RAMSEY, SHANE

PLAINTIFF

vs.

EFFINGHAM COUNTY SCHOOL
DISTRICT
FORD, YANCY
DICKERSON, AMIE
ALLEN, F LAMAR
DECKER, VICKIE
LANDING, JAN
ANDERSON, LYNN
JOHNSON, BEN
Wells, Jamie

DEFENDANTS

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JUN 28, 2023 01:00 PM

Jason E. Bragg
Jason E. Bragg, Clerk
Effingham County, Georgia

IN THE SUPERIOR COURT OF EFFINGHAM COUNTY

STATE OF GEORGIA

SHANE RAMSEY,)
)
PLAINTIFF,)
)
VS.) CIVIL ACTION NO. _____
)
EFFINGHAM SCHOOL DISTRICT,)
BOARD MEMBER, F. LAMAR ALLEN,)
Officially; BOARD MEMBER VICKIE)
DECKER Officially; BOARD MEMBER,)
JAN LANDING Officially; BOARD)
MEMBER, LYNN ANDERSON,)
Officially; BOARD MEMBER,)
BEN JOHNSON, Officially;
DR. YANCY FORD, Officially; and
AMIE DICKERSON, Officially,
)
DEFENDANTS.)
)

COMPLAINT AND JURY DEMAND

Plaintiff, Shane Ramsey, brings this action against his former employer, the
Effingham County School District, under the Georgia Whistleblower Act, O.C.G.A. § 45-
1-4, alleging as follows:

PARTIES JURISDICTION AND VENUE

1.

Plaintiff is a citizen of the State of Georgia who was formerly employed by the
Effingham County School District (ECSD).

2.

Defendant ECSD is a public school system vested with the constitutional duty to "establish and maintain public schools" within its geographical limits. Ga. Const. Art. VII Sect. 5. ECSD is governed by the Effingham County Board of Education, which is charged with the duty to maintain "management and control" of the ECSD system. Ga. Const. **Art.** VIII, Sect. 5. ECSD may be served by having process delivered to its administrative offices at 405 North Ash Street, Springfield, Georgia 31329. All

Defendants can be served process at 405 North Ash Street, Springfield, Georgia 31329.

3.

Jurisdiction is conferred upon this Court pursuant to the Georgia Civil Practice Act; O.C.G.A. § 9-10-30.

4.

Venue is proper in this Court because it is a county and judicial district in which Defendants reside and in which Defendant does business, and it is the county and judicial district in which a substantial part of the events or omissions giving rise to Ramsey's claims occurred. Ga. Const. Art. VI, Par. III.

5.

Further, this action has been timely commenced within one (1) year of the adverse action taken against Shane Ramsey, that is, constructive discharge (forced

resignation). All timelines and jurisdictional requirements for this action have been satisfied. See Exhibit "A".

6.

Plaintiff, Shane Ramsey, (hereinafter referred to as "Ramsey") began working for ECSD approximately three (3) years ago as a teacher and coach.

7.

- A. Ramsey had extensive teaching and coaching experience, having won a State Championship at his former school, Heritage High.
- B. Ramsey was ultimately promoted to head coach of the baseball program at Effingham County High School. In his first year as head coach, he guided the team to the Elite Eight. During his tenure as a teacher, he received excellent performance evaluations and received raises each fiscal year.

8.

As a teacher and coach, Ramsey is a mandated reporter, and responsible for teaching and coaching young students entrusted in his care. He is responsible for maintaining and fostering an environment where his students and athletes are safe. He is charged with preventing and or correcting prohibited behavior among his team.

9.

Based upon his experience as a public employee with the State of Georgia as an educator and coach, Ramsey was familiar with the laws, procedures, rules regarding prohibited behavior and conduct.

10.

On or about November 15, 2022, Ramsey walked into the locker room. He noticed a racial epithet affixed to the locker by way of a label. He immediately contacted his administrators, Amy Dickerson (Dickerson) and Yancy Ford (Ford) and advised them what happened. He subsequently held team meetings to address the racial epithet and to reiterate that it was not to be tolerated and unacceptable behavior; not only in his locker room, but anywhere in the world. He began to undertake to find out who had done the heinous act, as he intended to dismiss them from the team. But he received zero support from the administrators. In fact, his reporting of unlawful conduct was criticized. He was advised that he could not dismiss the offending students from the team and that administration would take over the investigation.

11.

Ramsey was upset at the way the "investigation" was taking place and also by the lack of punishment to the offending students and the message he felt was being sent by failing to hold them accountable. He had rightfully concluded that the actions of the offending students were a violation of the law. During that time, the administration

never informed parents of what had transpired, and on or about December 6, 2022, a parent was made aware of what had happened and approached administration about what had happened. It was at that point that ECSD, Amy Dickerson and Yancy Ford undertook to create a hostile work environment and retaliate against Ramsey for his reporting of the incident.

12.

Ramsey was outspoken about the lack of consequences to the offending students, and the more he refused to bend to their demands, the more difficult Defendants made it for him to be able to do his job. Ramsey consulted with his immediate supervisor, Amie Dickerson, raising questions concerning the incident and directions he was given regarding not mentioning the incident, and concerns for the safety of all the affected students on his team given to violate state and federal rules, regulations, procedures, and policies. He was asked to "leave it alone" and let the administration handle it, knowing that it would get swept under the rug. It did for over a month, until a parent became aware of what had transpired and approached administration at all levels. Knowing that a cover-up was underway, Ramsey made it abundantly clear to Dickerson, Ford, and others that he was not going to assist in sweeping this unlawful behavior under the rug.

13.

After the parent with public with the incident and the District's efforts to sweep it under the rug, and to dismiss the concerns, Dickerson and Ford began harassing Ramsey and altered the terms of his employment by effectively creating a hostile work environment. Dickerson began to accuse Ramsey of misappropriation of funds for allowing players from the previous year's team to keep their uniforms. He then showed her documentation from where it was apparent to all that the uniform packages that players paid for would allow them to keep the uniforms. She then proceeded to tell him that he was bad for the culture of baseball, and that no one wanted to play for him. Next, she told him that he was ruined and that his program would fail. She also began "critiquing" his performance, with baseless accusations. She began to call him to her office repeatedly in an attempt to harass or intimidate him and quasi-threatened him for giving information to the parent who had launched an investigation into the incident.

14.

Ramsey reached out to Superintendent Ford on several occasions regarding Dickerson's harassing and intimidating behavior re: his reporting the incident. Ford did absolutely nothing. After roughly five (5) incidents of being targeted by Dickerson, Ramsey contacted an attorney and had them put them on notice of the conditions he was facing at the hands of Dickerson due to her disapproval of his alleged speaking

with the parent. Even after the letter from the attorney, the harassing and intimidating behavior by Dickerson and Ford did not subside. He was constantly being harassed and intimidated by Dickerson and Ford, sometimes with phone calls late into the night by Ford. The truth was unwelcome and ultimately the result was the work environment escalated into intolerable work conditions and Ramsey resigned. Further, at the behest of Ford, and contrary to any other high school sports program, parents began contacting the athletic director, Jake Darling, and Ford to complain about Ramsey. This was a concerted attempt to have grounds to terminate him for his protected whistle blowing.

15.

The conduct of the ECSD, Ford and Dickerson created hostile and intolerable conditions at work for Ramsey that were so intolerable that he was compelled to resign. This constructive discharge occurred when ECSD, Ford and Dickerson, instead of directly firing Ramsey, created a hostile and intolerable work atmosphere that forced him to quit involuntarily. Ramsey's reasonable decision to resign because of the hostile and intolerable working conditions is equated to a formal discharge. Upon Ford finding out of Ramsey's departure, he made the comment to the effect, "I can call the Board up there," implying that he could call the Board of the new district where he was hired to interfere with his hire.

16.

Ramsey gave ECSD, Ford and Dickerson an opportunity to remedy the situation prior to the constructive discharge. Despite repeated calls to Ford begging him to address Dickerson and being put on notice by Ramsey's attorney, nothing was done. In fact, it got worse.

17.

At all times relevant to this Complaint, the ECSD, State was a "public employer" for purposes of O.C.G.A. § 45-1-4.

RETALIATION IN VIOLATION OF THE GEORGIA WHISTLEBLOWER ACT

18.

At all times relevant to this lawsuit, Plaintiff was "public employees" for purposes of O.C.G.A. § 45-1-4.

19.

NEWS

The Georgia Whistleblower Act provides the following prohibitions against retaliation against employees who complain of misconduct by public employers:

- (d)(1) No public employer shall make, adopt, or enforce any policy or practice preventing a public employee from disclosing a violation of or noncompliance with a law, rule, or regulation to either a supervisor or a government agency;
- (2) No public employer shall retaliate against a public employee for disclosing a violation of or noncompliance with a law, rule, or regulation to either a supervisor or a

government agency, unless the disclosure was made with knowledge that the disclosure was false or with reckless disregard for its truth or falsity;

(3) No public employer shall retaliate against a public employee for objecting to, or refusing to participate in, any activity, policy, or practice of the public employer that the public employee has reasonable cause to believe is in violation of or noncompliance with a law, rule, or regulation.

20.

The law also prohibits retaliation against any public employee for “objecting to, or refusing to participate in, any activity, policy, or practice of the public employer that the public employee has reasonable cause to believe is in violation of or noncompliance with a law, rule, or regulation.” O.C.G.A. § 45-1-4(d)(3).

21.

While Plaintiff was a public employee of ECSD, he objected to and disclosed to his supervisors Ford and Dickerson that the incident violated the rules, regulations, and procedures.

22.

Plaintiff’s objections were protected because they objected to and disclosed activities that violated State and federal laws, rules, procedures, and regulations.

23.

ECSD, Ford and Dickerson violated the Georgia Whistleblower Act by retaliating against Plaintiff for objecting to the violations of State and federal laws, rules, procedures, and regulations by creating hostile and intolerable work conditions, causing him to resign. His resignation was caused by the intolerable working conditions, thus a constructive discharge.

24.

Any reason given for Ramsey's forced resignation, that is, constructive discharge, is false and a pretext for the retaliation underlying the decision of Defendants to willfully create a hostile work environment to force his resignation.

25.

Defendants' actions were willful, reckless, and taken in willful disregard of the probable consequences of their actions.

26.

As a direct, legal, and proximate result of Defendants' unlawful conduct, Ramsey has suffered significant financial loss, in an amount to be proven at trial. Ramsey has suffered loss of stature with respect to his position in the community, damage to his professional reputation and mental and emotional stress. ECSD is liable for all economic and non-economic damages resulting from its acts of retaliation against Plaintiffs as proven at the trial of this action.

27.

Accordingly, Ramsey seeks compensatory and other damages and expenses allowed by law against Defendants, in an amount to be proven at trial.

28.

Ramsey further seeks all available declaratory and equitable relief against Defendants, as appropriate.

WHEREFORE, Plaintiffs respectfully ask this Court to:

1. Find, order, and declare that Defendant violated Plaintiff's rights under the Georgia Whistleblower Act;
2. Award Plaintiff all legal and equitable relief available under the law based on the facts proven after discovery, including compensatory damages, back and front pay, pre- and post-judgment interest at the maximum rates allowable by law, attorneys' fees and expenses of litigation, and any other relief justified by the evidence and the governing law;
3. Grant a trial by jury on all issues so triable; and
4. Grant any further relief deemed necessary, proper, or just.

[SIGNATURE APPEARS ON THE NEXT PAGE]

Respectfully submitted this 28th day of June 2023.

THE ERVIN LAW FIRM, P.C.

/s/Joseph B. Ervin

Joseph B. Ervin, Esq.
Attorney for Plaintiff Ramsey
State Bar No.: 240996

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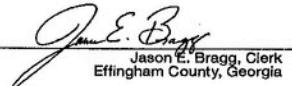


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AUG 22, 2023 01:02 PM


Jason E. Bragg, Clerk
Effingham County, Georgia

IN THE SUPERIOR COURT OF EFFINGHAM COUNTY
STATE OF GEORGIA

SHANE RAMSEY,)
)
 PLAINTIFF,)
)
 v.) CASE NO. SUCV2023000096
)
 EFFINGHAM SCHOOL)
 DISTRICT, BOARD MEMBERS,)
 LAMAR ALLEN, OFFICIALLY)
 VICKIE DECKER, OFFICIALLY,)
 JAN LANDING, OFFICIALLY,)
 LYNN ANDERSON, OFFICIALLY,)
 BEN JOHNSON, OFFICIALLY,)
 DR. YANCY FORD OFFICIALLY AND)
 AMIE DICKERSON, OFFICIALLY,)
)
 DEFENDANTS.)

DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF MOTION TO

ADD PARTY NEEDED FOR JUST ADJUDICATION

Plaintiff, Shane Ramsey, respectfully submits this Memorandum of Law in support of his Motion to Add Party Needed for Just Adjudication.

INTRODUCTION

According to O.C.G.A. § 9-11-19, Jamie Wells ("Wells"), an Effingham County, Georgia resident, is a party needed as a defendant for just adjudication of this civil action. This case arises from Defendant Yancy Ford conspiring with and directing Wells to unlawfully contact Plaintiff's current employer with the intent to slander and defame him in efforts to negatively interfere with his employment.

Defendant Ford provided Wells with the personal cellular phone number of Plaintiff's supervisor and made disparaging statements about Plaintiff in an effort to unlawfully retaliate against him in violation of the Georgia Whistleblower Act.

In addition, in their Prayer for Relief, Plaintiff specifically seeks, *inter alia*, damages for violation of the Georgia Whistleblower Act directly and indirectly by the Defendants as agents/employees of the Effingham County School District.

Plaintiff, however, did not originally name Wells as a party because at the time of the filing, he had not committed the act in furtherance of the conspiracy between him and Defendant Yancy Ford to further violate the Georgia Whistleblower Act.

This Memorandum will establish that Wells is a party needed for just adjudication in this case under each of three independently sufficient grounds set forth in OCGA § 9-11-19 which states:

- (a) Persons to be joined if feasible. A person . . . shall be joined as a party in the action if:
 - (1) In his absence complete relief cannot be afforded among those who are already parties; or
 - (2) He claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may:

(A) As a practical matter impair or impede his ability to protect that interest;

Those three compelling reasons are: (1) Defendant has a strong interest in this civil action and cannot protect that interest in its absence; (2) the Defendant faces irreparable harm without Wells in this case; and (3) this Court cannot accord the complete relief Defendant seeks without Wells.

ARGUMENT

I. Wells Is A Party Needed For Just Adjudication OCGA.§ 9-11- 19(a)(2)(A)

Because Wells is a Party and Co-Conspirator in Actions Relating To The Subject Of This Action, And In Its Absence Plaintiff's Ability To Protect That Interest Will Be Impaired Or Impeded.

Plaintiff alleges that after the filing of the suit by Plaintiff, Defendant Yancy Ford and Wells engaged in a conspiracy to get Ramsey terminated or in the least, negatively impact his employment status with Rome in the form of a disparaging and slanderous phone call to Plaintiff's employer. Georgia law provides that a conspiracy upon which a civil action for damages may be founded is a combination between two or more persons to either do some act which is a tort, or else do some lawful act which constitute a tort. See Rogers v. Dupree, 340 Ga. App. 811, 799 S.e.2d 1, 6 (2017). The essential element of the alleged conspiracy is proof of a common design. Rogers, 340 Ga. App. at 837. And anyone, after a

conspiracy is formed, who knows of the existence of and purposes and joins therein, becomes as much a party thereto as if he had been an original member.

Savannah College of Art & Design v. School of Visual Arts of Savannah, 219 Ga.

App. 296, 464 S.E. 2d 895 (1995). Wells is "an active conspirator with Defendant Yancy Ford to further violate the Georgia Whistleblower Act by conspiring, aiding, and abetting to contact Plaintiff's jobs in efforts to negatively affect his employment. Wells is alleged to be more than just a joint tortfeasor; Wells is alleged to be an active participant in an

"conspiracy/scheme. Wells and Defendant Ford acted in concert to retaliate against Plaintiff by contacting his job with malicious intent to negatively interfere with his employment. Such a finding in this case would carry an implicit determination that Wells in conspiracy with and at the direction of Defendant Yancy Ford, is violating the Georgia Whistleblower Act.

For all of these reasons, Brewer is a party needed for just adjudication under OCGA § 9-11-19(a)(2)(A).

CONCLUSION

This Court should grant the Defendant's Motion to Add Party Needed for Just Adjudication, pursuant to OCGA § 9-11-19, and add Wells as a party to this civil action.

Respectfully submitted this 22ND day of August 2023.

/s/ Joseph B. Ervin

Joseph B. Ervin
Attorney for Plaintiff
Georgia Bar No.240996

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IN THE SUPERIOR COURT OF EFFINGHAM COUNTY
STATE OF GEORGIA

SHANE RAMSEY,)
PLAINTIFF,)
v.) CASE NO. SUCV2023000096
EFFINGHAM SCHOOL)
DISTRICT, BOARD MEMBERS,)
LAMAR ALLEN, OFFICIALLY)
VICKIE DECKER, OFFICIALLY,)
JAN LANDING, OFFICIALLY,)
LYNN ANDERSON, OFFICIALLY,)
BEN JOHNSON, OFFICIALLY,)
DR. YANCY FORD OFFICIALLY AND)
AMIE DICKERSON, OFFICIALLY,)
DEFENDANTS.)

Certificate of Service

I hereby certify that on the 22ND day of August 2023, I electronically filed the foregoing document, with the Superior Court of Effingham County by using the Peachcourt File and Serve system. I certify that the following parties or their counsel of record are registered as Peachcourt Filers and that they will be served by the Peachcourt system:

Brian Smith, Esq.

1st Joseph B. Ervin

Joseph B. Ervin
Attorney for Plaintiff
Georgia Bar No.: 240996



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IN THE SUPERIOR COURT OF EFFINGHAM COUNTY
STATE OF GEORGIA

SHANE RAMSEY,)
Plaintiff,)
v.)
EFFINGHAM SCHOOL DISTRICT,)
BOARD MEMBER, F. LAMAR ALLEN,) Civil Action No: SUCV2023000096
Officially, BOARD MEMBER, VICKIE)
DECKER, Officially, BOARD MEMBER,)
JAN LANDING, Officially, BOARD)
MEMBER, LYNN ANDERSON, Officially,)
BOARD MEMBER, BEN JOHNSON,)
Officially, Officially DR. YANCY FORD,)
Officially, AMIE DICKERSON, Officially,)
JAMIE WELLS
Defendants.

DEFENDANT JAMIE WELLS' BRIEF IN SUPPORT OF MOTION TO DISMISS

COMES NOW JAMIE WELLS, Defendant herein, and pursuant to O.C.G.A. § 9-11-12(b)(6) files this brief in support of his Motion to Dismiss the above-styled action against Defendant Wells due to failure of the complaint to state a claim upon which relief can be granted against said Defendant. In support of this motion, Defendant relies upon the argument and authority cited herein.

STATEMENT OF FACTS

Plaintiff filed the instant whistleblower action on June 28, 2023. (See Complaint and Jury Demand, generally). The action was initially brought against the Effingham County School District (“ECSD”) and seven individuals who were either alleged Effingham School District Board Members or administrators. Id. These seven individuals were sued in their “official” capacity. Id. Plaintiff, formerly head coach of the Effingham

County High School, claimed that he was constructively discharged by ECSD following what he alleged was an insufficient investigation of and “cover-up” of a November 2022 incident where a label with a racial epithet was affixed to a locker in the locker room. (Complaint, ¶¶ 5-14). Defendant Wells, who was and is not an employee or agent of ECSD in any manner, was not a named defendant in this Complaint.

On August 22, 2023, Plaintiff moved the Court to add Defendant Wells to the lawsuit pursuant to O.C.G.A. § 9-11-19, claiming that Defendant Wells was a necessary party to the litigation. (Defendants’ [sic] Memorandum of Law in Support of Motion to Add Party Needed for Just Adjudication, generally). According to Plaintiff’s Motion, Defendant Wells was a necessary party because he engaged in a “conspiracy between him and Defendant Yancy Ford to further violate the Georgia Whistleblower Act.” *Id.*, p. 2. In support of his motion, Plaintiff asserts that Defendant Wells is “more than just a joint tortfeasor; Wells is alleged to be an active participant in a conspiracy/scheme.” *Id.*, pp. 3-4. Defendant Wells’ purportedly engaged in this conspiracy “to get Ramsey terminated or in the least, negatively impact his employment status with Rome in the form of a disparaging and slanderous phone call to Plaintiff’s employer.” *Id.*, p. 3.

The Court granted Plaintiff’s Motion on September 28, 2023, and Plaintiff filed his Amended Complaint against Defendant Wells the same day. In his Amended Complaint, Plaintiff does not allege a conspiracy as outlined in his Motion to Add. Rather, he sues Defendant Wells in his individual capacity under the Georgia Whistleblower Act, alleging that after the filing of the lawsuit (and months after his employment with ECSD ended) Defendant Wells contacted Plaintiff’s new employer at the behest of Defendants Ford and ECSD “and made disparaging comments with the

intent to sabotage, hinder and negatively affect Plaintiff's employment." (Amended Complaint, ¶13). Plaintiff also alleges that Wells "was acting as an agent of Defendant ECSD." Id.

As Defendant Wells cannot be sued in his individual capacity under the Georgia Whistleblower Act, he should be dismissed with prejudice.

ARGUMENT AND CITATION OF AUTHORITY

To survive a motion to dismiss under O.C.G.A. § 9–11–12(b)(6), the complaint need set forth a "short and plain statement of the claims showing that the pleader is entitled to relief." Charles H. Wesley Educ. Found., Inc. v. State Election Bd., 282 Ga. 707, 713, 654 S.E.2d 127, 132 (2007). For purposes of a motion to dismiss, all of the factual allegations of the complaint are accepted as true. Brantley v. Dep't of Human Res., 271 Ga. 679, 680, 523 S.E.2d 571, 572 (1999) While the complaint need not include detailed factual allegations, it must contain more than a formulaic recitation of the elements of a legal cause of action. Charles H. Wesley Educ. Found., Inc., 282 Ga. 707. The main consideration for the trial court ruling on a motion to dismiss is whether a right to some form of relief exists under the assumed set of facts. Ass'n of Guineans in Atlanta, Inc. v. DeKalb Cnty., 292 Ga. 362, 364, 738 S.E.2d 40, 41 (2013).

I. Defendant Wells Is Not a Proper Party to an Action Under the Georgia Whistleblower Act

Plaintiff makes one claim against Defendant Wells: that, following Plaintiff's employment with ECDS, Defendant Wells made a call to Plaintiff's new employer, which constituted retaliation under the Georgia Whistleblower Act. (Amended Complaint, ¶13). Notwithstanding the absurdity of the claim that Defendant Wells, who is not an employee of ECDS, engaged in a conspiracy with ECDS employees to retaliate

against Plaintiff, Defendant Wells is only sued in his individual capacity. As an individual cannot be sued in his individual capacity under the Georgia Whistleblower Act, Plaintiff's claim against Defendant Wells is facially defective and should be dismissed.

OCGA § 45-1-4 (d) (2) provides that “[n]o public employer shall retaliate against a public employee for disclosing a violation of or noncompliance with a law, rule, or regulation.” The term “retaliate” refers to:

the discharge, suspension, or demotion by a public employer of a public employee or any other adverse employment action taken by a public employer against a public employee in the terms or conditions of employment for disclosing a violation of or noncompliance with a law, rule, or regulation to either a supervisor or government agency.

OCGA § 45-1-4 (a) (5).

In construing the provisions of the Whistleblower Act, the Courts have held that to establish a retaliation claim under the statute, a public employee must demonstrate that (1) he was employed by a public employer; (2) he made a protected disclosure or objection; (3) he suffered an adverse employment action; and (4) there is some causal relationship between the protected activity and the adverse employment action. Murray-Obertein v. Georgia Gov't Transparency & Campaign Fin. Comm'n, 344 Ga. App. 677, 680–81, 812 S.E.2d 28, 31 (2018). One of the prerequisites, then, for a claim under the Whistleblower Act is that the Defendant be a “public employer” under the Act. The Act defines a public employer as

(4) “Public employer” means the executive, judicial, or legislative branch of the state; any other department, board, bureau, commission, authority, or other agency of the state which employs or appoints a public employee

or public employees; or any local or regional governmental entity that receives any funds from the State of Georgia or any state agency.

O.C.G.A. § 45-1-4(a)(4).

Defendant Wells is unequivocally not a “public employer” under the Whistleblower Act. Plaintiff made clear in the caption of the case that he is not suing Defendant Wells in his official capacity.¹ Rather, Plaintiff (falsely) alleges that Defendant Wells² took some retaliatory action at the behest of Defendant Ford following Plaintiff’s employment with ECDS. However, the Courts in reviewing the Whistleblower Act have made clear that the Act does not provide for individual liability, and Courts have rejected attempts to “judicially graft” remedies against individuals. Rintoul v. Tolbert, 341 Ga. App. 688, 693, 802 S.E.2d 56, 60 (2017). To the contrary, Courts have made it clear that plaintiffs bringing retaliation claims under the Whistleblower Act “ha[ve] no remedy against … individual defendants in their personal capacities.” Jones v. Bd. of Regents of Univ. Sys. of Georgia, 262 Ga. App. 75, 81, 585 S.E.2d 138, 144 (2003); Jackson v. Fulton Cnty., Georgia, No. 1:12-CV-0518-ODE-ECS, 2015 WL 12859407, at *26 (N.D. Ga. Jan. 26, 2015), report and recommendation adopted, No. 1:12-CV-518-ODE, 2015

¹ As noted, Defendant Wells is not employed by ECDS. Plaintiff seemingly acknowledges that this action was not taken at the behest of ECDS, as Plaintiff admits in his second Motion to Add Party Needed for Just Adjudication that Yancy Ford was acting “beyond and outside the scope of their employment” in the allegations concerning the supposed “conspiracy” with Defendant Wells. (Plaintiff’s Second Motion to Add Party Needed for Just Adjudication, p. 2).

² Plaintiff does not allege Defendant Wells took any retaliatory actions against him while Plaintiff was employed with ECDS. Even if Plaintiff could sue Defendant Wells in his individual capacity, Defendant Wells’ alleged actions following Plaintiff’s employment with ECDS are likewise not subject to a relation claim under the WBA. Murray-Obertein v. Georgia Gov’t Transparency & Campaign Fin. Comm’n, 344 Ga. App. 677, 681, 812 S.E.2d 28, 31 (2018) (“it is evident that a ‘public employee’ as defined by the statute does not apply to a former employee who was allegedly retaliated against after her employment, but instead limits retaliation to acts committed against current employees.”).

WL 12862930 (N.D. Ga. Mar. 11, 2015) (summary judgment on such claims given there is no cause of action against individuals under the Georgia Whistleblower statute).

Additionally, to the extent it is alleged Defendant Wells conspired with ECDS employees, such claims fail a matter of law given that Defendant Wells cannot be liable for the underlying tort of retaliation under the Whistleblower Act. Alta Anesthesia Assocs. of Georgia, P.C. v. Gibbons, 245 Ga. App. 79, 85, 537 S.E.2d 388, 394 (2000).

The law is clear on this issue: there is no remedy afforded to Plaintiff against individual defendants under the Whistleblower Act. Regardless, Plaintiff sued Defendant Wells in his individual capacity. As demonstrated herein, such a claim fails as a matter of law.

CONCLUSION

Plaintiff's claims against Defendant Wells fail to state a claim upon which relief can be granted, as there is no remedy against individual defendants in their personal capacities under the whistle-blower statute. Therefore, Defendant Wells prays that he be dismissed from the case, with prejudice.

This 30th day of October 2023.

RAHIMI, HUGHES & PADGETT, LLC

/s/J. WESLEY PADGETT

J. WESLEY PADGETT

Georgia Bar No. 165007

JOHN A. HUBERT

Georgia Bar No. 122388

ATTORNEYS FOR JAMIE WELLS

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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing **DEFENDANT JAMIE WELLS' BRIEF IN SUPPORT OF MOTION TO DISMISS** has been served on counsel for all parties by placing same in the United States Mail in a properly addressed envelope with sufficient postage affixed thereon and/or via electronic mail to all other counsel of record to ensure delivery to:

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IN THE STATE COURT OF EFFINGHAM COUNTY
STATE OF GEORGIA

FILED IN OFFICE
CLERK OF STATE COURT
EFFINGHAM COUNTY, GEORGIA
STCV2023000435
Y
NOV 30, 2023 12:27 PM

Jason E. Bragg
Jason E. Bragg, Clerk
Effingham County, Georgia

SHANE RAMSEY,

PLAINTIFF

VS.

CIVIL ACTION NO. _____

YANCY FORD AND

JAMIE WELLS.

DEFENDANTS.

COMPLAINT AND JURY DEMAND

COMES NOW, Shane Ramsey and makes his complaint against Defendants Yancy Ford and Jamie Wells.

PARTIES JURISDICTION AND VENUE

1.

Plaintiff is a citizen of the state of Georgia who was formerly employed by the Effingham County School District (ECSD).

2.

Defendant Yancy Ford ("Ford") is an individual residing at 3675 Midland Road, Guyton, Effingham County, Georgia. Service of process may be made upon Ford at his residence or his place of employment.

3.

Defendant Jamie Wells ("Wells") is an individual residing at 103 Gnann Way Rincon, Effingham County, Georgia. Service of process may be made upon Wells at his

residence.

4.

Jurisdiction and venue are proper in Effingham County, Georgia, because both Defendants reside in the County.

Factual Background

5.

Ford is the Superintendent of the Effingham County School District. He is heavily involved and supportive of Effingham County High School sports, especially football and baseball as he is an alum and former player.

6.

Wells is a close friend of Yancy Ford, who like Ford, shares the affinity for Effingham County High School sports.

7.

Ramsey was a baseball coach at Effingham County High School. Due to retaliation from his employer and the creation and fostering of a hostile work environment, he was left with no option but to resign.

8.

Ramsey ultimately was offered and accepted the position of head baseball coach at Rome High School, in Rome, Georgia. Upon acceptance of the position Ford threatened to contact Ramsey's new employer in efforts to sabotage his new position.

9.

Ramsey uprooted his family and moved away from Effingham

County.

10.

Ramsey began to get settled in and was excited about starting a new year with a competent and qualified athletic director and successful athletic program which operated without undue influence from the administration or superintendent. In fact, the amount of interference by the superintendent into the sports programs at Effingham County High School was unheard of by Ramsey.

11.

On July 11, 2023, not long after Ford had made the threat to Ramsey to contact his new employer, Wells at the direction of Ford, contacted Ramsey's athletic director on his unlisted personal cell phone. Wells did not know the athletic director at Rome High School at any time prior to the call.

12.

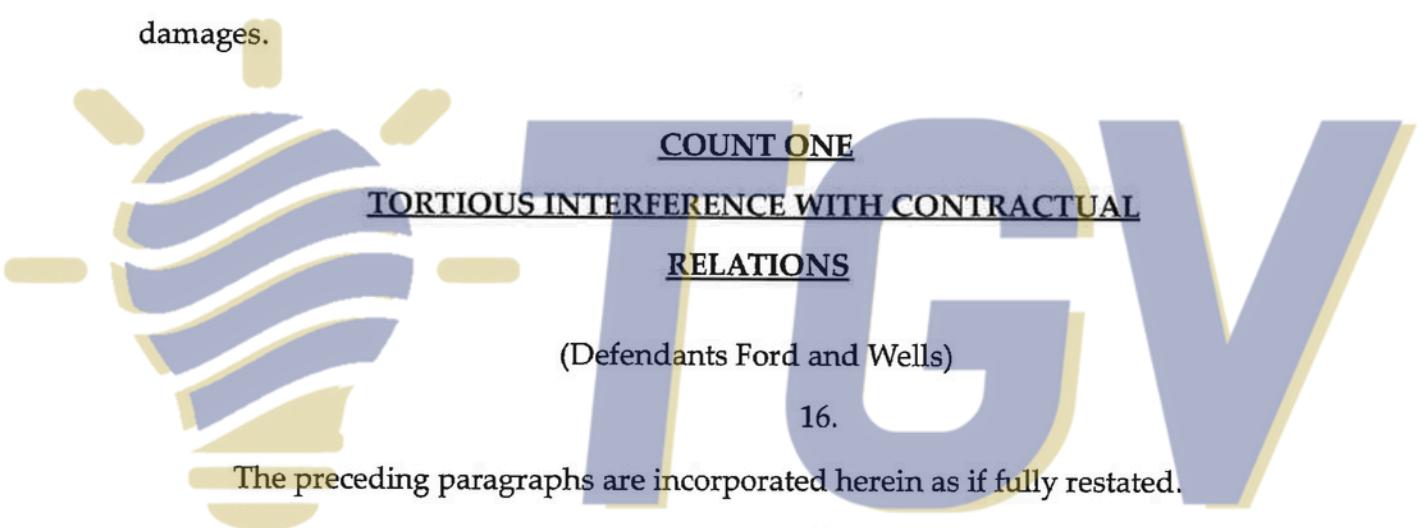
In that call, Wells made defamatory, and derogatory comments about Ramsey, intimating that he was incompetent and unqualified to coach.

13.

These defamatory statements were made with the intent to sabotage and jeopardize Ramsey's employment with his new employer.

14.

Additionally, Wells called another employee at Rome High School and made disparaging and derogatory comments about Ramsey with the intent to sabotage and jeopardize Ramsey's



employment with his new employer.

15.

Defendants' actions were committed with the specific intent to cause harm to Plaintiff and show willful misconduct, malice, wantonness or that entire want of care, which would raise the presumption of conscious indifference to consequences entitling Plaintiff to an award of punitive damages.

COUNT ONE

TORTIOUS INTERFERENCE WITH CONTRACTUAL
RELATIONS

(Defendants Ford and Wells)

16.

The preceding paragraphs are incorporated herein as if fully restated.

17.

Plaintiff had a valid contractual relationship with his new employer which Defendants attempted to terminate via egregious and malicious conduct.

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18.

Defendants Ford and Wells, who are not parties to Plaintiff's contract, attempted to induce his employer to sever their contract and not continue their business relationship with Plaintiff.

19.

In doing so, Defendants Ford and Wells acted improperly and without privilege, and purposely and maliciously with the intent to injure.

20.

As a direct and proximate result of those Defendants' actions, Plaintiff have suffered financial injury in an amount to be proven at trial.

21.

In addition, Defendants Ford and Wells have acted in bad faith and have caused Plaintiff unnecessary trouble and expense. Accordingly, pursuant to O.C.G.A. § 13-6-11, Plaintiff is entitled to recovery of their litigation expenses, including but not limited to their reasonable attorneys' fees.

22.

Those Defendants' actions show willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care, which would raise the presumption of conscious indifference to consequences, entitling Plaintiffs to an award of punitive damages.

COUNT TWO

DEFAMATION/SLANDER

23.

The preceding paragraphs are incorporated herein as fully restated.

24.

Defendants Ford and Wells made numerous oral statements about Plaintiff to other individuals that were false, defamatory, and malicious in nature.

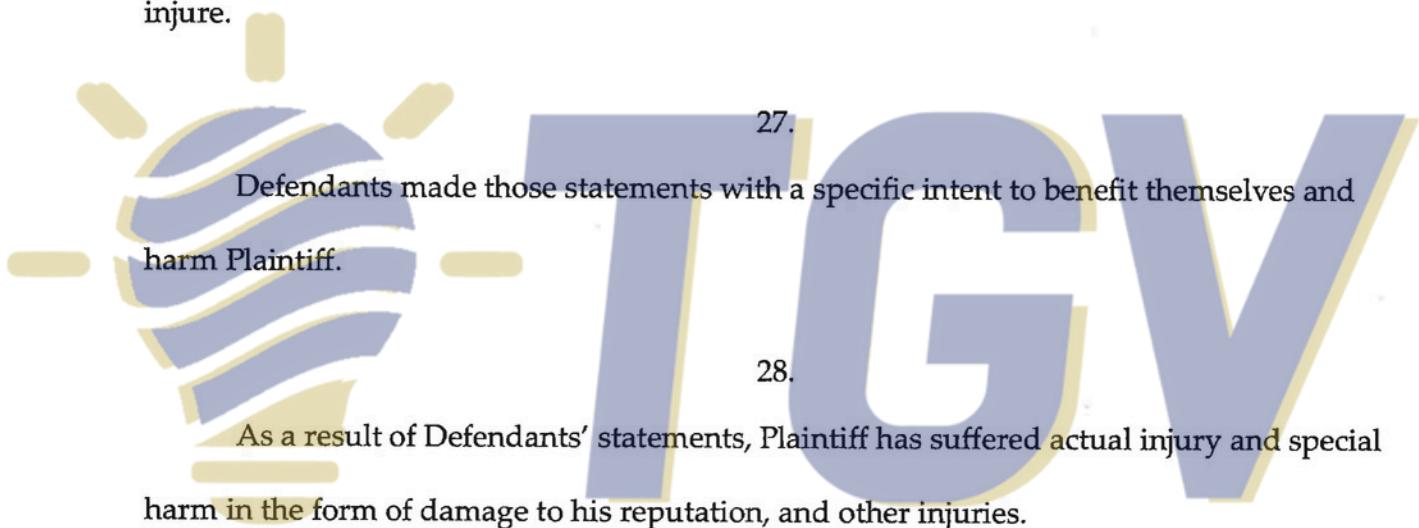
25.

Those false, defamatory, and malicious statements included, among others, that Plaintiff would destroy their program like he did at Effingham and that he was incompetent

and not a qualified coach.

26.

Those statements are of the kind tending to injure the reputation of Plaintiff and expose Plaintiff to public hatred, contempt or ridicule. In addition, the statements were made as to Plaintiff in reference to his livelihood and profession, and were calculated to injure.



27.

28.

29.

Defendants have acted in bad faith and have caused Plaintiff unnecessary trouble and expense. Accordingly, pursuant to O.C.G.A. §13-6-11, Plaintiff is entitled to recovery of his litigation expenses, including but not limited to his reasonable attorney fees.

30.

Defendants actions show willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care, which would raise the presumption of conscious indifference to consequences, entitling Plaintiffs to an award of punitive damages.

COUNT THREE

DEFAMATION/LIBEL

31.

The preceding paragraphs are incorporated herein as fully restated.

32.

Defendants made numerous false, defamatory and malicious statements about Plaintiff.

33.

Those false, defamatory and malicious statements were expressed in writing via email and text messages.

34.

Those statements are of the kind tending to injure the reputation of Plaintiff and expose Plaintiff to public hatred, contempt or ridicule.

35.

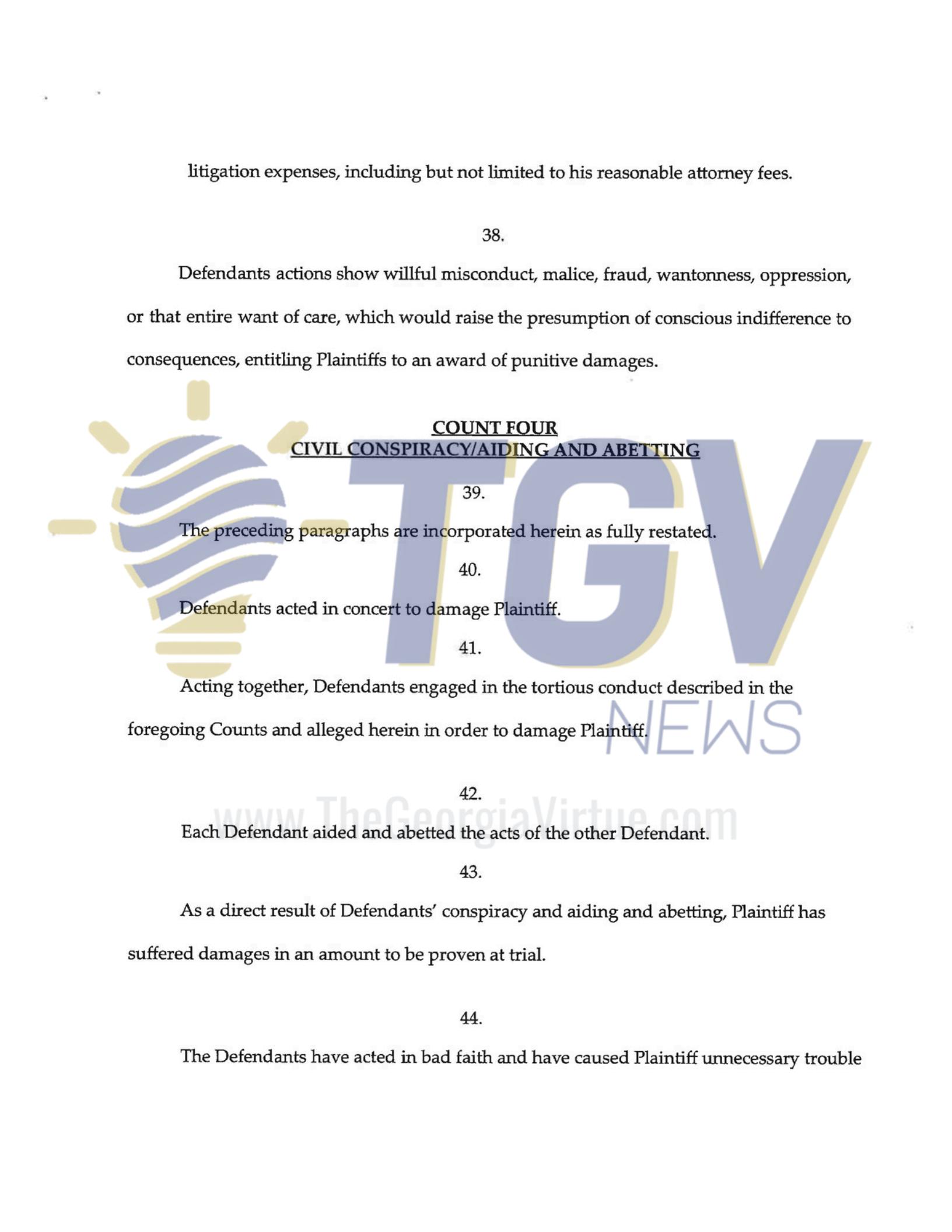
Defendants republished certain of the above-referenced defamatory statements to third parties, Amie Dickerson and Jake Darling among others.

36.

As a result of Defendants' statements, Plaintiff has suffered actual injury and special harm in the form of harm to his reputation, actual loss and other injuries.

37.

The Defendants have acted in bad faith and have caused Plaintiff unnecessary trouble and expense. Accordingly, pursuant to O.C.G.A. §13-6-11, Plaintiff is entitled to recovery of his



litigation expenses, including but not limited to his reasonable attorney fees.

38.

Defendants actions show willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care, which would raise the presumption of conscious indifference to consequences, entitling Plaintiffs to an award of punitive damages.

COUNT FOUR

CIVIL CONSPIRACY/AIDING AND ABETTING

39.

The preceding paragraphs are incorporated herein as fully restated.

40.

Defendants acted in concert to damage Plaintiff.

41.

Acting together, Defendants engaged in the tortious conduct described in the foregoing Counts and alleged herein in order to damage Plaintiff.

42.

Each Defendant aided and abetted the acts of the other Defendant.

43.

As a direct result of Defendants' conspiracy and aiding and abetting, Plaintiff has suffered damages in an amount to be proven at trial.

44.

The Defendants have acted in bad faith and have caused Plaintiff unnecessary trouble

and expense. Accordingly, pursuant to O.C.G.A. §13-6-11, Plaintiff is entitled to recovery of his litigation expenses, including but not limited to his reasonable attorney fees.

45.

Defendants actions show willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care, which would raise the presumption of conscious indifference to consequences, entitling Plaintiffs to an award of punitive damages.

WHEREFORE, having set forth their complaint, Plaintiff respectfully pray that this Court:

1. Cause summons and process to issue as required by law;
2. Empanel a jury to try all questions of fact;
3. Award Plaintiff his damages as proven at trial;
4. Award Plaintiff punitive damages, exemplary damages, and any enhanced damages allowed by law or authorized by statute, rule or regulation arising of Defendants' misconduct, torts and breaches;
5. Award Plaintiff attorney's fees and costs for Defendants' bad faith, stubborn litigiousness and causation of unnecessary trouble and expense pursuant to O.C.G.A. §13-6-11;
6. Assess all cost against Defendants; and
7. Award such further and other relief as this Court deems just and proper.

Respectfully submitted,

/s/Joseph B. Ervin

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