

CIRCUIT COURT OF TENNESSEE  
ELEVENTH JUDICIAL DISTRICT  
HAMILTON COUNTY

FILED IN OFFICE  
2015 APR -7 PM 3:04  
LARRY L. HENRY, CLERK  
BY JD DC

SANDRA FREEMAN,

Plaintiff,

v.

CITY OF CHATTANOOGA

Defendant.

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No. 15C484

Div. \_\_\_\_\_

COMPLAINT

Comes now the Plaintiff, Sandra Freeman, by and through counsel, pursuant to Tennessee Rules of Civil Procedure 7-12, and hereby states for her cause of action against the above-named Defendant as follows:

**I. THE PARTIES**

1. The Plaintiff, Sandra Freeman, is a resident of Bradley County, Tennessee, with her address as 146 Winesap Way, Cleveland, Tennessee 37311.

2. The Defendant, the City of Chattanooga, is an incorporated municipality and subdivision of the State of Tennessee located in Hamilton County, Tennessee.

**II. JURISDICTION AND VENUE**

3. This court has jurisdiction over the subject matter and the parties to this lawsuit pursuant to Tenn. Code Ann. § 16-10-101, et seq.

4. Venue is proper in this Court pursuant to Tenn. Code Ann. § 24-10-101.

**III. GENERAL ALLEGATIONS**

5. The Plaintiff, Sandra Freeman, was hired as the interim Chattanooga City Council Clerk on April 9, 2013 and reaffirmed on May 7, 2013 by the Chattanooga City Council.

6. Throughout her appointment as City Council Clerk, Plaintiff performed her job duties in an outstanding manner.

7. In July 2013 Plaintiff became aware of potential compensation inequities in the Clerk's office staff as documented in research by the Municipal Technical Advisory Service (MTAS). Plaintiff requested then-Chairman Yusuf Hakeem to review the situation. An audit was then performed on the Clerk's office for the purpose of analyzing the issue. The resolution of this issue was reserved by outgoing Chairman Hakeem to allow for consideration and resolution by the full City Council after the appointment of a new Chairperson in April 2014.

8. In April 2014, Chip Henderson became the City Council Chairman, and Carol Berz became City Council Vice-Chair and Chair of the Human Resources Committee.

9. At the time of her original appointment in 2013, Plaintiff did not possess a Bachelor's Degree in business education/administration, public administration, political science, or other closely related field, nor did she possess municipal clerk certification. She did, however, have 30 years of Executive Branch municipal experience, and she was in the process of working towards receiving her municipal clerk certification, which she was scheduled to receive on December 12, 2014. Although a Bachelor's Degree was listed as a requirement for the position of City Council Clerk (and the municipal clerk certification was a preference for that position), the Chattanooga City Council elected to unanimously retain Plaintiff in her job position by applying her 30 years' Executive Branch municipal government experience in lieu of the degree and certification.

10. In May 2014, the Plaintiff approached Chairman Henderson and Vice-Chair Berz to raise the issue of compensation inequities with respect to the staff of the City Council Clerk's Office, which had been postponed by former Chairman Hakeem in December 2013. Following

some discussion, it was determined by Vice-Chair and HR Committee Chair Carol Berz and Plaintiff that Municipal Technical Advisory Service (MTAS) consultant Richard Stokes would be retained to perform a professional evaluation of the compensation issues surrounding the City Council Clerk's Office.

11. On June 6, 2014, Mr. Stokes submitted his final MTAS Report to Chairman Henderson, Vice-Chair Berz, and the Plaintiff, the results of which supported the issues raised by the Plaintiff. However, the MTAS Report was not shared with the full City Council by Chairman Henderson and/or Vice-Chair Berz, even though the MTAS Report was addressed to the full City Council.

12. It was Plaintiff's belief that Chairman Henderson and Vice-Chair Berz were improperly withholding information from the City Council and instead attempting to bypass the full City Council with respect to those issues. As such, Plaintiff shared the MTAS Report with several City Council Members.

13. Upon learning of this fact, Vice-Chair Berz accused Plaintiff of insubordination.

14. On July 2, 2014, and without notifying the full City Council, Chairman Henderson directed the Chattanooga City Human Resources department to proceed with pay grade adjustments for the staff of the City Council Clerk's Office. The full City Council was never made aware of this action and was not provided with the opportunity to review or approve those changes. Plaintiff was informed of this fact by Chairman Henderson on July 8, 2014.

15. Plaintiff continued to voice her objections to the unilateral changes implemented by Henderson throughout the remainder of her employment with the City Council Clerk's Office.

16. On September 2, 2014, City Councilmen Hakeem and Gilbert demanded that the MTAS Report prepared by Mr. Stokes be distributed to the full City Council and that Mr. Stokes

be invited to provide a presentation to the City Council. At that time, Chairman Henderson and Vice-Chair Berz denied in a public Council meeting that they had ever seen or requested the MTAS Report prepared by Mr. Stokes.

17. A presentation by Mr. Stokes was scheduled for September 16, 2014. In advance of that meeting, Henderson instructed an employee of the City Council Clerk's Office to confidentially modify portions of the job descriptions of employees of the City Council Clerk's office. Once again, having learned of this action by the Chairman, Plaintiff voiced her objection to members of the City Council.

18. On September 23, 2014, Henderson announced a plan to resolve the staffing issues within the City Council Clerk's Office through a purported "restructuring." Rather than simply modifying the job descriptions for the staff of the City Council Clerk's Office, this restructuring plan would require the staff to vacate and thereafter reapply for their job positions. After a heated, public debate, this proposal passed by a 5-4 vote on September 30, 2014. The date set for vacating the positions within the City Council Clerk's Office was December 1, 2014, with an official termination date of December 12, 2014.

19. On October 21, 2014, Plaintiff sent a letter to the City Council outlining her belief that the "restructuring" plan was simply a thinly-veiled attempt to retaliate against her for reporting the actions of Chairman Henderson and Vice-Chair Berz in withholding the MTAS Report from the full City Council and making confidential changes to the job descriptions of employees within the City Council Clerk's Office.

20. Plaintiff repeatedly requested, both verbally and in writing, a confirmation as to whether she would be qualified to apply for the position of City Council Clerk in which she currently served. Although she still did not possess the "required" Bachelor's Degree

qualification, she had been hired (and reaffirmed) as City Council Clerk previously, despite that requirement. In addition, while she did not hold a Municipal Clerk Certification at the time that she was required to vacate the job, she had completed 89 of the 100 hours required to obtain such certification, and it was anticipated that she would complete the requirements of said certification on December 12, 2014 – the same date as her scheduled termination.

21. Despite her repeated attempts to ascertain whether she would be considered to meet the minimum requirements for the “restructured” job position, neither Henderson nor the City’s Human Resources department would confirm that she met those requirements, instead simply telling her that she was “encouraged to apply,” and that determination as to qualifications for the position would be made by the selection committee composed of City Council Members.

22. On October 24, 2014, Henderson sent Plaintiff a letter in which he noted that the “City Council can wave [sic] any or all of the stated requirements for the two appointed positions.”

23. Plaintiff, however, was not selected by the Council Selection Committee as a qualified candidate to be interviewed for the position for which she was the incumbent. Consequently, the City Council was not given the opportunity to waive the stated requirements as they had for her original appointment in 2013, as only one candidate was presented as “fully” qualified for consideration by the Committee.

24. The sole individual selected for the position by the Selection Committee, Nicole Gwyn, had previously served as the Deputy Clerk under Plaintiff.

25. Plaintiff was terminated from her employment with the City of Chattanooga on or about December 1, 2014.

**COUNT I**  
**Retaliatory Discharge**  
**Tennessee Public Protection Act, T.C.A. § 50-1-304.**

26. Plaintiff repleads and incorporates by reference its allegations in Paragraphs 1-25 as though fully set forth herein.

27. Plaintiff's refusal to remain silent concerning the practices of members of the Chattanooga City Council constituted protected activity as defined under the language of the Tennessee Public Protection Act (TPPA), T.C.A. § 50-1-304.

28. The activities reported by the Plaintiff with respect to Chairman Henderson and/or Vice-Chair Berz were contrary to public policy.

29. Plaintiff was terminated from her employment with the City of Chattanooga on or about December 1, 2014.

30. Plaintiff's protected activity was the sole motivating factor for her discharge from employment.

31. As a result of the Defendant's actions, Plaintiff has suffered, and continues to suffer, damages.

**COUNT II**  
**Retaliatory Discharge**  
**First Amendment to the U.S. Constitution**  
**42 U.S.C. § 1983**

32. Plaintiff repleads and incorporates by reference its allegations in Paragraphs 1-31 as though fully set forth herein.

33. By reporting information regarding the improper activities of members of the Chattanooga City Council, Plaintiff engaged in constitutionally-protected speech under the First Amendment to the U.S. Constitution.

34. The information reported by Plaintiff related to a matter of public concern.

35. Plaintiff was terminated from her employment with the City of Chattanooga on or about December 1, 2014.


36. Plaintiff was terminated because of her engagement in constitutionally-protected speech.

37. As a result of the Defendant's actions, Plaintiff has suffered, and continues to suffer, damages.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against Defendant for all amounts due and owing to Plaintiff, plus compensatory and punitive damages, attorney fees, all other appropriate pre-judgment, contractual, and post-judgment interest, discretionary and non-discretionary costs, and any and all other costs incurred herein, and further respectfully requests that the Court grant Plaintiff such other and further relief as this Court deems just and proper under these circumstances.

Respectfully submitted,

**EVANS HARRISON HACKETT PLLC**

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