

**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

WILLIAM LAYNE ROBERTS,)	No. 19 C _____
)	
Plaintiff,)	
)	
v.)	
)	JURY DEMAND
MCLEAN COUNTY STATE’S ATTORNEY’S)	
OFFICE; DON KNAPP in his official)	
capacity; KRISTEN ALFERINK , in her)	
individual capacity; JASON CHAMBERS , in his)	
individual and official capacity; and)	
MCLEAN COUNTY , a unit of local government,)	
)	
Defendants.)	

COMPLAINT

Plaintiff William Layne Roberts (Plaintiff), through his attorneys, Kulwin, Masciopinto & Kulwin, L.L.P., respectfully submits his complaint against the McClean County State’s Attorney’s Office, Don Knapp in his official capacity, Kristen Alferink, in her individual capacity, Jason Chambers in his individual and official capacity, and McClean County, a unit of local government (collectively “Defendants”).

Nature of the Claim

1. Plaintiff brings this action to redress unlawful sex discrimination, harassment and retaliation perpetrated and tolerated by Defendants within the McClean County State’s Attorney’s Office.

2. In 2016, Plaintiff was hired as an Assistant State’s Attorney for the McClean County State’s Attorney’s Office to work as a misdemeanor prosecutor.

3. While working for the McClean County State's Attorney's Office, Plaintiff was subjected to severe and pervasive unwanted and unwelcome sex harassment and retaliation by a senior and superior female Assistant State's Attorney, defendant Kristen Alferink (Alferink).

4. Alferink's campaign of harassment and retaliation began in December 2016 and continued—escalating over time in frequency and severity—through December 2017.

5. Alferink was responsible for prosecuting sexual assault cases for the McClean County State's Attorney's Office.

6. Alferink also has a history of misusing her authority and supervisory position within the McClean County State's Attorney's Office in order to sexually harass men at work. In several different ways, the McClean County State's Attorney's Office knew and should have known about Alferink's propensity to sexually harass men at work.

7. On multiple occasions, Plaintiff reported, complained about and opposed Alferink's sexual harassment to, among others, the ultimate authority in the office, McClean County State's Attorney Jason Chambers. However, no action was taken to correct or control Alferink's sexual misconduct. No action was taken to enforce McClean County policies prohibiting sex discrimination, harassment and retaliation. In several different ways, the McClean County State's Attorney's Office knew and should have known about Alferink's sexual harassment of Plaintiff at work.

8. On November 22, 2017, Alferink entered Plaintiff's office and closed the door behind her so she could be alone with Plaintiff. When Plaintiff tried to leave, Alferink sexually assaulted Plaintiff by grabbing him and attempting to kiss him.

9. Later that day, Plaintiff reported, complained about and opposed Alferink's sexual misconduct to the McClean County State's Attorney, Jason Chambers. In reporting Alferink,

Plaintiff recounted in detail numerous incidents of sexual harassment perpetrated by Alferink that had occurred during the past year, several of which Plaintiff had reported previously. In response, McClean County State's Attorney Jason Chambers stated he would "look into it."

10. On November 23, 2017, the day after Plaintiff's report to McClean County State's Attorney Jason Chambers, Alferink sent Plaintiff a text message stating "You need to spend time this weekend seriously looking for a new job."

11. Rather than protect Plaintiff by correcting Alferink's sexual misconduct, McClean County State's Attorney Jason Chambers instead retaliated against Plaintiff by terminating him for pretextual reasons. Alferink suffered no adverse consequences for her conduct and she was allowed to continue prosecuting felony sex crimes for McClean County.

12. After Plaintiff was terminated, Alferink tried to buy Plaintiff's silence by offering to help him find a new job and by confessing her "feelings" for him. When Plaintiff (again) resisted and rebuffed her advances, Alferink sent Plaintiff threatening emails from her official McClean County State's Attorney work email account, including a final email to Plaintiff which stated, "Be careful about who you are talking to about the State's Attorney's Office. Some of the stuff you are saying about the office/people here is actionable and is getting back to us."

13. Plaintiff brings the claims below to seek legal and equitable relief for unlawful sexual harassment and retaliation perpetrated within the McClean County State's Attorney's Office in violation of Plaintiff's rights guaranteed in the United States Constitution under 42 U.S.C. § 1983 (Counts I-IV) and in violation of Plaintiff's civil rights guaranteed under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, *et seq.* (Count V) and under the Illinois Human Rights Act, 775 ILCS 5/1 *et seq.* (Count VI) and under state common law (Counts VII-IX).

Parties, Jurisdiction and Venue

14. Plaintiff William Layne Roberts (Plaintiff) resides within the Central District of Illinois. During the relevant time period, Plaintiff was employed by the McClean County State's Attorney's Office as an Assistant State's Attorney.

15. Defendant McClean County (McClean County) is a municipality incorporated under the laws of the State of Illinois within the Central District. McClean County administers itself through departments, one of which is the McClean County State's Attorney's Office.

16. McClean County is a necessary party and indemnifier in lawsuits seeking damages from an independently elected county officer and/or final policy-makers like the claims alleged in the complaint.

17. Defendant the McClean County State's Attorney's Office (MCSAO) is a department of McClean County.

18. Defendant Don Knapp (Knapp) serves in the elected position of McClean County State's Attorney. Knapp is sued in his official capacity, to the extent necessary, as the current elected McClean County State's Attorney.

19. Defendant Jason Chambers (Chambers) served in the elected position of McClean County State's Attorney during the relevant time period. Chambers is sued in his individual capacity and, to the extent necessary, in his official capacity as the McClean County State's Attorney during the relevant time period. During the relevant time period, Chambers was a policy-maker for the MCSAO and has final policy-making authority for the MCSAO.

20. Defendant Kristen Alferink (Alferink) is sued in her individual capacity. Alferink worked as an Assistant State's Attorney for the MCSAO as a felony sexual assault prosecutor. Chambers delegated to Alferink final policy-making authority for the MCSAO.

21. This Court has jurisdiction over Counts I-VII under 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331 and 1343.

22. This Court has jurisdiction over Counts VIII-X under 28 U.S.C. § 1367(a).

23. Venue is proper in this judicial district under 28 U.S.C. §1391(b) and (c) because the events giving rise to Plaintiff's claims occurred within this judicial district.

Facts Common to All Claims

24. The MCSAO is a governmental entity responsible for the prosecution of crimes committed in McLean County, Illinois. In addition to criminal prosecutions, the MCSAO assists hundreds of victims of sexual assault and domestic violence each year.

25. The MCSAO employs lawyers—called Assistant State's Attorneys—and administrative staff. The MCSAO also employs supervisors and employees who work in other capacities for the MCSAO who are not lawyers or Assistant State's Attorneys.

26. The MCSAO has written employment policies prohibiting sexual discrimination and harassment at work stating, among other things, that sexual discrimination and harassment are not tolerated.

27. The MCSAO also has written employment policies prohibiting retaliation for opposing or reporting sexual discrimination or harassment at work stating, among other things, that retaliation is not tolerated.

28. MCSAO policies state that employees have the right to work in an environment free from sexual harassment and the responsibility to refrain from perpetrating sexual harassment.

29. The stated purpose of MCSAO's policies are to provide everyone who works in the MCSAO a work environment free of sexual harassment or retaliation for opposing or reporting sexual harassment.

30. In 2012, Chambers was elected to serve as the McClean County State's Attorney.

31. As the McClean County State's Attorney, Chambers had the ultimate and sole authority to hire, fire, promote, discipline and reassign MCSAO employees.

32. Chambers hired Alferink to work as an Assistant State's Attorney for the MCSAO. Chambers later promoted Alferink to a superior position prosecuting felony sexual assault crime for McClean County.

33. Alferink led the McLean County Sexual Assault Task Force, a multidisciplinary team focused on tackling issues related to the investigation and prosecution of sex crimes. Alferink also has past experience litigating employment discrimination claims in federal court and before the Illinois Human Rights Commission.

34. In 2016, Chambers hired Plaintiff to work as an Assistant State's Attorney for the MCSAO. Plaintiff was assigned to work in an entry-level position as a misdemeanor prosecutor.

35. Chambers specifically assigned Alferink to oversee, supervise and report to him regarding Plaintiff and Plaintiff's work performance. In this way, among others, Chambers delegated to Alferink the power and authority to control the conditions of Plaintiff's employment.

36. During the relevant time period, Plaintiff met or exceeded Defendants' legitimate employment expectations.

37. During the relevant time period, Alferink began to have romantic and sexual "feelings" for Plaintiff, even though she was married to another man.

38. Plaintiff resisted and rejected Alferink's advances. Plaintiff did not share and refused to reciprocate Alferink's romantic "feelings" because, among other reasons, he was married to another woman.

39. Beginning in December 2016, Alferink began to subject Plaintiff to severe and pervasive unwanted and unwelcome sexual harassment. On many occasions, Alferink's harassment of Plaintiff was committed in the open such that Chambers did observe, was able to observe and/or or should have been able to observe, Alferink's unlawful conduct for himself.

40. Alferink's offensive conduct created a sexually hostile, intimidating and offensive work environment which substantially interfered with Plaintiff's conditions of employment and his ability to perform his job.

41. Alferink's sexual harassment consisted of verbal, non-verbal and physical manipulative conduct designed to force a romantic relationship upon Plaintiff. Alferink used her superior position over Plaintiff to manipulate the conditions of Plaintiff's employment to force and enforce the unwanted romantic relationship upon Plaintiff.

42. Over time, Alferink's sexual harassment increased in frequency and severity. For example, during the relevant time period, among other things, Alferink:

- touched Plaintiff repeatedly;
- attempted to kiss Plaintiff;
- repeatedly called Plaintiff her "boyfriend" at work;
- referred to herself as Plaintiff's "most favorite work person :)";
- sent Plaintiff offensive text messages and communications in which she suggested a quid pro quo sexual relationship with her by which his career could either advance or be negatively affected by his response;
- forced Plaintiff to have closed-door meetings with her alone against his wishes;
- insisted that Plaintiff discuss with her unnecessary items as a pretext to remain in closed-door meetings alone with Plaintiff;

- insisted that Plaintiff discuss with her the details of the sex assault cases she was prosecuting as a pretext to discuss sex with Plaintiff;
- forced Plaintiff to have closed door meetings in order to lead co-workers to believe that they were having a “relationship” and sex at work;
- stated repeatedly to Plaintiff that people in the office believed they were having sex during the closed-door meetings she would cause to occur;
- pestered Plaintiff repeatedly about the status of their “friendship”;
- required Plaintiff to answer questions to force him to assure her about their “relationship,” such as “Are we more than work friends?”;
- required Plaintiff to answer rhetorical questions to force him assure her of the status of their “relationship,” such as “Who is your best friend at work?” and “Who is your best friend of all?”;
- required Plaintiff to answer rhetorical questions to force him to make statements she wanted to hear in which he would elevate his purported “relationship” with Alferink above his other family relationships, such as “Who are you going to tell news about your family first to?” and “Who are you going to tell news about twins to?”;
- repeatedly forced “relationship” discussions with Plaintiff;
- insisted they walk out together when they leave for the day, and sometimes would camp outside Plaintiff’s office so she could walk out with him;
- controlled Plaintiff’s communications in the workplace by, among other ways, forcing him to say certain statements to her in order to assure her about their “relationship”;
- insisted that Plaintiff text her first at night to prove that they were more than just “work friends”; and
- insisted that Plaintiff put more effort into their “relationship.”

43. Alferink repeatedly inserted herself into Plaintiff’s work and manipulated him to force him to interact with her more.

44. For example, when Plaintiff did not respond to Alferink in the way she wanted, Alferink would threaten Plaintiff to force him to respond by stating things like “I have your job in my hands,” “I have done a lot of things behind the scenes and in front of the scenes to help

you at work - to make sure you don't get fired - to make sure you are being the best attorney you can be.”

45. Alferink repeatedly brought up personal issues with Plaintiff—such as a fraudulent cancer diagnosis she claimed to have and fake family emergencies she claimed existed—as a ruse to communicate with Plaintiff and to try to force him to “care” about her.

46. For example, for countless hours, at work or through text messages, Alferink discussed that she had cancer, was going to die of the cancer, had discussed with her husband the possibility of moving to a state with a “right to die statute,” and other such topics.

47. Alferink later admitted to Plaintiff that she made up these purported emergencies just to be able to spend more time with Plaintiff in his office. Alferink stated that she hoped to create a situation where he was more concerned about her and cared about her more, and that she did this because she had feelings for Plaintiff and wanted to spend time with him in his office.

48. After the fact, Alferink repeatedly apologized for her misconduct by making statements such as “I am sorry,” “I am so sorry for how I acted in your office, that is not who I am,” “I can't picture not being friends with you,” “I am sorry for acting that way; will you forgive me, will you forget I did that” and other similar statements.

49. Alferink repeatedly abused the authority and power Chambers delegated to her by using her superior position to manipulate and control Plaintiff to force a relationship with him and to enforce her desire for him to interact with her.

50. For example, Alferink told Plaintiff on several occasions that she was “asked” by Chambers to oversee his work by, among other things, reviewing his files, watching his trials, discussing his cases with him and engaging in other such oversight over him.

51. Alferink told Plaintiff on several occasions that the MCSAO First Assistant, or Chambers himself, made her supervise Plaintiff and, if she did not, it would be bad for Plaintiff, she could not vouch for him, and then he would lose his job, because they did not like him.

52. On many occasions, Alferink informed Plaintiff that the MCSAO First Assistant or Chambers were upset about something, and Plaintiff would insist that they directly speak to him about it and that she not be involved. However, Alferink told Plaintiff that she was “working on it,” that she “knew how things worked around here,” that they did not want to speak to him about it and that was the reason that they went to her with many issues in the office.

53. On many occasions, Plaintiff informed Alferink that he did not like the arrangement where Alferink was communicating with him on behalf of Chambers and the MCSAO First Assistant, and that he would prefer if they spoke directly with him about those matters without involving Alferink.

54. In these instances, Alferink would get very upset about Plaintiff’s protests and tell Plaintiff that they would both be fired because the MCSAO First Assistant and Chambers would know she had told him about the specific issue and that she was not supposed to tell him about it.

55. On November 22, 2017, Alferink entered Plaintiff’s office and shut the door behind her forcing Plaintiff to be alone with Alferink. When Plaintiff attempted to leave, Alferink grabbed his arm, leaned in toward him and attempted to kiss him.

56. Later that day, Alferink had Jen Gant (Gant), a supervisor, summon Plaintiff into Gant’s office under the pretext of needing to talk with him.

57. The true purpose of Gant’s actions was to allow Alferink to trap Plaintiff alone in an office (again) for another forced discussion about the status of their “friendship” and what had occurred earlier in the day.

58. During the forced meeting, Alferink refused to let Plaintiff leave Gant's office until he successfully convinced Alferink that they "are friends," and that their "relationship was in an okay place," that he would overlook her behavior in his office earlier in the day and, specifically, she directed him to "never bring up ever again" her grabbing him and attempting to kiss him.

59. After the meeting ended, Alferink texted Plaintiff stating, "We're you just saying all of that so you could get out of [Gant's] office?"

60. Later that day, Plaintiff reported, complained about and opposed Alferink's sexual misconduct to Chambers. In reporting Alferink, Plaintiff also recounted in detail numerous incidents of sexual harassment perpetrated by Alferink that had occurred previously, several of which Plaintiff had already reported. In response, Chambers stated he would "look into it."

61. Chambers and the MCSAO failed to conduct a reasonable investigation and provide a reasonable response into any of Plaintiff's reports, complaints and allegations of harassment and discrimination by Alferink.

62. Chambers and the MCSAO took no action to protect Plaintiff from Alferink's actions, and failed to take steps to prevent further acts of harassment and/or discrimination perpetrated by Alferink.

63. On November 23, 2017, the day after Plaintiff's report to Chambers, Alferink sent Plaintiff a text stating "You need to spend time this weekend seriously looking for a new job."

64. On November 29, 2017, Chambers terminated Plaintiff.

65. Upon information and belief, Chambers took no corrective action against Alferink.

66. Chambers had no legitimate non-retaliatory reason for terminating Plaintiff.

67. After Plaintiff was terminated, Alferink continued to harass Plaintiff and, in particular, attempted to use her authority to buy Plaintiff's silence and prevent him from taking action based on the harassment he endured while working for the MCSAO.

68. For example, on December 7, 2019, from her MCSAO email account, at 9:46 PM, Alferink emailed Plaintiff stating she was "a little drunk" and then proceeded to send Plaintiff a lengthy email detailing her feelings for Plaintiff.

69. Alferink's email stated, "I don't exactly know when it happened, but at some point I went from considering you my work best friend to something else. I started to have feelings for you. It is not something I ever wanted to have happen, and something that I wish didn't happen."

70. Alferink's email further stated, "One of the worst feelings in the world is starting to fall for someone that you are great friends with. I have struggled with this for a long time, and it really has eaten me up inside. It has been rough for a lot of reasons. I knew that I would lose our friendship over this, and I know I am running the risk of losing my marriage over this. I am asking that you not share this with anyone."

71. Alferink continued to force interactions with Plaintiff by, among other ways, trying to help Plaintiff find a new job.

72. However, when Plaintiff refused to interact with Alferink and rebuffed her requests to keep quiet, her emails became hostile. Ultimately, Alferink emailed him stating "Be careful about who you are talking to about the State's Attorney's Office. Some of the stuff you are saying about the office/people here is actionable and is getting back to us."

73. The Constitutional and statutory violations detailed above were caused, in part, by the customs, policies, and practices of the MCSAO, as promulgated, enforced, and disseminated

by Defendants, whereby the institutions and individuals charged with ensuring that the MCSAO is a sexually harassment-free work place, and that people who report violations of the anti-harassment policies are not subject to retaliation, fostered an atmosphere where a top ranking female Assistant State's Attorney was permitted to sexually harass a subordinate male Assistant State's Attorney without consequence.

COUNT I

(Section 1983 Violation of Equal Protection – Sex Harassment Against All Defendants)

74. Plaintiff restates and re-alleges by reference paragraphs 1-73 as if fully set forth herein against all Defendants.

75. Defendants intentionally subjected Plaintiff to unequal and discriminatory treatment on the basis of his sex and/or by knowingly subjecting Plaintiff to, and refusing to protect Plaintiff from, severe and pervasive sexual harassment.

76. The actions of each and all Defendants reflect an official act, policy, custom, or pattern of official conduct of engaging in and condoning discrimination on the basis of sex and sex harassment.

77. During the relevant time period, Chambers was a final policy-maker for the MCSAO and had final policy making authority.

78. During the relevant time period, Chambers delegated to Alferink final policy-making authority as it relates to the conduct alleged herein.

79. MCSAO and Chambers are responsible for the acts of their staff, who were acting within the scope of their employment, and pursuant to a policy, custom, and/or practice of sex discrimination, retaliation and violations of individuals' rights of equal protection under the Fourteenth Amendment to the Constitution of the United States.

80. During the relevant time period, each individual defendant acted under color of state law.

81. Defendants' conduct was pursuant to a policy and practice of sex discrimination and harassment by its employees and supervisors and with the knowledge and acquiescence of Defendants, Defendants' staff, and Defendants' supervisory officials.

82. Each and all Defendants knew and should have known that Plaintiff was being subjected to discrimination and harassment on the basis of his sex.

83. Despite this, Defendants failed to take any effective remedial action, and turned a blind eye to the discrimination and sex harassment.

84. Each and all Defendants' action violated Plaintiff's equal protection right to be free from sex discrimination and harassment under the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983.

85. Each and all Defendants subjected Plaintiff to an unlawful and discriminatory severe and pervasive sexually hostile workplace in violation of his equal protection rights under the United States Constitution.

86. The actions of each and all Defendants were intentional, willful, and malicious and/or in reckless disregard of Plaintiff's rights as secured by 42 U.S.C. § 1983 and the Civil Rights Act of 1991.

87. The actions of each and all Defendants in intentionally engaging in and condoning the discrimination against Plaintiff caused Plaintiff great mental anguish, humiliation, degradation, physical and emotional pain and suffering, inconvenience, lost wages and benefits, future pecuniary losses, and other consequential damages.

WHEREFORE, Plaintiff seeks the following relief as to Count I:

A. All wages and benefits Plaintiff would have received but for the discrimination and retaliation including, but not limited to, back pay, front pay, future pecuniary losses, and pre-judgment interest;

B. Compensatory damages in an amount to be determined at trial;

C. A permanent injunction enjoining Defendants from engaging in the discriminatory practices complained of herein;

D. A permanent injunction requiring that Defendants adopt employment practices and policies in accord and conformity with the requirements of the Civil Rights Act of 1871, 42 U.S.C. § 1983, and further requiring that Defendants adopt and initiate effective remedial actions to ensure equal treatment of male and female employees and subordinates;

E. The Court retain jurisdiction of this case until such time as it is assured that the Defendants have remedied the policies and practices complained of herein and are determined to be in full compliance with the law;

F. Punitive damages as allowed by law as against the individual Defendants;

G. An award of reasonable attorneys' fees, costs, and litigation expenses; and

H. Such other relief as the Court may deem just or equitable.

COUNT II

(Section 1983 Violation of First Amendment – Retaliation Against All Defendants)

88. Plaintiff restates and re-alleges by reference paragraphs 1-87 as if fully set forth herein against all Defendants.

89. Plaintiff engaged in protected activity under the First Amendment by reporting and opposing unlawful sex discrimination and harassment in the workplace.

90. Defendants intentionally retaliated against Plaintiff for engaging in protected activity.

91. The actions of each and all Defendants reflect an official act, policy, custom, or pattern of official conduct of engaging in and condoning retaliation for reporting and opposing unlawful sex discrimination and harassment.

92. Defendants' conduct was pursuant to a policy and practice of retaliation for engaging in protected activity by, among other things, reporting and opposing unlawful sex discrimination and harassment by employees and supervisors with the knowledge and acquiescence of Defendants, Defendants' staff, and Defendants' supervisory officials.

93. Each and all Defendants knew and should have known that Plaintiff was being subjected to retaliation for engaging in protected activity.

94. Despite this, Defendants failed to take any effective remedial action, and turned a blind eye to the retaliation.

95. Each and all Defendants' action violated Plaintiff's First Amendment right to be free from retaliation for engaging in protected activity under the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983.

96. Each and all Defendants subjected Plaintiff to an unlawful and retaliatory workplace in violation of his First Amendment rights under the United States Constitution.

97. The actions of each and all Defendants were intentional, willful, and malicious and/or in reckless disregard of Plaintiff's rights as secured by 42 U.S.C. § 1983 and the Civil Rights Act of 1991.

98. The actions of each and all Defendants in intentionally engaging in and condoning retaliation against Plaintiff caused Plaintiff great mental anguish, humiliation, degradation, physical and emotional pain and suffering, inconvenience, lost wages and benefits, future pecuniary losses, and other consequential damages.

WHEREFORE, Plaintiff seeks the following relief as to Count II:

A. All wages and benefits Plaintiff would have received but for the discrimination and retaliation including, but not limited to, back pay, front pay, future pecuniary losses, and pre-judgment interest;

B. Compensatory damages in an amount to be determined at trial;

C. A permanent injunction enjoining Defendants from engaging in the discriminatory practices complained of herein;

D. A permanent injunction requiring that Defendants adopt employment practices and policies in accord and conformity with the requirements of the Civil Rights Act of 1871, 42 U.S.C. § 1983, and further requiring that Defendants adopt and initiate effective remedial actions to ensure equal treatment of male and female employees and subordinates;

E. The Court retain jurisdiction of this case until such time as it is assured that the Defendants have remedied the policies and practices complained of herein and are determined to be in full compliance with the law;

F. Punitive damages as allowed by law as against the individual Defendants;

G. An award of reasonable attorneys' fees, costs, and litigation expenses; and

H. Such other relief as the Court may deem just or equitable.

COUNT III

(Section 1983 Retaliation - Intimate Association Against All Defendants)

99. Plaintiff restates and re-alleges by reference paragraphs 1-98 as if fully set forth herein against all Defendants.

100. Plaintiff has constitutional freedom of intimate association rights to be married, to abide by his religious beliefs and to not engage in an adulterous sexual relationship with Alferink.

101. During the relevant time period, Defendants knew and were aware that Plaintiff had religious beliefs against adultery and was in a committed marital relationship with his wife.

102. By rejecting Alferink's sexual advances, Plaintiff was exercising his constitutional right of freedom of intimate associations.

103. Plaintiff has a constitutional right to associate with anyone, a right to refuse to associate with anyone, and a right to choose who to associate with.

104. Plaintiff exercised his constitutional right to associate with his wife and to not associate with Alferink in an illicit sexual or romantic relationship that violated his religious beliefs and/or his marital vows.

105. Plaintiff's exercise of his right, as a citizen and as a married man to associate with his wife and to not associate with Alferink in an illicit sexual or romantic relationship within the MCSAO, is a matter of public interest which has clear implications for all public employees and, in particular, employees who work for the MCSAO.

106. Defendants Alferink and Chambers retaliated against Plaintiff for exercising his constitutional intimate associational rights.

107. The actions of each and all Defendants reflect an official act, policy, custom, or pattern of official conduct of engaging in and condoning retaliation for exercising his constitutional intimate association rights.

108. Defendants' conduct was pursuant to a policy and practice of retaliation for exercising his constitutional intimate association rights by its employees and supervisors and with the knowledge and acquiescence of Defendants, Defendants' staff, and Defendants' supervisory officials.

109. Each and all Defendants knew and should have known that Plaintiff was being subjected to retaliation for exercising his constitutional intimate association rights.

110. Despite this, Defendants failed to take any effective remedial action, and turned a blind eye to the retaliation.

111. Each and all Defendants' action violated Plaintiff's constitutional intimate association rights under the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983.

112. Each and all Defendants subjected Plaintiff to an unlawful and retaliatory workplace in violation of his constitutional intimate association rights under the United States Constitution.

113. The actions of each and all Defendants were intentional, willful, and malicious and/or in reckless disregard of Plaintiff's rights as secured by 42 U.S.C. § 1983 and the Civil Rights Act of 1991.

114. The actions of each and all Defendants in intentionally engaging in and condoning the retaliation against Plaintiff caused Plaintiff great mental anguish, humiliation, degradation, physical and emotional pain and suffering, inconvenience, lost wages and benefits, future pecuniary losses, and other consequential damages.

WHEREFORE, Plaintiff seeks the following relief as to Count III:

A. All wages and benefits Plaintiff would have received but for the discrimination and retaliation including, but not limited to, back pay, front pay, future pecuniary losses, and pre-judgment interest;

B. Compensatory damages in an amount to be determined at trial;

C. A permanent injunction enjoining Defendants from engaging in the discriminatory practices complained of herein;

D. A permanent injunction requiring that Defendants adopt employment practices and policies in accord and conformity with the requirements of the Civil Rights Act of 1871, 42 U.S.C. § 1983, and further requiring that Defendants adopt and initiate effective remedial actions to ensure equal treatment of male and female employees and subordinates;

E. The Court retain jurisdiction of this case until such time as it is assured that the Defendants have remedied the policies and practices complained of herein and are determined to be in full compliance with the law;

F. Punitive damages as allowed by law as against the individual Defendants;

G. An award of reasonable attorneys' fees, costs, and litigation expenses; and

H. Such other relief as the Court may deem just or equitable.

COUNT IV

(Section 1983 Violation of Substantive Due Process Rights – All Defendants)

115. Plaintiff restates and re-alleges by reference paragraphs 1-114 as if fully set forth herein against all Defendants.

116. The Fourteenth Amendment due process clause prohibits state governments from depriving “any person of life, liberty, or property without due process of law....”

117. Defendants’ conduct as alleged herein directly and substantially interfered with Plaintiff’s fundamental rights.

118. Plaintiff has a fundamental right to equal protection under the law and to not be subjected to severe and pervasive sex harassment at work.

119. Plaintiff’s fundamental right to equal protection under the law and to not be subjected to severe and pervasive sex harassment at work constitutes a fundamental liberty interest protected from undue government intrusion by the due process clause.

120. Plaintiff has a fundamental right to engage in protected activity under the First Amendment and to not be subjected to retaliation for exercising that right.

121. Plaintiff’s fundamental right to engage in protected activity under the First Amendment and to not be subjected to retaliation for exercising that right constitutes a fundamental liberty interest protected from undue government intrusion by the due process clause

122. Plaintiff has a fundamental right to engage in intimate associations, a fundamental right to not engage in an intimate association at work that violates his religious beliefs and his marital vows to his wife.

123. Plaintiff’s fundamental right to intimate associations constitutes a fundamental liberty interest protected from undue government intrusion by the due process clause.

124. Defendants directly and substantially interfered with Plaintiff's fundamental rights by subjecting him to a sexually hostile work environment and retaliating against him in violation of his freedom of association rights and/or for engaging in protected activity.

125. Defendants' conduct was arbitrary and shocking to the conscience.

126. The actions of each and all Defendants reflect an official act, policy, custom, or pattern of official conduct of engaging in and condoning violations of Plaintiff's substantive due process rights.

127. Defendants' conduct was pursuant to a policy and practice of violating Plaintiff's substantive due process rights by its employees and supervisors and with the knowledge and acquiescence of Defendants, Defendants' staff, and Defendants' supervisory officials.

128. Each and all Defendants knew and should have known that Plaintiff was being subjected to violations of his substantive due process rights.

129. Despite this, Defendants failed to take any effective remedial action, and turned a blind eye to those violations.

130. Each and all Defendants' action violated Plaintiff's substantive rights under the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983.

131. Each and all Defendants subjected Plaintiff to violations of his substantive due process rights in violation of the United States Constitution.

132. The actions of each and all Defendants were intentional, willful, and malicious and/or in reckless disregard of Plaintiff's rights as secured by 42 U.S.C. § 1983 and the Civil Rights Act of 1991.

133. The actions of each and all Defendants in intentionally violating Plaintiff's substantive due process rights caused Plaintiff great mental anguish, humiliation, degradation,

physical and emotional pain and suffering, inconvenience, lost wages and benefits, future pecuniary losses, and other consequential damages.

WHEREFORE, Plaintiff seeks the following relief as to Count IV:

A. All wages and benefits Plaintiff would have received but for the discrimination and retaliation including, but not limited to, back pay, front pay, future pecuniary losses, and pre-judgment interest;

B. Compensatory damages in an amount to be determined at trial;

C. A permanent injunction enjoining Defendants from engaging in the discriminatory practices complained of herein;

D. A permanent injunction requiring that Defendants adopt employment practices and policies in accord and conformity with the requirements of the Civil Rights Act of 1871, 42 U.S.C. § 1983, and further requiring that Defendants adopt and initiate effective remedial actions to ensure equal treatment of male and female employees and subordinates;

E. The Court retain jurisdiction of this case until such time as it is assured that the Defendants have remedied the policies and practices complained of herein and are determined to be in full compliance with the law;

F. Punitive damages as allowed by law as against the individual Defendants;

G. An award of reasonable attorneys' fees, costs, and litigation expenses; and

H. Such other relief as the Court may deem just or equitable.

COUNT V

**(Violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* –
Defendant McClean County State's Attorney's Office)**

134. Plaintiff restates and re-alleges by reference paragraphs 1-133 above as though fully set forth herein.

135. Plaintiff timely filed Charges of Discrimination with the Equal Employment Opportunity Commission and the Illinois Department of Human Rights (Charge Nos. 2018SN2878 & 2018SF2877) alleging unlawful discrimination and harassment based on sex and retaliation against the MCSAO and Alferink.

136. A copy of Plaintiff's perfected Charge of Discrimination is attached as Ex. 1.

137. Plaintiff files this claim after exhausting his administrative remedies and within the statutory time period of receiving the IDHR Notice of Substantial Evidence.

138. Plaintiff brings a timely claim under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* pursuant to the exhaustion of his administrative claims within the statutory time requirement.

139. In direct violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, the MCSAO engaged in the discriminatory acts alleged herein and arising out of, and related to, Plaintiff's Charge of Discrimination.

140. Plaintiff was subjected to a severe and pervasive sexually hostile work environment in violation of Title VII.

141. Plaintiff was subjected to retaliation for engaging in protected activity by opposing and reporting unlawful sex harassment in the workplace.

142. As a result of Defendants' discriminatory and retaliatory conduct, Plaintiff has suffered injury to his career, as well as other injuries for which he is entitled to actual, compensatory and other monetary damages, as well as equitable relief, under state law.

143. The discriminatory and retaliatory conduct, as alleged herein, was done with malice and/or with reckless indifference to Plaintiff's rights.

WHEREFORE, Plaintiff seeks the following relief as to Count V:

A. Order the Defendants to make Plaintiff whole by entering an order awarding appropriate back pay, front pay, and any other actual and compensatory damages as determined by the fair and enlightened conscience of a jury as well as any affirmative relief necessary to eradicate the effects of the Defendants' unlawful employment practices;

B. Award reasonable attorneys' fees, costs, and litigation expenses; and

C. Award any other relief the Court deems just or equitable.

COUNT VI

(Violation of the Illinois Human Rights Act - Against All Defendants)

144. Plaintiff restates and re-alleges by reference paragraphs 1-143 above as though fully set forth herein against all Defendants.

145. The Illinois Human Rights Act, 775 ILCS 5/2-102(D) provides for an action for damages in favor of anyone whose rights to employment have been violated on account of his sex and gender, through acts of sexual harassment and retaliation.

146. Complaining internally to human resources staff or one's supervisor(s), and/or filing a Charge of Discrimination against an employer is a protected activity under the Illinois Human Rights Act. 775 ILCS 5/6-101.

147. Plaintiff timely filed Charges of Discrimination with the Equal Employment Opportunity Commission and the Illinois Department of Human Rights (Charge Nos. 2018SN2878 & 2018SF2877) alleging unlawful discrimination and harassment based on sex and retaliation against the MCSAO and Alferink.

148. A copy of Plaintiff's perfected Charge of Discrimination is attached as Ex. 1.

149. Plaintiff files this claim after exhausting his administrative remedies and within the statutory time period of receiving the IDHR Notice of Substantial Evidence.

150. In direct violation of the Illinois Human Rights Act, 775 ILCS 5/2-101, Defendants engaged in the discriminatory acts alleged herein and arising out of, and related to, the Charge of Discrimination.

151. Plaintiff was subjected to a severe and pervasive sexually hostile work environment in violation of the Illinois Human Rights Act.

152. Plaintiff was subjected to retaliation for engaging in protected activity by opposing and reporting unlawful sex harassment in the workplace.

153. In direct violation of the Illinois Human Rights Act, 775 ILCS 5/6-101(A), Defendants subjected Plaintiff to a sexually hostile work environment and retaliated against Plaintiff for opposing and reporting what he reasonably believed to be unlawful sexual harassment in employment.

154. As a result of Defendants' discriminatory and retaliatory conduct, Plaintiff has suffered injury to his career, as well as other injuries for which he is entitled to actual, compensatory and other monetary damages, as well as equitable relief, under state law.

155. The discriminatory conduct, as alleged herein, was done with malice and/or with reckless indifference to Plaintiff's rights.

WHEREFORE, Plaintiff seeks the following relief as to Count VI:

A. Order the Defendants to make Plaintiff whole by entering an order awarding appropriate back pay, front pay, and any other actual and compensatory damages as determined by the fair and enlightened conscience of a jury as well as any affirmative relief necessary to eradicate the effects of the Defendants' unlawful employment practices;

B. Award reasonable attorneys' fees, costs, and litigation expenses; and

C. Award any other relief the Court deems just or equitable.

COUNT VII

(Intentional Infliction of Emotional Distress – Defendant Alferink)

156. Plaintiff restates and re-alleges by reference paragraphs 1-155 above as though fully set forth herein.

157. Alferink's conduct was so extreme and outrageous that it exceeded the boundaries of human decency and was beyond pale of conduct tolerated in a civilized society.

158. Alferink's conduct was intended to cause Plaintiff to suffer severe emotional distress, or was done in reckless disregard of the probability of causing severe emotional distress.

159. As direct and proximate result of Alferink's conduct, Plaintiff has suffered and continues to suffer severe and continuous humiliation, emotional distress, and physical and mental pain and anguish, all to his damage in an amount according to proof at the time of trial.

160. Alferink committed the acts alleged herein maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and acted with an improper and evil motive amounting to malice and in conscious disregard of Plaintiff's rights.

WHEREFORE, Plaintiff seeks the following relief as to Count VII:

A. Order Alferink to make Plaintiff whole by entering an order awarding appropriate actual, compensatory and punitive damages as permitted by law and as determined by the fair and enlightened conscience of a jury as well as any affirmative relief necessary to eradicate the effects of Alferink's conduct;

B. Award reasonable attorneys' fees, costs, and litigation expenses as permitted by law; and

C. Award any other relief the Court deems just or equitable.

COUNT VIII
(Assault – Defendant Alferink)

161. Plaintiff restates and re-alleges by reference paragraphs 1-160 above as though fully set forth herein.

162. Alferink intentionally and unlawfully threatened Plaintiff with bodily injury by force with the apparent present ability to cause bodily injury and caused Plaintiff to reasonably fear imminent peril as a result of her actions.

163. Alferink acted willfully, with actual malice, and with specific intent to harm Plaintiff.

164. Alferink specifically intended to injure Plaintiff by causing reasonable fear of imminent peril by threatening his with bodily injury by force with the apparent and present ability to cause such bodily injury.

165. As a direct and proximate result of this assault, Plaintiff has and will continue to suffer harm and damages, including but not limited to pain and suffering, emotional distress, humiliation, indignity, vexation and costs of treatment.

WHEREFORE, Plaintiff seeks the following relief on Count VIII:

- A. Order Alferink to make Plaintiff whole by entering an order awarding appropriate actual, compensatory and punitive damages as determined by the fair and enlightened conscience of a jury as well as any affirmative relief necessary to eradicate the effects of Alferink's conduct;
- B. Award reasonable attorneys' fees, costs, and litigation expenses as permitted by law; and
- C. Award any other relief the Court deems just or equitable.

**COUNT IX
(Battery – Defendant Alferink)**

166. Plaintiff restates and re-alleges by reference paragraphs 1-166 above as though fully set forth herein.

167. Alferink intentionally made violent, harmful, and unwanted offensive contact with Plaintiff by, among other ways, forcefully grabbing him and attempting to kiss him.

168. Alferink acted willfully, with actual malice, with deliberate violence and with the specific intent to harm Plaintiff.

169. Alferink specifically intended to injure Plaintiff by making violent, harmful, and offensive contact with him.

170. As a direct and proximate result of this battery, Plaintiff has and will continue to suffer harm and damages, including but not limited to pain and suffering, emotional distress, humiliation, indignity, vexation and costs of treatment.

WHEREFORE, Plaintiff seeks the following relief on Count IX:

- A. Order Alferink to make Plaintiff whole by entering an order awarding appropriate actual, compensatory and punitive damages as determined by the fair and enlightened conscience of a jury as well as any affirmative relief necessary to eradicate the effects of Alferink's conduct;
- B. Award reasonable attorneys' fees, costs, and litigation expenses as permitted by law; and
- C. Award any other relief the Court deems just or equitable.

PLAINTIFF DEMANDS A TRIAL BY JURY

Respectfully submitted,

KULWIN, MASCIOPINTO & KULWIN, LLP.

By: /s/ Jeffrey R. Kulwin
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