

COMMONWEALTH OF MASSACHUSETTS

NORFOLK COUNTY, ss

SUPERIOR COURT

CIVIL ACTION NO: 2182cv00678

DENISE FOLEY,

Plaintiff,

v.

MASSHEALTH, AMANDA CASSEL KRAFT, in her official capacity as Acting Assistant Secretary for MassHealth, DANIEL TSAI, in his individual capacity, and SONIA BRYAN, in her official capacity as HR Representative, Director of Diversity and Civil Rights of MassHealth and her individual capacity

Defendants.

COMPLAINT

1. Plaintiff Denise Foley was a public employee at MassHealth, a state agency, where she received glowing performance reviews in her role as Director of Internal and External Training and Communication.

2. Despite her outstanding public service, Defendants terminated her employment on January 27, 2021, after she used her personal Facebook account to engage in speech that had nothing to do with MassHealth, coworkers, or her job. Instead her speech had everything to do with the very core of the First Amendment, which is to engage in political speech with one's neighbors on the issues of the day. Specifically, Foley criticized the viewpoint that it was right to turn in one's neighbor

for not complying with mask mandates. She also criticized mask and lockdown mandates generally.

3. Despite this most American of activities and that her official role did not require her to communicate with the public about the agency's official position on masks or lockdowns, Defendants terminated Foley's public employment. Not only that, Defendants terminated Foley despite the fact that her comments echoed Governor Charles Baker's own comments at his press briefing on August 13, 2020, when he discussed mask enforcement and said that; "No one's looking to like arrest people and write citations unless people"

4. Public employees do not surrender their constitutional rights when signing up for public service. As such, Foley brings this action for reinstatement and money damages to remedy Defendants' violation of her First Amendment rights, her rights under the state constitution's protection of free speech, and Defendants discharging her for a reason contrary to public policy. Given that Defendants did not afford Foley an administrative hearing or provide basic due process, she brings procedural due process claims as well.

PARTIES

5. Plaintiff Denise Foley is a former employee of MassHealth. She lives in Norfolk County, Massachusetts.

6. Defendant MassHealth is an agency of the Commonwealth of Massachusetts and is headquartered in Norfolk County. MassHealth is a defendant for only Count III.

7. Defendant Amanda Cassel Kraft is the Acting Assistant Secretary for MassHealth and recently replaced Defendant Daniel Tsai. Kraft is sued in her official capacity for all five claims.

8. Defendant Daniel Tsai is the former Assistant Secretary at MassHealth. Tsai is sued in his individual capacities for all five claims.

9. Defendant Sonia Bryan is the HR Representative, Director of Diversity and Civil Rights at MassHealth. Bryan is sued in her official and individual capacities for all five claims.

JURISDICTION AND VENUE

10. This Court has jurisdiction under Mass. Gen. Laws ch. 212, § 3 because this is a civil action for money damages and there is no reasonable likelihood that recovery by the plaintiff will be less than or equal to \$50,000.

11. This court also has general equity jurisdiction under Mass. Gen. Laws ch. 214, § 1.

12. This court has jurisdiction under Mass. Gen. Laws ch. 231A, § 1. to award declaratory relief.

13. Venue is proper under Mass. Gen. Laws ch. 223, § 1 and Mass. Gen. Laws ch. 214, § 5 because one of the parties to this action (Foley) lives in Norfolk County.

FACTS

14. Denise Foley was a public servant at MassHealth, where she served in the role of Director of Internal and External Training and Communication. She started on December 8, 2019.

15. Foley maintained a personal Facebook account and was a member of the “Milton Neighbors Facebook group,” which is a private group where “[o]nly members can see who’s in the group and what they post.”¹ Although the group is “private” it boasts about 12,000 members and its Facebook page states: “[t]his is a group for residents of Milton, Massachusetts, for the purpose of referrals, school info, town info, helpful hints, and helping one another in a variety of capacities, including constructive discussion about town issues.” In other words, it is the proverbial town square in a digital modern-day setting. *See Packingham v. North Carolina*, 137 S. Ct. 1730, 1735-37 (2017).

16. On December 3, 2020, a Milton Facebook Group member, Tommy Walsh, made a posting in this group stating: “Anybody hear of the ‘Milton Betterment League’? Got a notice stuffed in my mailbox today from that group. Used the phrase “see something, say something” about turning in neighbors who arent [sic] wearing masks. Seems a little crazy to call the cops on someone not wearing a mask.”

17. Foley posted a reply to Walsh’s post stating that turning in someone for not wearing a mask “[s]ounds like what the Nazis did in Germany.”

¹ <https://www.facebook.com/groups/miltonneighbors>

18. Subsequent commentators criticized Foley's comment. She responded to them by stating:

Wow! In my opinion, calling the authorities on your neighbors for not wearing a mask is the same as calling the authorities to tell them your neighbor is a Jew. It's bad enough that I see in the police reports people calling in to report their neighbors are having parties and that a group of kids is gathering. Now there are those encouraging people to call on people not wearing masks?! Don't you get it? Don't you see what people are encouraging?! How dare anyone try to take away my rights! I have the right NOT to wear a mask if I don't want to. I have the right to gather with friends and family if I want to. If that's a problem for you or anyone else, report me!

19. After several more commentators continued to criticize Foley's stance, she posted another reply stating: "And there are lawsuits challenging the constitutionality of these mandates. I wear a mask when I have to. That's not the issue. The issue is people turning in their neighbors *for* not wearing them."

20. Another Milton Facebook Group member, Kate Middleton, responded: "Can you at least admit that your comparison to Hitler is flawed in many ways, including the penalty? You might at worst be fined \$300, and probably will just be told to put a mask on. The kids partying will be sent home or spend a night at the Milton H"

21. Foley responded:

No I won't. Do you believe the concentration camps were the first step in Hitler's mad plan? Of course not. He was a master manipulator who turned neighbor against neighbor. Just as those suggesting we do with those not wearing masks.

And not that it should have any bearing but for your information, I am of German Jewish decent. I feel very strongly about how a madman was able to manipulate an entire population into

believing Jews were the problem. I feel equally so about people telling me what I can and cannot do or how I should feel. I believe Covid is serious. But I also believe it is being used to manipulate people. In this country, at least for now, I am entitled to my opinion and my right to vocalize that opinion.

22. Foley made these posts from personal devices, not on any laptop or phone that MassHealth provided.

23. Shortly thereafter, an unknown individual reported the comments that Foley had made on Facebook referenced in paragraphs 16-17 to MassHealth.

24. On December 21, 2020, Defendant Sonia Bryan, Patricia Grant (Chief Operating Officer at MassHealth), and KimMarie Mercure (Deputy Chief Operating Officer at MassHealth and Foley's direct supervisor) met with Foley via video conference to ask her about the Facebook comments. They showed her the Facebook posts referenced in paragraphs 16-17 above and asked Foley if she remembered making these posts. Foley admitted to making the postings and said that it was not right to encourage people to call the police on your neighbors for not wearing a mask. Foley also said she was speaking as a private citizen and she had the right to make those comments.

25. At no point in the December 21, 2020, meeting did Grant, Mercure, or Defendant Bryan, or anyone else inform Foley that she might be terminated. At no point during this meeting did anyone inform Foley if any charges were being brought against her. They simply told her that they were investigating her for the Facebook posts and that she was being placed on paid administrative leave.

26. Grant sent Foley a letter via email dated December 21, 2020, which stated: “Please be advised that effective immediately, and until further notice, you will be placed on administrative leave with pay pending an investigation into your ability to perform your job responsibilities, specifically matters related to your social media activities.”

27. Foley responded to Grant’s email that same day by saying: “To say I am deeply concerned about this matter would be a gross understatement. So stunned was I by the content of the meeting yesterday that I neglected to ask what the actual complaint is and from whom it originated.” Foley continued: “Although you may not be able to disclose the individual's name, I believe I should be entitled to know what is in the complaint.” Defendant Bryan was also copied to Foley’s email.

28. Grant responded on December 22, 2020, by stating she would “defer to Sonia [Bryan] as the HR contact on this case to either respond to your inquiry or forward it to the appropriate person for a response.”

29. On January 7, 2021, Foley again emailed Defendant Bryan (and copied Grant) stating: “I am also requesting an explanation of the process, an estimated timeline, and the details of the complaint. It has been almost 3 weeks and I have not been provided any information beyond our meeting on December 21, 2020. I am trying to be patient but I feel very much in the dark.” But Defendant Bryan simply responded that: “The matter remains under review. We will be in touch with you shortly. Thanks.” Ultimately, Foley never received a copy of the complaint filed against her.

30. On January 27, 2021, Defendants Daniel Tsai and Sonia Bryan met with Foley via video conference to terminate her employment. Tsai started the meeting by telling Foley: “you are aware of the context of the meeting.” Foley disagreed and said: “not sure of the context of the meeting because I have not been provided what the actual complaint was.” Bryan responded: there isn’t a whole lot to share regarding the complaint. We received an anonymous complaint and we shared the Facebook messages associated with that complaint. At this time, that’s the only thing we are at liberty to share with you.”

31. Throughout the meeting, Tsai and Bryan refused to provide Foley a copy of the anonymous complaint concerning Foley’s Facebook comments. Instead, Tsai took the position that because she listed on her Facebook profile that she worked at MassHealth, that her comments about masks could be taken as the agency’s official position. Specifically he stated: “This is less about the post. You have been the Director of Training and Communications. It’s about the discussions about masks. Because your position is listed on your Facebook profile, your words speak on behalf of this agency in the midst of the pandemic.” He then noted: “those pieces are substantially at odds with what we are trying to accomplish across Health and Human Services in the pandemic response. The investigation triggers a review of things but is less around the specifics of the complaint and more around your capacity. Not engaging on the complaint.”

32. Foley responded that she had removed the reference to her job at MassHealth from her Facebook page.

33. Tsai responded: “But it was there. Trish has gone through a lot of the stuff that you have done and I appreciate that. This discussion is because you did reference that position.” He continued: “In the midst of the pandemic, when it comes to masks, we have to say we don’t have confidence in your ability to be in that role as the Director of Internal and External Training and Communications. Very sorry to have to tell you that. I appreciated everything I have understood from Trish and what you’ve done.” He then noted: “I am having this discussion to inform you that your last day of employment with MassHealth is today. Sonia will be following up with a letter. The piece I am specifically referencing is around the masks and the public health component of that.”

34. Foley stated that: “my post did not encourage people not to wear masks. I actually state in the post that I do wear a mask. I want everyone to understand that I was not encouraging anyone not to wear a mask. My issue was people encouraging others to turn in neighbors for not wearing masks.”

35. Nevertheless, Tsai responded: “because you listed your title/position on your profile, it is or can be assumed you are speaking on behalf of the agency”

36. Foley then questioned: “even though I was speaking as a private citizen, because I listed my employment on my Facebook page, you’re saying it is assumed I’m speaking on behalf of the organization?”

37. Bryan responded: “I think [Tsai] has already explained to you why we had concerns. Your behavior was essentially counterproductive to the efficiency and

advancement of MassHealth’s mission during the pandemic. There is nothing more to be said.”

38. Tsai sent Foley a follow-up letter stating: “Following an investigation, the Executive Office of Health and Human Services has determined that it no longer has confidence in your ability to perform your duties effectively as MassHealth’s Director of Internal and External Training and Communication. You are hereby discharged from your employment with MassHealth effective immediately, January 27, 2021.”

39. Foley’s duties did not require her to communicate with the general public. Instead, her responsibilities were to communicate policy and procedural updates to MassHealth employees and its external partners Certified Application Counselors, which works with people in the community to help them apply for MassHealth or other coverage through Massachusetts Health Connector.

40. Foley’s duties also did not include anything related to masks or messaging around public health during the pandemic. Her only duties related to the pandemic were to communicate around the availability of Medicaid coverage for people who lost their jobs during the shutdown. And procedures related to relaxed requirements for obtaining or maintaining MassHealth coverage.

41. At no time did MassHealth provide Foley notice that she could be terminated for creating posts on her Facebook page about masks, lockdowns, or her political views generally. Neither the December 21, 2020 meeting, nor the January 27, 2021 meeting provided Foley advance notice that she would be terminated for her

Facebook posts. At neither of the meetings did Defendants explain their evidence for the purpose of giving Foley an opportunity to present her side. It was clear in the January 27, 2020 meeting that Tsai and Bryan had already decided to terminate Foley.

42. After her termination, MassHealth did not provide Foley any type of hearing.

43. Prior to her termination, MassHealth had never issued Foley any warnings nor discipline of any kind. In fact, her supervisor, Mercure, issued her a glowing performance review on August 3, 2020. That review said that as soon as Foley started the job “she hit the ground running.” It also noted that Foley took the adjustment to working remotely due to COVID-19 “in stride” and “didn’t lose momentum but gained a stronger passion to move forward to accomplish the [department’s] goals.” The review concluded by describing Foley as “a true example of leadership and professionalism.” She also received the “2020 Citation for Outstanding Performance” signed by Governor Charlie Baker.

44. After the termination, Foley has experienced high levels of stress and anxiety. Her primary care doctor has prescribed medications to treat these conditions, and recommended she begin seeing a counselor to help her cope. Before the termination, Foley was not experiencing high levels of stress or anxiety and was not on medications or seeking professional counseling for those conditions.

COUNT I
First Amendment Violation

45. The allegations in the preceding paragraphs are incorporated herein by reference.

46. 42 U.S.C. § 1983 provides an individual a cause of action for legal and equitable relief when a person acting under color of state law violates their rights under the U.S. Constitution.

47. The First Amendment to the U.S. Constitution protects the right to freedom of speech. U.S. Const. Amend. I.

48. “Public employees do not lose their First Amendment rights to speak on matters of public concern simply because they are public employees.” *Gilbert v. City of Chicopee*, 915 F.3d 74 (1st Cir. 2019) (quoting *Rodriguez-Garcia v. Miranda-Marin*, 610 F.3d 756, 765 (1st Cir. 2010)).

49. Thus, “[i]n general, government officials may not subject ‘an individual to retaliatory actions . . . for speaking out.’” *Gilbert*, 915 F.3d at 81 (quoting *Mercado-Berrios v. Cancel-Alegria*, 611 F.3d 18, 25 (1st Cir. 2010)).

50. Foley’s speech concerning citizens snitching on each other to the government for not wearing a mask involves a matter of public concern. Further, her speech that she has a right not to wear mask and to gather with friends and family also involve matters of public concern.

51. Massachusetts state officials, and Defendants Kraft, Tsai, and Bryan specifically, have no interest in regulating Foley’s speech on these matters. Her job role does not require her to communicate with the public about the agency’s official positions on masks. She made these comments on her private Facebook account in a

private neighborhood Facebook group and not on work premises. The First Amendment protects this speech.

52. Defendants' decisions to investigate Foley for this obviously protected speech, to place her on administrative leave, and to ultimately terminate her for this speech violated her First Amendment right to freedom of speech.

53. Foley's First Amendment right to privately communicate outside of work premises, on her personal devices, about topics that are not within her job duties is clearly established by U.S. Supreme Court and First Circuit precedent.

54. Defendants' investigation, suspension, and termination of Foley caused her to suffer monetary and non-monetary harm, including pain and suffering, and harmed her professional career, and constitute adverse employment actions.

55. Defendant Kraft is sued in her official capacity for this claim. Defendant Tsai is sued in his individual capacity for this claim. Defendant Bryan is sued in both her official and individual capacities for this claim. All three Defendants undertook these unconstitutional acts under color of state law. Defendant MassHealth is not sued for this claim.

56. This Court may award equitable relief for this claim under *Ex Parte Young*, 209 U.S. 123 (1907) and *Lane v. Commonwealth*, 401 Mass. 549, 552, 517 N.E.2d 1281, 1283 (1988). See *Doe, Sex Offender Registry Board No. 474362 v. Sex Offender Registry Board*, 94 Mass. App. Ct. 52, 64, 286 (2018).

COUNT II
Article XVI of the Massachusetts Constitution

57. The allegations in the preceding paragraphs are incorporated herein by reference.

58. Mass. Ann. Laws ch. 12, § 11I provides an aggrieved person a cause of action when their rights under the U.S. Constitution and Massachusetts Constitution “have been interfered with, or attempted to be interfered with” in a manner that Mass. Ann. Laws ch. 12, § 11H describes. That section describes situations where persons “interfere by threats, intimidation or coercion, or attempt to interfere by threats, intimidation or coercion, with the exercise or enjoyment by any other person or persons of rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the commonwealth. . . .”

59. Article XVI of the Massachusetts Constitution protects the freedom of speech (“The right of free speech shall not be abridged.”).

60. The Facebook comments that Foley made about masks and reporting people for not wearing masks are a matter of public concern and Article XVI protects this speech.

61. Defendants Tsai and Bryan’s actions in first investigating Foley for this speech, then placing her on administrative leave, and ultimately terminating her constituted “threats, intimidation, or coercion” that interfered with her exercise and enjoyment of her right to freedom of speech that the Massachusetts Constitution protects. *Redgrave v. Boston Symphony Orchestra, Inc.*, 399 Mass. 93, 502 N.E.2d 1375 (1987).

62. Defendants' investigation, suspension, and termination of Foley caused her to suffer monetary and non-monetary harm, including pain and suffering, and harmed her professional career, and constitute adverse employment actions.

63. Defendant Kraft is sued in her official capacity for this claim. Defendant Tsai is sued in his individual capacity for this claim. Defendant Bryan is sued in both her official and individual capacities for this claim. Defendant MassHealth is not sued for this claim.

64. This Court may award equitable relief for this claim under *Ex Parte Young*, 209 U.S. 123 (1907) and *Lane v. Commonwealth*, 401 Mass. 549, 552, 517 N.E.2d 1281, 1283 (1988). *See Doe, Sex Offender Registry Board No. 474362 v. Sex Offender Registry Board*, 94 Mass. App. Ct. 52, 64, 286 (2018).

COUNT III

Defendants' termination of Foley was wrongful because it was for a reason contrary to public policy.

65. The allegations in the preceding paragraphs are incorporated herein by reference.

66. An employer makes an implied contract to an at-will employee to not terminate them for a reason that is contrary to public policy, such as terminating them for engaging in political speech. *C.f. DeRose v. Putnam Mgmt. Co.*, 398 Mass. 205, 210, 496 N.E.2d 428, 431 (1986); *Redgrave v. Boston Symphony Orchestra, Inc.*, 399 Mass. 93, 94, 502 N.E.2d 1375, 1375 (1987).

67. Thus, Defendants made an implied contract with Foley when they hired her that promised not to terminate her for engaging in political speech.

68. Defendants breached that contract when they terminated Foley for engaging in political speech through her personal Facebook account on matters not concerning her workplace.

69. By breaching this contract, Defendants caused Foley to suffer monetary and non-monetary harm.

70. Defendant Kraft is sued in her official capacity for this claim. Defendant Tsai is sued in his individual capacity for this claim. Defendant Bryan is sued in both her official and individual capacities for this claim. Defendants Tsai and Bryan undertook these actions in bad faith, with malice, and with corruption. MassHealth is sued also.

COUNT IV
Violation of Fourteenth Amendment Procedural Due Process

71. The allegations in the preceding paragraphs are incorporated herein by reference.

72. 42 U.S.C. § 1983 provides an individual a cause of action for legal and equitable relief when a person acting under color of state law violates their rights under the U.S. Constitution.

73. The Fourteenth Amendment prohibits depriving a person of “life, liberty, or property, without due process of law” U.S. Const. Amend. XIV.

74. Foley had a property and liberty interest in continued employment at MassHealth.

75. Defendants Kraft, Tsai, and Bryan deprived Foley of those interests when they summarily terminated her employment and did not provide her any due

process. Before Foley made the postings on Facebook described in paragraphs 16-17, Defendant had never informed her that posting her views about reporting people for not wearing a mask or her views on masks and lockdowns generally could result in discipline, let alone termination.

76. Additionally, neither the December 21, 2020 meeting, nor the January 27, 2021 meeting constituted a pre-deprivation hearing where Defendants gave Foley notice of the reasons for a proposed termination, an explanation of the evidence supporting those reasons, and an opportunity to give [her] side of the story” *Jones v. City of Boston*, 752 F.3d 38, 56-57 (1st Cir. 2014). Those meetings did not constitute a “a meaningful opportunity to invoke the discretion of the decisionmaker,’ both as to the facts supporting the termination and as to its broader appropriateness” as due process requires. *Id.* (quoting *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 546 (1985)). Indeed, termination was not even mentioned at the December 21, 2020 meeting and it was not “proposed” at the January 27, 2021 meeting. Instead, Defendants had already decided to terminate her and were simply informing her of that. Additionally, Defendants did not provide Foley a post-deprivation hearing.

77. As a result of these acts and omissions, Defendants Kraft, Tsai, and Bryan violated Foley’s due process rights.

78. Defendants’ violations of Foley’s due process rights caused her to suffer monetary and non-monetary harm.

79. Defendant Kraft is sued in her official capacity for this claim. Defendant Tsai is sued in his individual capacity for this claim. Defendant Bryan is sued in both

her official and individual capacities for this claim. All three Defendants undertook these unconstitutional acts under color of state law. Defendant MassHealth is not sued for this claim.

80. This Court may award equitable relief for this claim under *Ex Parte Young*, 209 U.S. 123 (1907) and *Lane v. Commonwealth*, 401 Mass. 549, 552, 517 N.E.2d 1281, 1283 (1988). See *Doe, Sex Offender Registry Board No. 474362 v. Sex Offender Registry Board*, 94 Mass. App. Ct. 52, 64, 286 (2018).

COUNT V
Violation of Due Process under the Massachusetts Constitution

81. The allegations in the preceding paragraphs are incorporated herein by reference.

82. Mass Gen. Laws ch. 12, § 11I provides an aggrieved person a cause of action when their rights under the U.S. Constitution and Massachusetts Constitution “have been interfered with, or attempted to be interfered with” in a manner that Mass. Gen. Laws ch. 12, § 11H describes. That section describes situations where persons “interfere by threats, intimidation or coercion, or attempt to interfere by threats, intimidation or coercion, with the exercise or enjoyment by any other person or persons of rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the commonwealth.

83. Articles 1, 10, 12, of the Massachusetts Declaration of Rights protect the right to due process.

84. Foley had a property and liberty interest in continued employment at MassHealth.

85. Defendants Kraft, Tsai, and Bryan deprived Foley of those interests when they summarily terminated her employment and did not provide her any due process. Before Foley made the postings on Facebook described in paragraphs 16-17, Defendant had never informed her that posting her views about reporting people for not wearing a mask or her views on masks and lockdowns generally could result in discipline, let alone termination.

86. Additionally, neither the December 21, 2020 meeting, nor the January 27, 2021 meeting constituted a pre-deprivation hearing where Defendants gave Foley notice of the reasons for a proposed termination, an explanation of the evidence supporting those reasons, and an opportunity to give [her] side of the story” *Jones v. City of Boston*, 752 F.3d 38, 56-57 (1st Cir. 2014). Those meetings did not constitute a “a meaningful opportunity to invoke the discretion of the decisionmaker,’ both as to the facts supporting the termination and as to its broader appropriateness” as due process requires. *Id.* (quoting *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 546 (1985)). Indeed, termination was not even mentioned at the December 21, 2020 meeting and it was not “proposed” at the January 27, 2021 meeting. Instead, Defendants had already decided to terminate her and were simply informing her of that. Additionally, Defendants did not provide Foley a post-deprivation hearing.

87. Thus, based on these acts and omissions, Defendants interfered with Foley’s due process rights by threats, intimidation, and coercion.

88. As a result of their unconstitutional actions, Foley has suffered monetary and non-monetary harm.

89. Defendant Kraft is sued in her official capacity for this claim. Defendant Tsai is sued in his individual capacity for this claim. Defendant Bryan is sued in both her official and individual capacities for this claim. Defendant MassHealth is not sued for this claim.

90. This Court may award equitable relief for this claim under *Ex Parte Young*, 209 U.S. 123 (1907) and *Lane v. Commonwealth*, 401 Mass. 549, 552, 517 N.E.2d 1281, 1283 (1988). See *Doe, Sex Offender Registry Board No. 474362 v. Sex Offender Registry Board*, 94 Mass. App. Ct. 52, 64, 286 (2018).

PRAYER FOR RELIEF

A. Declare that Defendants Kraft, Tsai, and Bryan's actions violated the First Amendment of the U.S. Constitution and Article XVI of the Massachusetts Constitution. Declare that Defendants MassHealth, Kraft, Tsai, and Bryan discharged Foley for a reason that is contrary to public policy in violation of their implied contract with her. Declare that MassHealth, Kraft, Tsai, and Bryan violated Foley's federal and state due process rights.

B. Award Foley injunctive relief by ordering Defendants Kraft and Bryan to reinstate her to her former position and to remove any adverse employment records from her personnel file.

C. Award Foley compensatory damages, including backpay, and mental pain and suffering, with interest.

D. Award Foley nominal damages.

E. Award Foley her attorney's fees and costs.

F. Award any further relief to which Foley may be entitled.

Dated: July 22, 2021

Respectfully submitted,



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