

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

Megan Erdley
117 Meadow Green Drive
Mifflinburg, PA 17844

Plaintiff,

v.

William Cameron Engine Company
239 North Fifth Street
Lewisburg, PA 17837

and

International Association of
Firefighters, Local 4917
11 Buffalo Road
Lewisburg, PA 17837

Defendants.

JURY DEMANDED

No. _____

COMPLAINT—CIVIL ACTION

And now, Plaintiff, Megan Erdley, (“Plaintiff” or “Erdley”), by and through her undersigned counsel, files this Complaint and avers as follows:

I. PARTIES AND REASONS FOR JURISDICTION

1. Plaintiff is an adult individual residing at the above captioned address.

2. Defendant William Cameron Engine Company of Lewisburg, Pennsylvania (“WCEC”) is a non-profit corporation, organized and operating under the laws of Commonwealth of Pennsylvania, and serving as a fire company with a principal place of business at 239 North Fifth Street, Lewisburg, Pennsylvania. The WCEC provides firefighting, rescue, and emergency medical services to the greater Lewisburg area in Union and Northumberland counties. The operations of WCEC rely upon both paid and volunteer firefighters.

3. Defendant International Association of Firefighters, Local 4917, (“Local 4917”) is a labor union with a principal place of business at 11 Buffalo Road, Lewisburg, Pennsylvania, and operates using Post Office Box 198, Lewisburg, Pennsylvania, as its mailing address.

4. Local 4917 is a labor organization that provides representation to all full-time and part-time Firefighters, Emergency Medical Technicians (“EMTs”), Firefighter/EMTs, Lieutenants, and Captains, of the WCEC.

5. This action is instituted for violations by Plaintiff’s employer, WCEC, for violations of 42 U.S.C. § 1983, for discrimination upon the basis of sex and retaliation *as well as against* Plaintiff’s union, Local 4917, for breach of the duty of fair representation. The WCEC discriminated against Plaintiff on the basis of her sex and retaliated against her for resisting her employer’s sex-based discrimination. Ultimately, the sex discrimination and retaliation culminated in the

WCEC's termination of Erdley's employment. In addition, Plaintiff's union, Local 4917, breached its duty of fair representation when, through its irresponsible inattention, failed to timely submit a request for arbitration to appeal the decision of the WCEC to terminate Erdley and then abandoned its efforts to represent her.

6. Jurisdiction is conferred by 28 U.S.C. §§ 1331 and 1343.

7. Supplemental jurisdiction over the Plaintiff's state law claims is conferred pursuant to 28 U.S.C. § 1367.

8. Pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2), venue is properly laid in this district because Defendants conduct business in this district, and because a substantial part of the acts and omissions giving rise to the claims set forth herein occurred in this judicial district. Plaintiff was working in the Middle District of Pennsylvania at the time of the illegal actions and wrongful conduct by Defendants as set forth herein.

II. OPERATIVE FACTS

9. On or about January 25, 2102, the WCEC hired Erdley for the position of EMT. On or about May 8, 2015, WCEC promoted Erdley to the position of EMT/Firefighter after she completed hundreds of hours of cross-training to qualify for the combined position. The operations of the WCEC rely upon both paid and volunteer firefighters. During her employment with the WCEC, Erdley served as a paid EMT/Firefighter. On or about May 16, 2017, the WCEC,

on the recommendation of its Fire Chief, James T. Blount (“Blount”), terminated Erdley’s employment. Blount has served as WCEC’s Fire Chief since February 2, 2015.

A. Termination for Facebook Post

10. On or about May 6, 2017, Erdley posted on her personal Facebook, a brief note that stated in its entirety the following: “How comfortable would y’all feel with your family member being in a nursing home who won’t give fire/EMS the code to enter and exit the facility. Delaying entry and exit. Just curious.”

11. In this Facebook post (or any subsequent post), Erdley never identified the nursing care center she had in mind when she wrote her post.

12. On information and belief, sometime after Erdley’s May 6, 2017, Facebook post, Blount monitored Erdley’s Facebook page and read her post about the nursing care center. On further information and belief, Blount used his knowledge as Fire Chief to identify the nursing care center that Erdley anonymously referred to in her Facebook post. On further information and belief, Blount communicated with representatives of the nursing care center that he believed to be the facility that Erdley was referring to in her May 6, 2017, Facebook post and shared the details of her post with those representatives. On further information and belief, upon Blount’s instigation, the nursing care center

representatives sent a complaint to Blount, criticizing Erdley's Facebook post and requesting that the WCEC restrict Erdley from making EMT calls to its facility.

13. On information and belief, Blount had been engaged in a prolonged effort to concoct pretextual proof for use in disciplining Erdley with the objective of driving her from the WCEC. On further information and belief, Blount's efforts to concoct a pretext to drive Erdley from the WCEC were motivated by a discriminatory desire to remove all women from the ranks of WCEC's paid staff of firefighters as well as in retaliation for Erdley's efforts to resist his discriminatory imposition of discipline against her over the past two and half years since Blount began his tenure as Fire Chief. On further information and belief, Blount's monitoring of Erdley's Facebook account and subsequent communications with the nursing care home were in furtherance of his efforts to concoct a pretextual basis to terminate Erdley.

14. On the basis of the complaint from the nursing care center regarding Erdley's Facebook post, Blount terminated Erdley. When Blount informed Erdley on or about May 16, 2017, of his decision to terminate her, he also informed her that she would have the opportunity to defend herself before the WCEC's Board of Directors ("Board") at a meeting that evening, where it would vote on whether or not to accept and confirm Blount's decision to terminate Erdley.

15. Erdley appeared before the Board on the evening of May 16, 2017, and defended herself. She requested that Blount's decision to terminate her be overruled and that she be permitted to continue in her employment with the WCEC. Blount denied Erdley a full and fair opportunity to defend herself before the Board because he refused to show her the complaint letters he received from the nursing care center that formed the basis of his termination decision. The Board rejected Erdley's entreaties and confirmed Blount's decision to terminate her.

B. Failure to Submit Timely Request for Arbitration

16. During the relevant period, Local 4917 was the bargaining unit representing all full-time and part-time paid Firefighters, EMTs, Firefighter/EMTs, Lieutenants, and Captains, of the WCEC. During her employment with WCEC, Erdley was a member of Local 4917 and represented by it. Local 4917 is led by its President Larry Forker ("Forker"), who also serves as a Captain for the WCEC.

17. During the relevant time period, a Collective Bargaining Agreement ("CBA"), with an effective time period of January 1, 2016, to June 30, 2021, was in full effect. (A copy of the CBA that was provided to Erdley is attached as Exhibit A.)

18. On or about May 25, 2017, following the Board's decision to confirm Blount's termination of Erdley, she submitted a grievance form to Blount,

challenging the decision to terminate her pursuant to the provisions of the CBA, including Article 7 of the CBA, which prohibits discrimination on the basis of sex.

19. Erdley sought the assistance of Local 4917 and its President, Larry Forker, in challenging and overturning Blount's decision to terminate her.

20. On or about May 31, 2017, Blount wrote to Forker in his capacity as President of Local 4917 to inform him that he was rejecting Erdley's grievance because it did not follow the procedure set forth in the CBA. (A copy of Blount's letter is attached as Exhibit B.) Specifically, Blount stated that Erdley and the Local's action in submitting a grievance to challenge a Board's personnel decision was incorrect. As Erdley's termination was a Board decision, Blount pointed out that the CBA required that Local 4917 formally request an arbitration to correctly lodge the appeal.

21. The Board action terminating Erdley transpired on May 16, 2017. Pursuant to the relevant provision of the CBA, Local 4917 had twenty days from the date of the Board's decision to file a request for an arbitration. The twenty-day period to file an arbitration request expired on June 6, 2017. In other words, at the time Forker received Blount's May 31st letter, Local 4917 still had six days to request an arbitration to appeal Erdley's termination.

22. Blount's May 31, 2017, letter to Forker explicitly identified the relevant section of the CBA (*i.e.*, Section 8.6) that specified the twenty-day time

period to file a request for arbitration in order to properly appeal the Board's action to terminate Erdley.

23. Erdley communicated with Forker by text message regarding the status of her grievance challenging her termination. On May 31, 2017, Forker texted Erdley acknowledging that he had received Blount's letter rejecting her grievance. In his text to her, Forker told Erdley that he would, "Get in touch and set something up with a lawyer," regarding how to respond to the termination. (A copy of the text messages between Forker and Erdley are attached as Exhibit C.)

24. On or about June 1, 2017, Erdley checked in with Forker about his progress handling her appeal. She texted Forker asking, "Can we have the union write for arbitration today. It needs to be in before the fifth or sixth." She also asked Forker whether or not he had spoken yet with Local's attorney asking, "Did you get to talk the lawyer yet?" On June 2, 2017, Forker answered Erdley's text from the day before, saying that he had,

A call scheduled for Monday with . . . a lawyer . . . from PPFFA [Pennsylvania Professional Fire Fighters Association]. Don't worry the lawyer isn't going to miss anything. I know you want this to move fast, but we need the time we have to make sure that this is right so you have the best chance.

See Exhibit C for the text correspondence between Erdley and Forker.

25. On or about June 5, 2015, Forker informed Erdley by text that he had spoken with PPFFA and its lawyer and that they would, "Work on the paperwork

to move forward with arbitration and turn it in by the end of the week.” In spite of the language in Blount’s May 31st letter as well as Erdley’s warning in her June 1 text, Forker seemed unaware that the union had only until June 6 to file the request for arbitration. Seemingly unaware of this looming deadline, Forker instead planned on putting the request in for arbitration by the end of the week, which would make the request three days late. Moreover, as if to further demonstrate his ignorance of (or inattention to) the looming deadline, Forker informed Erdley by text later in that day that he expected to hear from the PPFPA lawyer about requesting arbitration by, “Early next week,” which would be June 12, 2017, at the earliest—*a full six days past* the June 6, 2017, deadline for requesting an appeal by arbitration.

26. Forker and Local 4917 never filed the request for arbitration. They missed the deadline to timely file the request for arbitration to challenge Erdley’s termination under the applicable procedures laid out in the CBA, which Forker in as much admitted on or about June 17, 2017. He texted Erdley to tell her that he missed the deadline for filing a request for arbitration:

So unfortunately the grievance process was not done correctly and the time limit for arbitration expired at midnight on 6/6. I’m very sorry Megan. I hope you know I really tried and will take the blame for not getting this right. We all missed the language in the beginning of the grievance section stating a decision made by the full board skips to step 4 so our timeline was off.

See Exhibit C for the text correspondence between Erdley and Forker.

C. Blount's Vendetta Against Erdley

27. Blount's termination of Erdley on May 16, 2017, was not the first time he tried to drive her from the WCEC. In fact, Blount had begun his campaign to push Erdley out the WCEC at least twenty months earlier. On or about August 20, 2015, Blount concocted an elaborate disciplinary action against Erdley for rule violations and other infractions that where inconsistency enforced against her (*i.e.*, male Firefighter/EMTs would engage in similar conduct without repercussion).

28. Specifically, on or about August 20, 2015, Blount imposed discipline upon Erdley, citing four instances of rule violations, and sanctioning her with a two-shift (*i.e.*, 48-hour) suspension without pay and a thirty-day suspension of driving privileges.

29. Blount treated Erdley in a disparate fashion, discriminating against her on the basis of her sex as he inconsistently imposed discipline upon her for conduct that was routinely overlooked for her male co-workers.

30. The alleged rule violations involved four minor infractions: (1) a miscommunication with the dispatcher about the location of Erdley's ambulance on August 12, 2015; (2) an alleged paperwork violation concerning the prompt handling call reports on August, 14, 2015; (3) an alleged privacy violation on August 5, 2015, pertaining to some patient documentation; and, (4) an alleged

failure to follow procedures regarding backing up the ambulance on August 12, 2015, and associated minor vehicle damage.

31. The alleged rule violations Blount cited Erdley for were all for types of conduct that Erdley's male co-workers also violated regularly and with impunity. Blount only sought to discipline Erdley for these rule violations because he was motivated by a desire to drive her from the WCEC, through the inconsistent and discriminatory application of discipline.

32. In response to Blount's discipline, Erdley submitted grievance forms to the WCEC, challenging each of Blount's accusations on the basis of violating the CBA's non-discrimination clause. (A copy of Erdley's August 2015 grievance forms and her detailed statements are attached as Exhibit D.) In her grievances, Erdley demonstrated that Blount had inconsistently and disparately applied discipline to Erdley as a female EMT/firefighter, citing her for rule violations that were not applied with equivalent severity to her male co-workers.

33. As pointed out by Erdley in her statement responding to Blount's August 2015 discipline, these rule violations were routinely tolerated by male coworkers. These rule violations were permitted by the male coworkers without Blount imposing disciplinary sanctions. In making her grievance to Blount's discipline, Erdley specifically identified sex discrimination as a basis of her grievance, specifically citing Article Seven of the applicable CBA, which

prohibited discrimination by the WCEC. As part of the grievance process, Erdley appeared before the WCEC Board and spoke in her defense, specifically identifying the discriminatory basis of Blount's discipline.

34. In Erdley's statement in support of her grievance to the August 2015 discipline, she documented the inconsistent imposition of discipline. For instance, with respect to the trip sheet rule violation, Erdley identified many instances of male co-workers, who failed to complete their trip sheets within 24 hours of a call, but were not disciplined by Blount. In addition, with respect to the vehicle backing rule violation, Erdley identified several instances of vehicle collisions made by male co-workers, but who were not subjected to discipline by Blount. As pointed out by Erdley in her grievance, Blount's inconsistent enforcement of these rules and his attendant discipline constituted sex discrimination against Erdley.

35. In retaliation for Erdley's efforts to resist Blount's discriminatory imposition of discipline in August 2015, Blount terminated Erdley in May 2017, using the incident involving her personal Facebook as pretext for his discriminatory scheme to remove a female Firefighter/EMT from the WCEC's ranks of paid personnel.

III. CAUSES OF ACTION

Count I

Violations of 42 U.S.C. § 1983 — Retaliation for Facebook Post (Plaintiff v. Defendant WCEC)

36. Plaintiff incorporates paragraphs 1-35 as if fully set forth at length herein.

37. At all times relevant, Defendant WCEC acted under the color of law and is a state actor for purposes of applying 42 U.S.C. § 1983. *Mark v. Borough of Hatboro*, 51 F.3d 1137, 1144 (3rd Cir. 1995).

38. The WCEC is responsible for the acts of its Fire Chief Blount because its deprivation of Plaintiff Erdley's constitutional right to free speech was the product of its policy. The WCEC ratified the decisions of Blount—specifically, the decision to terminate Erdley for her May 6th Facebook post—with its final-decision-making authority.

39. The First Amendment to the United States Constitution provides persons a right to the freedom of speech, and government employees have a right to engage in free speech on matters of public importance, and moreover, government employers must not retaliate against their employees for exercising this right. For purposes of applying Section 1983 liability, Plaintiff Erdley was a government employee; and, similarly, for purposes of Section 1983, the Defendant WCEC was and is a government employer.

40. Plaintiff engaged in the protected activity of making a public statement on her personal Facebook page on May 6, 2017, regarding a matter of public importance (hereinafter “Facebook Protected Speech”).

41. Defendant WCEC terminated Plaintiff Erdley in retaliation for her Facebook Protected Speech.

42. Defendant WCEC’s conduct, as set forth above, violated 42 U.S.C. § 1983.

43. As a proximate result of Defendant WCEC’s conduct, Plaintiff sustained significant damages, including but not limited to: great economic loss, future lost earning capacity, lost opportunity, loss of future wages, loss of front pay, loss of back pay, as well as emotional distress, mental anguish, humiliation, pain and suffering, consequential damages, and Plaintiff has also sustained work loss, loss of opportunity, and a permanent diminution of her earning power and capacity and a claim is made therefore.

Count II
Violations of 42 U.S.C. § 1983 — Retaliation for Resisting Sex Discrimination
(Plaintiff v. Defendant WCEC)

44. Plaintiff incorporates paragraphs 1-43 as if fully set forth at length herein.

45. At all times relevant, Defendant WCEC acted under the color of law and is a state actor for purposes of applying 42 U.S.C. § 1983. *Mark v. Borough of Hatboro*, 51 F.3d 1137, 1144 (3rd Cir. 1995).

46. The WCEC is responsible for the acts of its Fire Chief Blount because its deprivation of Plaintiff Erdley's constitutional right to free speech was the product of its policy. The WCEC ratified the decisions of Blount—specifically, the decision to terminate Erdley in retaliation for her resistance to the August 2015 action by Blount to impose discriminatory discipline upon her—with its final-decision-making authority.

47. Plaintiff engaged in the protected activity of making a public statement of importance in her written union grievances and in her oral speech before the WCEC Board resisting the August 2015 action by Blount to impose discriminatory discipline upon her (hereinafter “August 2015 Grievance Protected Speech”).

48. Defendant WCEC terminated Plaintiff Erdley in retaliation for her August 2015 Grievance Protected Speech.

49. Defendant WCEC's conduct, as set forth above, violated 42 U.S.C. § 1983.

50. As a proximate result of Defendant WCEC's conduct, Plaintiff sustained significant damages, including but not limited to: great economic loss,

future lost earning capacity, lost opportunity, loss of future wages, loss of front pay, loss of back pay, as well as emotional distress, mental anguish, humiliation, pain and suffering, consequential damages, and Plaintiff has also sustained work loss, loss of opportunity, and a permanent diminution of her earning power and capacity and a claim is made therefore.

Count III
Violations of 42 U.S.C. § 1983 — Sex Discrimination
(Plaintiff v. Defendant WCEC)

51. Plaintiff incorporates paragraphs 1-50 as if fully set forth at length herein.

52. At all times relevant, Defendant WCEC acted under the color of law and is a state actor for purposes of applying 42 U.S.C. § 1983. *Mark v. Borough of Hatboro*, 51 F.3d 1137, 1144 (3rd Cir. 1995).

53. The WCEC is responsible for the acts of its Fire Chief Blount because its deprivation of Plaintiff Erdley's constitutional right to equal protection was the product of its policy. The WCEC ratified the decisions of Blount—specifically, his discriminatory decision to terminate Erdley—with its final-decision-making authority.

54. The Fourteenth Amendment to the United States Constitution protects persons from being subjected to discrimination, by persons acting under the color of state law, on the basis of sex. Defendant WCEC terminated Plaintiff Erdley in

furtherance of Blount's discriminatory desire to remove all *women* from the ranks of WCEC's paid staff of firefighters.

55. Defendant WCEC by ratifying Blount's decision to terminate Plaintiff Erdley engaged in intentional discrimination. A significant motivating factor in WCEC's decision to fire Plaintiff was the desire to remove paid *female* firefighters from the WCEC.

56. Defendant WCEC's conduct, as set forth above, violated 42 U.S.C. § 1983.

57. As a proximate result of Defendant WCEC's conduct, Plaintiff sustained significant damages, including but not limited to: great economic loss, future lost earning capacity, lost opportunity, loss of future wages, loss of front pay, loss of back pay, as well as emotional distress, mental anguish, humiliation, pain and suffering, consequential damages, and Plaintiff has also sustained work loss, loss of opportunity, and a permanent diminution of her earning power and capacity and a claim is made therefore.

Count IV
Pennsylvania Common Law Claim for Breach of the
Fair Duty of Representation
(Plaintiff v. Defendant Local 4917)

58. Plaintiff incorporates paragraphs 1-57 as if fully set forth at length herein.

59. Defendant Local 4917 neglected its obligation to protect Plaintiff Erdley as required under the CBA. Local 4917 failed to diligently process Erdley's meritorious grievance by failing to timely request an arbitration to appeal her termination.

60. Local 4917 failed to file a request for arbitration on behalf of Plaintiff Erdley and against the WCEC and she lost her employment as a result.

61. Local 4917 actions, as described above, constituted inexcusable inattention and were arbitrary, discriminatory, and were done in bad faith. Local 4917 breached its duty to act honestly and in good faith and to avoid arbitrary conduct.

62. Local 4917 breached its duty of fair representation that it owed to Plaintiff Earley.

63. As a proximate result of Defendant Local 4917's conduct, Plaintiff sustained significant damages, including but not limited to: great economic loss, future lost earning capacity, lost opportunity, loss of future wages, loss of front pay, loss of back pay, as well as emotional distress, mental anguish, humiliation,

pain and suffering, consequential damages, and Plaintiff has also sustained work loss, loss of opportunity, and a permanent diminution of her earning power and capacity and a claim is made therefore.

Count V
Federal Breach of the Fair Duty of Representation
29 U.S.C. § 185, Labor Management Act ("LMRA") § 301
(Plaintiff v. Defendant Local 4917)

64. Plaintiff incorporates paragraphs 1-63 as if fully set forth at length herein.

65. To the extent that the Court finds Plaintiff's state law claim for breach of the duty of fair representation to be preempted by federal law, such as the LMRA, Plaintiff pleads this count in the alternative.

66. Defendant Local 4917 neglected its obligation to protect Plaintiff Erdley as required under the CBA. Local 4917 failed to diligently process Erdley's meritorious grievance by failing to timely request an arbitration to appeal her termination. Local 4917 failed to file a request for arbitration on behalf of Plaintiff Erdley and against the WCEC and she lost her employment as a result.

67. Local 4917 actions, as described above, constituted inexcusable inattention and were arbitrary, discriminatory, and were done in bad faith. Local 4917 breached its duty to act honestly and in good faith and to avoid arbitrary conduct.

68. Local 4917 breached its duty of fair representation it owed to Plaintiff Earley. Specifically, pursuant to Section 301, the Plaintiff was discharged from her employment with the WCEC and the discharge was without just cause because it was made in furtherance of Blount's discriminatory scheme and in retaliation against Erdley, and therefore, Local 4917 breached its duty to fairly represent Plaintiff's interests under the CBA.

69. As a proximate result of Defendant Local 4917's conduct, Plaintiff sustained significant damages, including but not limited to: great economic loss, future lost earning capacity, lost opportunity, loss of future wages, loss of front pay, loss of back pay, as well as emotional distress, mental anguish, humiliation, pain and suffering, consequential damages, and Plaintiff has also sustained work loss, loss of opportunity, and a permanent diminution of her earning power and capacity and a claim is made therefore.

IV. RELIEF REQUESTED

WHEREFORE, Plaintiff Megan Erdley demands judgment in her favor and against Defendants in an amount in excess of \$150,000.00 together with:

- A. Compensatory damages, including but not limited to back pay, front pay, past lost wages, future lost wages, lost pay increases, lost pay incentives, lost opportunities, lost benefits, lost future earning

capacity, injury to reputation, mental and emotional distress, and pain and suffering;

- B. Restatement to former position with Defendant WCEC;
- C. Punitive damages;
- D. Attorneys fees and costs of suit;
- E. Interest, delay damages; and,
- F. Any other further relief this Court deems just, proper, and equitable.

Dated: _____

LAW OFFICES OF ERIC A. SHORE, P.C.

BY: /s/ Graham F. Baird

GRAHAM F. BAIRD, ESQUIRE

Two Penn Center

1500 JFK Boulevard, Suite 1240

Philadelphia, PA 19102

Attorney for Plaintiff Megan Erdley