

**BEFORE THE GWINNETT ETHICS BOARD
STATE OF GEORGIA**

D.A. King,)	
)	
Plaintiff,)	Case No.:
)	
v.)	_____
)	
Marlene Fosque,)	
)	
Defendant.)	

COMPLAINT

1.

Donald Arthur King is a resident of Cobb County, Georgia.

2.

Marlene Fosque is a Gwinnett County Commissioner and may be served with process at the following address: 75 Langley Drive, Lawrenceville, Georgia 30046.

3.

Jurisdiction and venue are proper before this body.

4.

Section 54-24 of the Gwinnett County Code of Ordinances provides for “Ethical Standards in Government Service” and states in pertinent part that:

All county commissioners, county officials and employees shall:

- (1) Uphold the Constitution, laws, regulations and ordinances of the United States, the state and the county therein and never be a party to their evasion.

- (2) Put loyalty to the highest moral principles and to the county above loyalty to persons, party, or a county government department.
- (3) Possess a commitment to integrity, transparency and full disclosure before undertaking any official action.
- (4) Give to the performance of his duties, his earnest effort and best thought...
- (11) Never engage in conduct which is unbecoming to a member or which constitutes a breach of public trust...
- (16) Uphold these principles, ever conscious that public office is a public trust and is an honor, not a right.

5.

Plaintiff was invited by the Sheriff of Gwinnett County to speak during a July 31, 2019 panel discussion regarding the 287(g) program on which he is an expert.

6.

Plaintiff participated fully in the discussion, articulating the reasons the 287(g) program benefits the citizens of Gwinnett County and the surrounding areas.

7.

Defendant organized the panel discussion and during an August 6, 2019 meeting of the Gwinnett County Board of Commissioners chose to verbally attack and repeatedly denigrate Plaintiff from her seat on the Board.

8.

Defendant republished defamatory statements about Plaintiff made by politically interested third parties including the Southern Poverty Law Center, including the statement that Defendant leads an, “anti-immigrant hate group”.

9.

Defendant made her own defamatory allegations about Plaintiff including but not limited to the statements that he “belittles immigrants”; that he accepted money

from “white nationalists”; that he was “spewing hatred”; and that he is known for “spewing hatred and bigotry and racism”.

10.

As supporting evidence for the allegations contained in Paragraph 9 please see Exhibit A, the URL to the official video record of the Gwinnett Board of Commissioners meeting on August 6, 2019 which can be found at 13:35 on the counter in the “announcements” segment at <http://view.earthchannel.com/PlayerController.aspx?PGD=gwinetcoga&iID=13245> and on Youtube.com at <https://www.youtube.com/watch?v=sfB7HM3I2EE> and Exhibit B, a transcript of the comments made by Defendant that are the subject of this Complaint and Exhibit C, an audio CD recording of Defendants remarks on August 6, 2019. These exhibits are incorporated by reference herein and made a part of this Complaint.

COUNT ONE — Violation of Gwinnett County Code of Ordinances 54-24(1)

11.

Plaintiff reincorporates by reference the allegations of Paragraphs 1-10 of this Complaint as if fully set forth herein.

12.

Defendant has violated the Georgia law regarding defamation, specifically O.C.G.A. 51-5-4(3) and O.C.G.A. 51-5-4(4) by making charges against Plaintiff’s work with his non-profit organization the Dustin Inman Society and by uttering disparaging words causing special damages to Plaintiff.

13.

Defendant recognizes that a separate civil action to enforce his rights under this statute is available under Georgia law and he does not in any way waive his right to proceed with commencement of such a civil action against Defendant.

14.

But the actions of the Defendant clearly demonstrate an occasion where she did not uphold the laws of the State of Georgia as required by the relevant portion of the Gwinnett Code of Ordinances.

COUNT TWO — Violation of Gwinnett County Code of Ordinances 54-24(2)

15.

Plaintiff reincorporates by reference the allegations of Paragraphs 1-14 of this Complaint as if fully set forth herein.

16.

Defendant's conduct clearly placed her own, anger, bias and loyalty to her political party above that to the highest moral principles and the county by defaming the Plaintiff with her inflammatory remarks.

17.

Defendant's conduct clearly violated this portion of the Gwinnett Code of Ordinances.

COUNT THREE — Violation of Gwinnett County Code of Ordinances 54-24(3)

18.

Plaintiff reincorporates by reference the allegations of Paragraphs 1-17 of this Complaint as if fully set forth herein.

19.

Defendant betrayed any commitment to integrity by repeating false statements about the Plaintiff, which she knew or should have known at the time to be false.

20.

Plaintiff is not "anti-immigrant" and the public record is replete with references made by the Plaintiff to his support of legal immigration and legal immigrants. Plaintiff has family members, close friends and members of the board of the non-profit corporation of which he is president who are legal immigrants. Plaintiff began

his presentation at the July 31, 2019 287(g) panel discussion with much of this information.

21.

Defendant knew or should have known these facts at the time she falsely claimed Plaintiff was “anti-immigrant” and showed a total lack of integrity by doing so anyway.

COUNT FOUR — Violation of Gwinnett County Code of Ordinances 54-24(4)

22.

Plaintiff reincorporates by reference the allegations of Paragraphs 1-21 of this Complaint as if fully set forth herein.

23.

Defendant is required under the Code of Ordinances to give her earnest effort and best thought with regard to her duties as a Commissioner.

24.

Defendant intentionally misled the public about Plaintiff and incited division and hatred in this community as a result. This clearly demonstrates a lack of earnest effort or thought with respect to her duties as a Commissioner.

COUNT FIVE — Violation of Gwinnett County Code of Ordinances 54-24(11)

25.

Plaintiff reincorporates by reference the allegations of Paragraphs 1-24 of this Complaint as if fully set forth herein.

26.

It is most unbecoming of the Defendant as a member of the Board of Commissioners to verbally assault the reputation of the Plaintiff, someone who merely responded to an invitation to participate in a public forum on a matter of public concern and who was not present or able to respond to false allegations.

27.

Defendant did not contact the Plaintiff before, during, or after the event to engage him to have any personal knowledge of his positions on the attitudes she ascribed to him in her later August speech explicitly condemning Plaintiff without any basis. She merely regurgitated a false narrative spoon-fed to her by some unknown third party. This behavior is disgraceful and most unbecoming of a Gwinnett County Commissioner.

COUNT SIX — Violation of Gwinnett County Code of Ordinances 54-24(16)

28.

Plaintiff reincorporates by reference the allegations of Paragraphs 1-27 of this Complaint as if fully set forth herein.

29.

Defendant failed to uphold the principles detailed in this Complaint. Defendant did not take her position as a public trust seriously, literally using her County-provided microphone to amplify previous false and defamatory statements about the Plaintiff and then piling on with ignorant and false calumnies of her own design before humorously closing her remarks by stating her commitment to respectful dialogue, after trashing the Plaintiff, someone with a different point of view, as a “racist”, a “bigot”, and a hater.

WHEREFORE, premises considered, the Plaintiff prays for the following relief:

- (a) For the Board of Commissioners to deliver a verbal reprimand to Defendant during a Board meeting;
- (b) For the Defendant to immediately apologize to Plaintiff during a Board meeting;
- (c) For the Board of Commissioners to take out an advertisement in the legal organ of Gwinnett County apologizing to the Defendant;
- (d) For the Defendant to be fined in an amount to be determined; and
- (e) And for any further relief deemed just under the circumstances.

This ___ day of August, 2019.

Donald Arthur King

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CERTIFICATE OF SERVICE

I certify that I have this day served a copy of the foregoing Complaint on the Gwinnett County Law Department, William J. Links III via hand delivery at 75 Langley Drive, Lawrenceville, Georgia 30046.

This ____ day of August, 2019.

Donald Arthur King

D.A. King
2984 Lowe Trail
Marietta, GA. 30066
404-316-6712