

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT IN AND FOR
FLAGLER COUNTY, FLORIDA

CASE NO.:
DIV.:

LINDA BOLANTE,

Plaintiff,

vs.

JAMES L. MANFRE, as the
Sheriff of Flagler County, Florida,

Defendant.

COMPLAINT

Plaintiff, LINDA BOLANTE, sues Defendant, JAMES L. MANFRE, as the Sheriff of Flagler County, Florida, and states as follows:

GENERAL ALLEGATIONS

1. This is an action for damages in excess of \$15,000.00 and for equitable relief, pursuant to the Florida Whistle-blower's Act, Fla. Stat. §112.3187.
2. The Flagler County Sheriff's Office ("FCSO") is, and at all times material was, a Flagler County governmental entity, and thus an "agency" within the meaning of Fla. Stat. §112.3187 (3)(a). FCSO's principal place of business is and was in Flagler County, Florida.
3. At all times material, Defendant, JAMES L. MANFRE ("Sheriff Manfre") was the Sheriff of Flagler County, and was acting in his capacity as Sheriff with regard to the allegations stated herein. Sheriff Manfre was and is the top supervisory official of FCSO, and thus also deemed an "agency" within the meaning of Fla.Stat. §112.3187(3)(a).
4. The cause of action alleged herein arose in Flagler County, Florida.

5. Linda Bolante was employed by FCSO from July 17, 2000 until March 31, 2014.

Mrs. Bolante served in several positions in FCSO's finance department and, at all times material to these allegations, was FCSO's Senior Business Services Director. Accordingly, Plaintiff was an employee of FCSO as defined by §112.1287(3)(b), Fla. Stat.

6. At all times material, Sheriff Manfre had primary supervisory authority over Linda Bolante in all matters concerning her employment at FCSO. At all times material, Linda Bolante reported directly to FCSO's top supervisory officials, Sheriff Manfre and Undersheriff Rick Staly.

7. During the year 2013, Linda Bolante became aware of certain unethical and unlawful employment practices by Sheriff Manfre involving his personal use of public funds and county-owned vehicles. These actions included unauthorized and improper expenditures by Sheriff Manfre on his agency credit card, discovered by Linda Bolante in the course of responding to an October 2013 public records request initiated by the FCSO Finance Unit for backup documentation on certain FCSO credit card purchases made by Sheriff Manfre. After obtaining back-up receipts for these purchases pursuant to the public records request, Linda Bolante discovered several inappropriate purchases such as multiple meals and alcoholic beverages, including those for the Sheriff's wife and other persons who were not FCSO employees.

8. On October 30, 2013, Linda Bolante met with Sheriff Manfre, Undersheriff Staly and Sheriff Manfre's designated attorney, Sid Nowell, to inform them about the purchases she believed to be improper and not in accordance with county policy or Fla. Stat. 112.061 (governing allowable costs for public officers).

9. At the October 30 meeting, in the course of deciding how to handle the unauthorized

expenditures, it was suggested by Undersheriff Staly that Sheriff Manfre reimburse FCSO for the improper purchases, and Linda Bolante was asked to calculate that amount.

10. On October 31, 2013, Linda Bolante was asked to report to Sheriff Manfre's office to meet again with Attorney Nowell, Undersheriff Staly and Sheriff Manfre. Sheriff Manfre expressed his reluctance to reimburse the agency for the improper charges, and instead, provided Linda Bolante with receipts from January 2013 for approximately \$1100.00 in purchases made by his wife to spruce up the FCSO Operations building when he first took office. Sheriff Manfre asked that these receipts be used to offset what he owed the agency for his unauthorized restaurant and entertainment purchases. Mrs. Bolante responded that what he was asking her to do was inappropriate, and she could not ethically comply with this request. At that point, Sheriff Manfre told Linda Bolante he needed her to "take the hit for this."

11. Thereafter, upon being advised to do so by Undersheriff Staly and Mr. Nowell, Sheriff Manfre reluctantly wrote a check for \$344.03 as reimbursement for some of the unauthorized expenditures.

12. A short time later that same day, Linda Bolante sent an email to Sheriff Manfre and Undersheriff Staly referring to the meeting and the issues discussed, and stating her intent to be honest and candid if and when any inquiry was made regarding Sheriff Manfre's use of the agency credit card and the expenditures discovered on the receipts.

13. On November 1, 2013, Undersheriff Staly advised Linda Bolante that Sheriff Manfre had told him he needed to "be the bad guy" and find a reason to terminate her. Undersheriff Staly told Mrs. Bolante he did not intend to do that.

14. For the next few months, Sheriff Manfre engaged in behavior toward Linda Bolante in

front of other staff members which indicated to her and others he was angry with her, including refusing to speak to her at meetings, and rolling his eyes while she was speaking.

15. On or about January 17, 2014, Undersheriff Staly called Linda Bolante in to his office and informed her Sheriff Manfre had specifically instructed him to advise her she needed to resign or she would be fired. Undersheriff Staly told Mrs. Bolante that, if she would commit to retirement, he would protect her employment until the end of March, which would be the date her retirement benefits became fully vested.

16. To avoid the significant financial consequences of being terminated prior to full vesting of her public service retirement benefits, Linda Bolante was essentially forced to tender a letter of resignation effective March 31, 2014.

17. Linda Bolante's constructive termination was a direct result of her disclosure to her supervisors of Sheriff Manfre's unauthorized and wrongful personal use of public funds, and her refusal to condone or participate in covering up such actions.

COUNT I
(Violation of Florida Whistle-blower's Act)

18. Plaintiff re-alleges all prior paragraphs as if fully set forth herein.

19. Plaintiff has complied with all conditions precedent to the maintenance of this action.

20. On May 16, 2014, within 60 days after Linda Bolante was constructively terminated, she made a written administrative complaint to Sheriff Manfre, as the Sheriff of Flagler County, and requested to be advised of any available administrative remedy or recourse with the agency. In response, she was advised FCSO has no established administrative procedure for handling complaints and conducting hearings pursuant to §112.3187(8)(b). Consequently, Plaintiff has exhausted all available administrative remedies.

21. This action is brought within 180 days of Plaintiff's constructive termination.

22. As described above, Linda Bolante made statutorily protected disclosures regarding Sheriff Manfre's violation or suspected violation of a state or local law, rule or regulation which presents a danger to the public welfare, or which constitute malfeasance, misfeasance or waste of public funds, within the meaning of Fla. Stat. §112.3187(5)(a) and (b).

23. Linda Bolante disclosed these violations or suspected violations and acts of malfeasance to the highest supervisory authorities of the FCSO, Sheriff Manfre and Undersheriff Staly.

24. Linda Bolante referenced these disclosures in writing to FCSO through its top supervisory officials, Sheriff Manfre and Undersheriff Staly, specifically indicating her refusal to participate in such behavior or to lie about Sheriff Manfre's improper actions. Accordingly, Linda Bolante is a protected employee within the meaning of Fla. Stat. §112.3187.

25. Section 112.3187(4), Fla. Stat., provides in pertinent part:

(4) Actions prohibited-

(a) An agency or independent contractor shall not dismiss, discipline, or take any other adverse personnel action against an employee for disclosing information pursuant to the provisions of this section.

(b) An agency or independent contractor shall not take any adverse action that affects the rights or interests of a person in retaliation for the person's disclosure of information under this section.

26. Linda Bolante's disclosures were not made in bad faith or for a wrongful purpose and did not occur after FCSO's initiation of an adverse personnel action against her.

27. Sheriff Manfre's constructive termination of Linda Bolante constitutes a prohibited adverse action under §112.3187(4)(a) and (b).

28. As a direct and proximate result of Sheriff Manfre's prohibited and retaliatory action, Plaintiff, Linda Bolante has suffered damages, including the loss of compensation and benefits in

the past and in the future. Plaintiff's damages are continuing in nature and she is entitled to compensation pursuant to Fla.Stat. §112.3187(9)(c).

29. Pursuant to Fla. Stat. §112.3187(9)(a) and (f), Plaintiff is entitled to reinstatement, including temporary reinstatement, to the same or equivalent position, or to reasonable front pay as alternative relief.

30. Plaintiff has retained the undersigned attorney to represent her in this action and, if she prevails, is entitled to be awarded her reasonable costs, including attorney' fees pursuant to Fla. Stat. §112.3187(9)(d).

WHEREFORE, Plaintiff, LINDA BOLANTE, respectfully requests judgment against Defendant, JAMES L. MANFRE, as Sheriff of Flagler County, and awarding her:

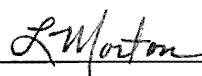
1. Reinstatement to the same position held by Plaintiff before Defendant's retaliatory action against plaintiff, or to an equivalent position;
2. Reinstatement of full fringe benefits and seniority rights;
3. Compensation for lost wages, benefits, and other remuneration;
4. Assessment against Defendant of reasonable costs and attorney's fees of this action; and
5. Such further relief as the court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all matters so triable.

DATED this 25th day of September 2014.

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