

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
DIVISION _____
CIVIL ACTION NO. 23-CI- _____

FILED ELECTRONICALLY

MARLON BALL

PLAINTIFF

VS.

COMPLAINT

FAYETTE COUNTY BOARD OF EDUCATION

DEFENDANT

SERVE: **VIA CERTIFIED MAIL**
Fayette County Public Schools
450 Park Place
Lexington, Kentucky 40511

DR. DEMETRUS LIGGINS, IN HIS INDIVIDUAL AND
OFFICIAL CAPACITY AS THE SUPERINTENDENT
OF THE FAYETTTE COUNTY PUBLIC SCHOOLS

DEFENDANT

SERVE: **VIA CERTIFIED MAIL**
Fayette County Public Schools
450 Park Place
Lexington, Kentucky 40511

AND

JAMES MCMILLIN, IN HIS INDIVIDUAL AND OFFICIAL
CAPACITY AS CHIEF SCHOOL LEADERSHIP
OFFICER/HIGH SCHOOLS

DEFENDANT

SERVE: **VIA CERTIFIED MAIL**
Fayette County Public Schools
450 Park Place
Lexington, Kentucky 40511

AND

LISA DEFFENDALL, IN HER INDIVIDUAL AND OFFICIAL
CAPACITY AS EXECUTIVE COMMUNICATIONS OFFICER AND
DISTRICT SPOKESWOMAN

DEFENDANT

SERVE: **VIA CERTIFIED MAIL**
Fayette County Public Schools
450 Park Place
Lexington, Kentucky 40511

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Comes the Plaintiff, Marlon Ball, by counsel, and for his Complaint against Fayette County Board of Education, Dr. Demetrus Liggins, James McMillin, and Lisa Deffendall, (“Defendants”) hereby states that each of the Defendants are being sued in their individual and official capacities as employees of the Fayette County Board of Education/Fayette County Public Schools. All of the acts and omissions asserted in this Complaint occurred in Fayette County, Kentucky and the Plaintiff’s damages are in excess of the minimum amount necessary to establish the jurisdiction of this Court and venue is proper.

FACTS

1. At all times pertinent to this Complaint, Mr. Ball was a citizen resident of Lexington, Fayette County, Kentucky.
2. Mr. Ball was recruited to Lexington, Kentucky to interview for the Lexington Traditional Magnet School principalship. The interview took place on May 16, 2022. On May 20, 2022, Mr. Ball was informed that he had been chosen to be the principal of LTMS, but the execution of that decision was put on hold due to the fact that Mr. McMillin needed to interview a minority and a woman for the Dunbar principal vacancy to meet Human Resources requirements. Mr. Ball was understood that once he was done interviewing for

Dunbar, he would then be able to assume the principalship at Lexington Traditional Magnet School.

3. There was a principal profile created by a survey provided to students, staff and parents in May of 2022. Mr. Ball fulfilled all of the desires of the profile with the exception of having prior experience as a lead principal. The former principal of Dunbar High School did not support his candidacy for principalship of Dunbar High School and took measures to dissuade others.

4. The candidate who received the most votes to become the next Principal of Dunbar was from Jessamine County, but that individual pulled out of the interview process after he was interviewed. That left Mr. Ball and one other female applicant that was supported by the former principal of Dunbar High School. Mr. McMillin supported the candidacy of the female applicant and attempted to introduce another applicant who is now the principal of Lafayette High School. Despite this attempt to manipulate the votes and support the other candidates, Mr. Ball was chosen as the principal of Dunbar High School.

5. Mr. McMillin was unhappy with Mr. Ball being selected as principal of Dunbar High School and immediately accused him of a FERPA violation, when responding to experience-based questions about curriculum and assessments.

6. On June 2, 2022 Mr. Ball was hired by Dunbar's SBDM to be the Principal of Dunbar High School.

7. Mr. Ball performed his duties as principal of Dunbar High School in a professional and competent manner.

8. During this time Mr. McMillin began a campaign of harassment/discrimination against Mr. Ball based on his race.

9. Mr. Ball made a complaint/grievance/report of the racial discrimination to Dr. Liggins. Dr. Liggins mandated that a third-party must be present at all times whenever Mr. McMillin and Mr. Ball were together as well as during any email/text communications.

10. Mr. McMillin became a conduit through which other employees of the Fayette County Board of Education/Fayette County Public Schools did further harass/discriminate against Mr. Ball to create the illusion that a large number of school employees wanted him terminated.

11. In addition, numerous complaints were orchestrated to be filed using the Emergency S.A.F.E. anonymous tipline, thereby violating school board policy by using the emergency tipline for purposes other than what was intended. Upon information and belief, the emergency tipline was used to generate a volume of very similar complaints, and originated within the Fayette County Board of Education's internal IP addresses.

12. On or about November 1, 2022, the Athletic Director of Dunbar High School committed suicide.

13. The suicide was used by the Defendants as an opportunity to further advance the campaign of harassment/discrimination against Mr. Ball.

14. Ms. Deffendall issued a statement to the media on behalf of all the Defendants indicating:

Our FCPS community is grieving Mr. Howell's passing along with the staff, students, and families at Paul Laurence Dunbar High School. When one of our schools is hurting, the impact is felt districtwide. We are aware of the concerns raised by members of the Dunbar staff. Reports of this nature are taken seriously and will be fully investigated. Per our normal human resources procedures, Dunbar Principal, Mr. Ball has been placed on administrative leave. As with any personnel matter, we are unable to comment further.

15. Surrogates such as Sharessa Bentley-Crovo who are employed by the Fayette County Board of Education violated School Board policy by providing derogatory statements to the media designed to further perpetrate the harassment/discrimination against Mr. Ball. Her quote to the media states in pertinent part “after losing a beloved colleague we can’t stay quiet.” The statements accused Mr. Ball of bullying and harassment of staff and indicated that investigations are underway and that staff and parent representatives are offering to help provide any valuable information. The unconscionable four month investigation that ensued, is designed to create the false impression that the “valuable information” that is being accumulated is so voluminous that an unprecedented period of time is needed. The unnecessary four month delay purposely caused by the Defendants is designed to alienate Mr. Ball, stigmatize him professionally, and render it impossible to go back to his job as principal of Dunbar High School, or to find other similar employment in his chosen profession. The Defendants ratified and/or approved all of this conduct, including the conduct of Mrs. Crovo, by failing to take any action against her for her attempts to gin up criticisms of Mr. Ball in the media. The length of the so-called investigation, and the volume of complaints, will permanently scar Mr. Ball’s reputation and standing in the educational community.

16. The defamatory actions of Ms. Deffendall, coupled with the media comments of Mrs. Crovo, independently and taken together created a clear causal link between the conduct of Mr. Ball and the death of the Athletic Director. The causal link was inappropriate, violated school board policy, was defamatory, and made with a malicious intent to further perpetrate the harassment/discrimination against Mr. Ball.

17. Immediately after the suicide of the Dunbar High School Athletic Director, Mr. Ball was placed on administrative leave. To this day, he has never been informed as

to why he was placed on leave, he has never been provided an explanation of any accusations that have been made against him, and he has not been asked a single question regarding this matter. Mr. Ball has never been provided any opportunity to defend himself against the allegations. His administrative leave began on November 2, 2022, and continues to this day.

18. All of the Defendants listed above have participated in, ratified, and otherwise perpetuated the defamation, false light, harassment, and discrimination against Mr. Ball.

19. Based on the purposeful dilatory conduct of the Defendants listed above, it is now apparent that the Defendants will have no other choice, but to manufacture a charge against Mr. Ball. Due to the fact that four months have expired without a good faith effort to conduct and conclude an investigation, the Defendants are now in a position to where they will have to make some adverse finding against Mr. Ball to justify the unconscionable delay.

COUNT I
FALSE LIGHT
All Defendants

20. Plaintiff repeats, re-alleges, and reasserts each and every allegation contained within the preceding paragraphs as though set forth fully herein.

21. Each of the Defendants, acting individually and in concert, placed Mr. Ball in a false light before the public. The false light in which Mr. Ball was placed would be highly offensive to a reasonable person, including any potential employer. Each of the Defendants in participating in the publishing of the information acted in a reckless disregard as to the falsity of the publicized matter and the false light in which Mr. Ball was placed.

22. As a direct and proximate result of the false light in which Mr. Ball was placed, he has been caused to suffer damages.

COUNT II
RETALIATION
PURSUANT TO KRS 344.280
All Defendants

23. Plaintiff repeats, re-alleges, and reasserts each and every allegation contained within the preceding paragraphs as though set forth fully herein.

24. Each of the Defendants individually and acting in concert, retaliated against Mr. Ball for his report/grievance/complaint of racial discrimination filed on September 6th with the Office for Diversity, Equity and Inclusion that operates within the Fayette County School Board.

25. In addition, the Defendants individually and in concert, aided, abetted, incited, compelled and/or coerced other individuals to engage in acts or practices declared unlawful by KRS 344.040 *et seq.*

26. As a direct and proximate result of the retaliation which Mr. Ball suffered, he has been caused to suffer damages.

COUNT III
BREACH OF CONTRACT
All Defendants

27. Plaintiff repeats, re-alleges, and reasserts each and every allegation contained within the preceding paragraphs, as though set forth fully herein.

28. Mr. Ball entered into a contract with the Defendants for his employment as the Principal of Dunbar High School. He relocated to Kentucky from Florida in good faith to dedicate himself to the role of principal that he was given. The Defendants acting

individually and in concert breached the implicit/implied good faith term of that contract as well as other portions of the contract. Mr. Ball was paid on the FCPS salary scale for eleven years of experience but his announcement by the school district to the public stated that he came with thirteen years of experience. He was denied two of those years of experience by the Chief of Human Resources, who was later put on leave for an employee compensation issue along with Mr. James McMillin.

29. As a direct and proximate result of the Defendants, breach of contract, Mr. Ball has been caused to suffer damages.

COUNT IV
DEFAMATION
LIBEL PER SE AND SLANDER PER SE

30. Plaintiff repeats, re-alleges, and reasserts each and every allegation contained within the preceding paragraphs, as though set forth fully herein.

31. Plaintiff Lisa Deffendall acting individually and in concert with the other Defendants and in tandem with other employees of the Fayette County Board of Education, purposely spoke and had published statements that were defamatory to Mr. Ball. The malicious and defamatory statements linking Mr. Ball's conduct to the suicide of another individual on campus and under his leadership, was defamatory, it was about Mr. Ball, was published to the community/nation at large and caused injury to the professional reputation of Mr. Ball. Because the libel and slander perpetrated by the Defendants indicates that he is unfit for his position as principal of Dunbar High School, the defamation is actionable per se, and therefore, damages are presumed.

32. As a direct and proximate result of the defamation of Defendants, the Plaintiff Mr. Ball has been caused to suffer damages.

COUNT V
INTRUSION UPON SECLUSION
All Defendants

33. Plaintiff repeats, re-alleges, and reasserts each and every allegation contained within the preceding paragraphs, as though set forth fully herein.

34. The Defendants acting individually and in concert, invaded the right of privacy of Mr. Ball with an unreasonable intrusion upon his seclusion, by subjecting Mr. Ball to public media scrutiny, the Defendants acted unreasonably in creating publicity affecting Mr. Ball's private life and the publicity unreasonably placed him in a false light before the public.

35. As a direct and proximate result of the intrusion upon seclusion on Mr. Ball, he has been caused to suffer damages.

COUNT VI
PUNITIVE DAMAGES
All Defendants

36. Plaintiff repeats, re-alleges, and reasserts each and every allegation contained within the preceding paragraphs as though set forth fully herein.

37. The conduct of the Defendants acting individually and in concert was to allow the public flogging of Mr. Ball in the media. He was forced to endure this while being forced to remain silent about the truth, and while being prevented from rebutting the defamatory allegations that have been asserted against him. This resulted in Mr. Ball being assaulted in a local grocery store with the incident being recorded on surveillance. Mr. Ball was confronted in several other public places as a result of the community believing he was the cause of someone else's suicide, based on the public statements of Lisa Deffendall. In addition, public media is only familiar with the Defendants' defamatory portrayal of Mr. Ball and the public criticisms have grown to an extent that it

has caused him irreparable harm in the community and public at large. Thus, the Defendants' conduct individually and in concert was so egregious, wanton, and grossly negligent that Mr. Ball is entitled to an award of punitive damages.

CAUSATION AND DAMAGES

a. Plaintiff repeats, re-alleges, and reasserts each and every allegation contained within the preceding paragraphs as though set forth fully herein.

b. As a direct and proximate result of Defendants' conduct individually and in concert, Plaintiff has been caused to suffer and will suffer in the future the following damages:

- a. Past, present, and future mental pain and suffering;
- b. Actual, consequential, incidental, and foreseeable damages;
- c. Lost wages and lost earning capacity;
- d. Pre- and post-judgment interest;
- e. Attorneys' fees, costs, and expenses, as allowed for in the Kentucky Civil Rights Act and as provided in the *Mo-Jack Distributor, LLC v. Tamarak Snacks, LLC*, 476 S.W.3d 900, 907-08 (Ky. App. 2015)
- f. And is further entitled to an award of punitive damages.

WHEREFORE, the Plaintiff, Mr. Ball, prays the Court as follows:

1. For a judgment against Defendants, jointly and severally, with Plaintiff reserving the right to advise the trier of fact as to what amounts are fair and reasonable, as shown by the evidence;
2. For a trial of this cause by a jury;

3. That he be awarded all of the damages enumerated above, including compensatory, incidental, actual, consequential, foreseeable damages, attorneys' fees, punitive damages, costs herein expended, pre-judgment and post-judgment interest; and

4. Any and all other equitable relief to which this Court may deem him entitled.

CONTEMPORANEOUS DISCOVERY NOTICE

Defendants are hereby given notice that written discovery in the form of Interrogatories and Requests for Production of Documents was served contemporaneously with this Complaint.

Respectfully submitted,

GOLDEN LAW OFFICE, PLLC

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