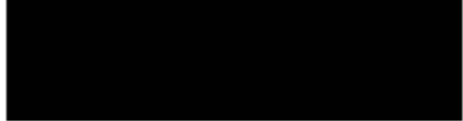


**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
COVINGTON DIVISION  
CIVIL ACTION NUMBER \_\_\_\_\_**

**CONNIE MCCLURE ELLINGTON**



**v.**

**STEPHEN WOOD  
101 North Main Street  
Williamstown, KY 41097**

**Defendant**

*Both in his Official and Individual Capacity  
as Grant County Judge Executive*  
**Serve: by process server via F.R.C.P. 4(j)(2)  
Authorizing Service Pursuant to KRCP 4.04**

**SCOTT KIMMICH  
101 North Main Street  
Williamstown, KY 41097**

**Defendant**

*Both in his Official and Individual Capacity  
as Grant County Judge Executive*  
**Serve: by process server via F.R.C.P. 4(j)(2)  
Authorizing Service Pursuant to KRCP 4.04**

**And**

**GRANT COUNTY FISCAL COURT  
101 North Main Street  
Williamstown, KY 41097**

**Defendant**

**Serve via certified mail pursuant to FRCP 4(j)(2) authorizing service  
pursuant to Ky. Civ. Rule 4.04(7):  
Steven Wood County Judge Executive of the Grant County Fiscal Court  
101 North Main Street  
Williamstown, KY 41097**

\*\*\*\*\*

**COMPLAINT WITH JURY DEMAND**

\*\*\*\*\*

Comes now the Plaintiff, Connie McClure Ellington, (hereinafter Ellington) by and through Counsel, and for her Complaint against Defendants states as follows:

### **INTRODUCTION**

1. This is an action for money damages brought pursuant to 42 U.S.C. §1983 with First Amendment speech and retaliation claims and state tort claims for outrageous conduct and age and disability discrimination.

### **JURISDICTION AND VENUE**

2. This Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1331 because this action arises under the Constitution or laws of the United States. Further, this Court has original jurisdiction of this matter pursuant to 28 U.S.C. § 1337 and 1343 because this action seeks to redress the deprivation, under color of state law, of Ellington's constitutional rights.

3. This Court has pendent jurisdiction for all state claims set forth herein pursuant to 28 U.S.C. § 1367.

4. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) as the majority of the Defendants' discriminatory acts occurred in Grant County in the Eastern District of Kentucky.

### **PARTIES**

5. Ellington has now and for all times pertinent to this action, resided within this judicial district.

6. Defendant Judge Executive Stephen P Wood is a person subject to suit pursuant to 42 U.S.C 1983 and K.R.S. 121.310.

7. Defendant Deputy Judge Executive Scott Kimmich is a person subject to suit pursuant to 42 U.S.C 1983 and K.R.S. 121.310.

8. Defendant, Grant County Fiscal Court, (hereinafter Fiscal Court), is subject to suit pursuant to 42 U.S.C 1983 and K.R.S. 121.310.

9. The Grant County Fiscal Court is a governmental body employing personnel to operate and has its seat in Grant County Kentucky within the jurisdiction of this Court.

10. All the above named officials were elected or appointed to their positions and were employed in Grant County during the time the acts at issue were perpetrated.

11. The Grant County Fiscal Court acted by and through its agents, servants, or employees, who were acting within the scope of their employment.

12. Judge Executive Wood and Deputy Judge Executive Kimmich both acted in their individual capacities and in the authority of their positions.

13. Ellington was an employee of the Grant County Fiscal Court.

14. Deputy Judge Executive Kimmich's conduct was under color of state law, regulation, custom or usage.

15. Judge Executive Wood's conduct was under color of state law, regulation, custom or usage.

16. Deputy Judge Executive Kimmich and Judge Executive Wood were final decision policy makers for Grant County and the Fiscal Court.

17. Grant County is responsible and must answer for actions taken by their final policymakers whether or not those actions confirm to pre-existing rules and whether or not the conduct was contrary to policy.

#### **FACTS RELEVANT TO ALL CAUSES OF ACTION**

18. Ellington reiterates each allegation contained in Paragraphs 1-17 above as though contained herein.

19. Grant County Fiscal Court is a person and subject to suit pursuant to 42 USC §1983.

20. Judge Executive Wood and Deputy Judge Executive Kimmich are persons and subject to suit pursuant to 42 USC §1983.

21. Ellington was hired as a “Finance Officer on June 1, 1990.

22. At the time of Ellington’s hire she earned \$6.50 an hour.

23. Ellington remained a Finance Officer until her termination effective June 30, 2015.

24. At the time of Ellington’s termination she was earning \$48,000 annually.

25. On January 1, 2015 Steven Wood, a Republican, was elected to the position of Judge Executive.

26. On January 5, 2015, the Grant County Fiscal Court approved Executive Order 15-01 appointing Scott Kimmich Deputy Judge Executive at a salary of \$55,000 annually.

27. At the meeting on January 5, 2015, a citizen expressed displeasure with the appointment and was assured by Judge Executive Wood the county “could afford the position.”

28. On February 14, 2015, Judge Executive Wood, Deputy Judge Kimmich, and Jailer Chris Hankins met to discuss the Jail’s budget for fiscal year 2015-2016 (July 1, 2015- June 30, 2016).

29. In this meeting, Judge Executive Wood and Deputy Judge Kimmich indicated 3/5<sup>th</sup> of Ellington’s salary had been assessed to the Grant County Jail’s budget.

30. The Fiscal Court records do not reflect this was a decision approved by the Fiscal Court or by Executive Order.

31. In this meeting, Judge Executive Wood told Deputy Judge Kimmich “this puts us in a pickle with your salary and what we told the Magistrates.”

32. In this meeting, Deputy Judge Kimmich suggested it was “time” for Connie “*to retire*” and proclaimed Magistrate Jacquelyn Riley would agree Ellington “has to go.”

33. In this meeting, Jailer Hankins warned Judge Executive Wood and Deputy Judge Executive Kimmich that firing Ellington after 25 years of employment could hurt them in the next election.

34. Deputy Judge Kimmich responded to Hankins warning by saying “she [Ellington] didn’t vote for him [Judge Executive Wood] this time.”

35. Judge Executive Wood responds to Hankins warning by saying “she voted against you [Hankins] and she voted against me.”

36. In this meeting, Judge Executive Wood explained that he didn’t fire Pat Conrad, the former [Democratic] Judge Executive’s Administrative Assistant, even though the President of the Republican Club said he should fire her and Deputy Judge Executive Kimmich was “suspicious” of her, because Conrad sent him a letter, during the campaign, with a contribution, and after taking office he “tested her” and believes she “is loyal.”

37. In this meeting, Deputy Judge Executive Kimmich states Ellington is one of two employees, still employed, that he is “suspicious of.”

38. In this meeting, Deputy Judge Executive Kimmich justified terminating Ellington by saying: “it would be cold hearted as hell to kick somebody to the curb that couldn’t retire” but that Ellington could “draw 90% of her retirement benefits.”

39. In late April or early May 2015, Ellington was told her position would be eliminated and replaced with a part-time position at a rate of approximately \$30,000 annually.

40. After the meeting, Ellington requested, and Judge Executive Wood agreed, to allow Ellington to perform her duties at the Jail.

41. Ellington moved to the jail on May 5, 2015.

42. On May 18, 2015, the Grant County Fiscal Court approved Executive Order 15-32 abolishing Ellington's position and creating two (2) Executive Assistant/Finance Administrator positions.

43. Based on the elimination of her position her age, health conditions, education, and lack of suitable jobs in the community, Ellington was forced to apply for disability retirement through CERS (County Employment Retirement System).

44. On June 10, 2015 Judge Executive Stephen Wood wrote a letter to CERS stating "the county remains in a situation where making employment adjustments or environmental conditions to accommodate Ms. Ellington's health conditions would be impractical. It is with regard to that I would advise Ms. Ellington's most productive course of action would be to pursue disability retirement."

45. In the February 14, 2015 meeting, Judge Executive Wood joked that he had told his wife "if I replace Connie [Ellington] it will be with a 24 year old blonde with big [REDACTED]"

46. On June 26, 2015, Judge Executive Stephen Wood signed Executive Order 15-43 appointing 26 year old Angela Lawrence to serve in the position of Administrative

Assistant/Finance Clerk full-time, at an annual salary of \$32,000 with an effective hire date of July 1, 2015.

47. On July 1, 2015, after her appointment, and on the first day she assumed Ellington's duties, Angela Lawrence filled out an application for employment.

48. On June 30, 2015 Ellington was presented with a retirement cake and when she explained to Magistrate Newman that she had not "voluntarily retired", he expressed surprise.

**COUNT I**  
**VIOLATIONS OF 42 U.S.C. 1983**

49. Ellington reiterates each allegation contained in Paragraphs 1-48 as though contained herein.

50. Ellington was involved in a constitutionally protected activity.

51. Ellington was subjected to adverse action as a result of exercising her First Amendment right.

52. Ellington's constitutionally protected activity was a matter of political, social, and other concern to the community.

53. Ellington's constitutionally protected activity was a motivating factor in the Defendants' decision to terminate her employment.

54. Defendants acted under color of state law or territorial law.

55. Defendants' decision to fire Ellington was an official act constituting an illegal policy or custom of the County Clerk's Office and the Fiscal Court.

56. The injury inflicted on Ellington by Defendants was the result of the implementation of an illegal policy.

**COUNT II**  
**TORT OF OUTRAGE**



57. Ellington reiterates every allegation contained in paragraphs 1 through 56 as though contained herein.

58. Defendants' conduct in discharging Ellington was intentional and reckless.

59. Defendants' conduct was outrageous and intolerable and offends the generally accepted standards of decency and morality.

60. There is a causal connection between Defendants' conduct and Ellington's severe emotional distress.

**COUNT III**  
**K.R.S. 121.310**

61. Ellington reiterates every allegation contained in paragraphs 1 through 60 as though contained herein.

62. All Defendants are persons as defined by K.R.S. 121.310.

63. Defendants discharged Ellington as a result of her decision not to vote for Stephen Wood in his bid for election to Grant County Judge Executive.

64. Defendants actions violate K.R.S. 121.310.

**COUNT V**  
**PUBLIC POLICY WRONGFUL DISCHARGE**

65. Ellington reiterates every allegation contained in paragraphs 1 through 64 as though contained herein.

66. Ellington's discharge is contrary to a fundamental and well-defined public policy as evidenced by existing law and statutes and the Constitution of Kentucky including KRS 121.310 and the First Amendment.

67. Defendants decision to discharge Ellington because she didn't vote for Stephen Wood for Grant County Judge Executive.



**COUNT VI**  
**VIOLATIONS OF KRS 344.040**

68. Ellington reiterates every allegation contained in paragraphs 1 through 67 as though contained herein.

69. Ellington was qualified for her position at the time of her discharge.

70. Ellington was replaced by a significantly younger employee

71. Ellington's termination was an adverse employment action.

72. Ellington's discharge occurred under circumstances giving rise to an inference that she was terminated because of her age.

73. Ellington's discharge occurred under circumstances giving rise to an inference she was terminated because of her disability and/or the Defendants desire to avoid accommodating such disability.

WHEREFORE Ellington prays this Court:

1. Enjoin Defendants from further violations of federal and state law;
2. Reinstate Ellington with all back pay and benefits lost because of Defendants' unlawful acts;
3. Award Ellington compensatory damages for humiliation, embarrassment, emotional suffering, and/or punitive damages directly caused by Defendants' improper and illegal acts;
4. Award Ellington attorney fees;
5. Award Ellington any and all other relief to which they are entitled.
6. That this action be tried before a jury.

Respectfully submitted,

BY:

//Gail M. Langendorf

Gail M. Langendorf

BUSALD FUNK ZEVELY, P.S.C.

226 Main Street

Florence, Kentucky 41042

Telephone: (859) 371-3600

Facsimile: (859) 525-1040

[glangendorf@bfzlaw.com](mailto:glangendorf@bfzlaw.com)