

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

JULIE A. ROBINSON,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO. 3:19-cv-00041-JD-MGG
)	
BOARD OF SCHOOL TRUSTEES OF)	
THE WAWASEE COMMUNITY SCHOOL)	
CORPORATION,)	
)	
Defendant.)	
)	

FIRST AMENDED COMPLAINT

Plaintiff, Mrs. Julie A. Robinson, by counsel, alleges as follows against Defendant, Board of School Trustees of the Wawasee Community School Corporation:

I. NATURE OF ACTION

1. Mrs. Robinson was retaliatorily terminated in March 2019 during the pendency of this litigation for failing to adhere to sex stereotypes, for speaking on issues of public concern, for refusing to participate in activity for which she could be held liable, and for bringing this action in court.

II. JURISDICTION AND VENUE

2. This suit is brought pursuant to 42 U.S.C. § 2000e-5, 20 U.S.C. § 1682, and 42 U.S.C. § 1983.
3. The Court has jurisdiction over Mrs. Robinson's federal claims pursuant to 28 U.S.C. §§ 1331 and 1343(a).
4. The Court has supplemental jurisdiction over Mrs. Robinson's state law claims pursuant to

28 U.S.C. § 1367.

5. Venue is proper in this district pursuant to 28 U.S.C. §1391(b). Defendant has offices within the district, and all relevant events giving rise to these claims occurred in the district.

III. PARTIES

6. Plaintiff is Julie A. Robinson (“Robinson”). Mrs. Robinson is a United States citizen, resident of Kosciusko County, Indiana, and former qualified female employee of the Board of School Trustees of the Wawasee Community School Corporation. Mrs. Robinson served as the varsity head coach of the Wawasee High School swim program from 2008 until the time of her unlawful, discriminatorily, and retaliatory discharge from employment in 2019.
7. Defendant is Board of School Trustees of the Wawasee Community School Corporation (“Board”). Defendant Board is headquartered in Kosciusko County, Indiana. Defendant Board operates a public school corporation consisting of public elementary, middle, and high schools, including Wawasee High School, which is located in Kosciusko County, Indiana. At all times material, Defendant Board acted under color of law and was a recipient of federal financial assistance. Defendant Board is an employer within the meaning of Title VII of the Civil Rights Act. Defendant Board is named in its official capacity for each of Mrs. Robinson’s federal claims. Defendant Board is named in its capacity as employer for each of Mrs. Robinson’s state law claims.

IV. FACTS

8. In 2008, Mrs. Robinson began employment with Defendant Board as varsity head coach of the Wawasee High School swim program.
9. From 2008 until her unlawful discharge from employment in 2019, Mrs. Robinson

successfully oversaw and managed the Wawasee High School swim program and performed within the reasonable expectations of her employer.

10. Mrs. Robinson consistently received positive employee reviews for her operation of the swim program.

11. Athletes in Mrs. Robinson's swim program were regularly successful at statewide meets and competitions.

12. In 2009, the school pool in which Mrs. Robinson's swimming program athletes practiced underwent a renovation.

13. That year, Mrs. Robinson began to notice concerning health issues in her athletes related to use of the pool.

14. These health issues included respiratory illness requiring medical attention and the loss of body hair.

15. From that time through 2012, including at a May 2012 school board meeting, Mrs. Robinson repeatedly reported these issues of public concern to executive and decision-making personnel of Defendant Board including Defendant Board's superintendent, school board members, and athletic director.

16. Mrs. Robinson was told in response to her reports that there were no issues with the pool.

17. Mrs. Robinson was told that the problem, in fact, was her raising of issues of public concern in what was perceived by administration to be non-feminine manner.

18. Defendant Board's superintendent told Mrs. Robinson that she needed to be more "approachable," needed to "be softer," and needed to be more "like a woman."

19. Eventually, Defendant Board did make some limited modification to the pool later in 2012.

20. After the time of these modifications, Defendant Board's superintendent criticized Mrs.

Robinson for not being what he viewed as sufficiently grateful to him.

21. However, despite the claimed modifications, swimming program athletes continued to experience health issues related to use of the school pool.

22. Mrs. Robinson continued to report these issues of public concern to Defendant Board's administration up until the time of her unlawful termination in 2019.

23. In 2016, Defendant Board hired a new athletic director for its public schools, Cory Schutz.

24 After his hire, Director Schutz began pressing for Mrs. Robinson's termination in order to replace her with a male coach.

25 For instance, in January 2017, Director Schutz told Mrs. Robinson that he expected her to defer to two male middle school swimming coaches in operations of the swim program and Robinson was to mesh her philosophies of coaching with that of the middle school coaches.

26 From that time until her termination, Director Schutz continued to reprimand Robinson and reduced resources available to the high school swimming program in order to force out Mrs. Robinson from her position and replace her with a male coach.

27 When Mrs. Robinson advocated for her athletes to have access to adequate resources and be provided with safe swimming conditions, she was stereotyped by Defendant Board's administration as not being sufficiently feminine in her approach.

28 Defendant Board's administration expected her as a woman to be demur, quiet, and deferential to male employees of Defendant Board.

29 In February 2018, Mrs. Robinson was threatened with suspension by Defendant Board's administration.

30 In March 2018, Mrs. Robinson was reprimanded by Defendant Board's administration.

31 In March 2018, Mrs. Robinson was notified that she was referred to as a "real bitch" for

raising issues concerning the school pool.

32 On March 30, 2018, Mrs. Robinson filed her Charge of Discrimination with the Equal Opportunity Commission.

33 On November 30, 2018, Mrs. Robinson received her Notice of Right to Sue.

34 On December 28, 2018, Mrs. Robinson filed suit against Defendant.

35 On March 14, 2019, during the pendency of this litigation, Defendant through employees including Director Schutz, terminated Mrs. Robinson from employment.

V. CLAIMS FOR RELIEF

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

24. Under Title VII of the Civil Rights Act of 1964, Defendant Board as an employer may not discriminate against, retaliate against, or terminate an employee on the basis of sex, including sex stereotyping. 42 U.S.C. § 2000e-2(a)(1); *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989); *Hively v. Ivy Tech Cmty. Coll. of Ind.*, 853 F.3d 339 (7th Cir. 2017).

25. However, based on the facts above, Defendant Board so intentionally, willfully, and wantonly discriminated against and retaliated against Mrs. Robinson and terminated her from employment.

26. As a result, Mrs. Robinson suffered loss of employment, financial harm, mental anguish, emotional distress, and other damages and injuries.

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

27. Under Title IX of the Education Amendments of 1972, Defendant Board as a recipient of federal financial assistance in educational programs and activities may not discriminate against, exclude, or retaliate against a person on the basis of sex, including sex stereotyping. 20 U.S.C. §1681; *Jackson v. Birmingham Bd. of Ed.*, 544 U.S. 167 (2005);

Whitaker v. Kenosha Unified School District, 858 F.3d 1034 (7th Cir. 2017).

28. However, based on the facts above, Defendant Board so intentionally, willfully, and wantonly discriminated against and retaliated against Mrs. Robinson, including terminating her from employment.

29. As a result, Mrs. Robinson suffered loss of employment, financial harm, mental anguish, emotional distress, and other damages and injuries.

EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT

30. Under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Defendant Board as a state actor may not intentionally discriminate against or retaliate against an individual on the basis of sex, including sex stereotyping, absent advancement of an important governmental interest through means substantially related to that interest. U.S. Const. amend. XIV, § 1; *Fitzgerald v. Barnstable Sch. Comm.*, 555 U.S. 246 (2009); *Doe v. Galster*, 768 F.3d 611 (7th Cir. 2014).

31. However, based on the facts above, Defendant Board so intentionally, willfully, and wantonly discriminated against and retaliated against Mrs. Robinson, including terminating her from employment.

32. As a result, Mrs. Robinson suffered loss of employment, financial harm, mental anguish, emotional distress, and other damages and injuries.

FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

33. Under the First Amendment to the United States Constitution, Defendant Board as a state actor may not intentionally discriminate against or retaliate against an individual for speaking as a citizen on matters of public concern. U.S. Const. amend. I; *Lozman v. City of Riviera Beach, Fla.*, 138 S. Ct. 1945 (2018); *Meade v. Moraine Valley Cmty. Coll.*,

770 F.3d 680 (7th Cir. 2014).

34. However, based on the facts above, Defendant Board so intentionally, willfully, and wantonly discriminated against and retaliated against Mrs. Robinson, including terminating her from employment.

35. As a result, Mrs. Robinson suffered loss of employment, financial harm, mental anguish, emotional distress, and other damages and injuries.

MCCLANAHAN RETALIATORY DISCHARGE

36. Under the public policy of Indiana, an employer may not retaliatorily discharge an employee for refusing to commit acts for which she may be personally liable. *McClanahan v. Remington Freight Lines, Inc.*, 517 N.E.2d 390 (Ind. 1988); *McGarrity v. Berlin Metals, Inc.*, 774 N.E.2d 71 (Ind. Ct. App. 2002); *Carriage, Inc. v. Berna*, 651 N.E.2d 284 (Ind. Ct. App. 1995).

37. However, based on the facts above, Defendant Board so intentionally, willfully, and wantonly retaliated against Mrs. Robinson and terminated her from employment.

38. As a result, Mrs. Robinson suffered loss of employment, financial harm, mental anguish, emotional distress, and other damages and injuries.

VI. PRAYER FOR RELIEF

Wherefore, Mrs. Robinson respectfully requests the Court:

- A. Award her compensatory and punitive damages;
- B. Award her legal costs and attorney's fees pursuant to 42 U.S.C. § 2000e-5 and 42 U.S.C. § 1988; and
- C. Grant all other just and proper relief.

JURY DEMAND

Plaintiff demands a trial by jury on all issues alleged pursuant to Rule 38(b) of the Federal Rules of Civil Procedure.

Respectfully,

CHRISTOPHER C. MYERS & ASSOCIATES

/s/ David W. Frank

David W. Frank, #31615-02
809 South Calhoun Street, Suite 400
Fort Wayne, IN 46802-2307
Telephone: (260) 424-0600
Facsimile: (260) 424-0712
E-mail: dfrank@myers-law.com
Counsel for Plaintiff, Mrs. Julie A. Robinson

CERTIFICATE OF SERVICE

I certify that on March 28, 2019 a true and correct copy of the foregoing document was served electronically via CM/ECF to counsel of record.

/s/ David W. Frank

David W. Frank