

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

| | | |
|-------------------------|---|------------------------------------|
| ELIZABETH FRANKHOUSER, |) | |
| |) | CIVIL ACTION NO. 3:18-cv-00180-KPG |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | JURY TRIAL DEMANDED |
| CLEARFIELD COUNTY |) | |
| CAREER AND TECHNOLOGY |) | |
| CENTER, FRANKLIN WALK, |) | |
| TODD JEFFERIES, GREGORY |) | |
| PALADINA, and DOUG |) | <i>ELECTRONICALLY FILED</i> |
| MCCLELLAND |) | |
| |) | |
| Defendants. |) | |

FIRST AMENDED COMPLAINT

Plaintiff, Elizabeth Frankhouser, a resident of Cecil County, Maryland, by and through her attorneys, McCarthy Weisberg Cummings, P.C., brings this civil action for damages against the above-named Defendants, demands a trial by jury, and complains and alleges as follows:

THE PARTIES

A. Plaintiff

1. Plaintiff, Elizabeth Frankhouser (“Ms. Frankhouser” or “Plaintiff”), is an adult individual residing at 37 Franklin Drive, Port Deposit, Cecil County, Maryland.

B. Defendants

2. Defendant, Clearfield County Career and Technology Center (“CCCTC”), is an educational facility and municipal corporation body politic located at 1620 River Road, Clearfield, Clearfield County, Pennsylvania.

3. Defendant, Franklin Walk (“Mr. Walk”), is an adult individual who was employed by CCCTC as an Internet Technology Administrator. Upon information and belief, Mr. Walk resides in Clearfield County, Pennsylvania.

4. Defendant, Todd Jefferies (“Mr. Jefferies”), is an adult individual who served as CCCTC’s School Board and Joint Operating Committee President during the period relevant to this matter. By virtue of Mr. Jefferies’ position, he maintained operational control of significant aspects of CCCTC’s day-to-day functions and was authorized to act on behalf of and bind CCCTC thereby. Upon information and belief, Mr. Jeffries resides in Clearfield County, Pennsylvania.

5. Defendant, Doug McClelland (“Mr. McClelland”), is an individual who was employed by CCCTC as Truck Driver Recruiter during the period relevant to this matter. Upon information and belief, Mr. McClelland resides in Clearfield County, Pennsylvania.

6. Defendant, Gregory Paladina (“Mr. Paladina”), is an adult individual who was employed by CCCTC as the Superintendent of Record during the period relevant to this matter. By virtue of Mr. Paladina’s position, he maintained

operational control of significant aspects of CCCTC's day-to-day functions and was authorized to act on behalf of and bind CCCTC thereby. Upon information and belief, Mr. Paladina resides in Clearfield County, Pennsylvania.

JURISDICTION AND VENUE

7. This Complaint alleges violations of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 18 U.S.C. § 1030, the Civil Rights Act, 42 U.S.C. § 1983, The Fourth Amendment of the United States Constitution, U.S. CONST. Amend. IV, the Equal Pay Act of 1963, 29 U.S.C. § 206 *et seq.*, U.S. CONST. AMEND. XIV, and Title 42 § 8343 of the PA General Assembly, as well as state law tort claims.

8. Declaratory relief is sought pursuant to 28 U.S.C. §§ 2201 and 2202.

9. This Honorable Court has original jurisdiction over Plaintiff's federal law claims pursuant to 28 U.S.C. §§ 1331 and 1137.

10. This Honorable Court has jurisdiction to hear Plaintiff's pendent state law claims pursuant to 28 C.F.R. § 1367.

11. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to these claims occurred in this judicial district.

STATEMENT OF FACTS

12. Ms. Frankhouser was hired as the Executive Director by CCCTC in or about July of 2015.

13. During her nearly two (2) years with CCCTC as Executive Director, Ms. Frankhouser received two satisfactory annual evaluations and no negative annual evaluations.

Sexual Harassment, Sex Discrimination, and Retaliation

14. Ms. Frankhouser was subjected to sexually harassing comments from her supervisor, Mr. Jeffries, beginning soon after her hiring in or about July of 2015.

15. Mr. Jeffries would generally comment on Ms. Frankhouser's attractiveness and appearance on a pervasive basis.

16. Mr. Jeffries would make comments to Ms. Frankhouser such as "you are much better to look at than the previous director."

17. Mr. Jeffries would stare Ms. Frankhouser up and down in a demeaning and sexual manner on many occasions while making sexual and sexist remarks to her.

18. Upon making report of this behavior by Mr. Jeffries to Mr. Paladina, Ms. Frankhouser began to experience retaliation by Mr. Jeffries in the form of enhanced job scrutiny and generally negative and unfavorable behavior.

Ms. Frankhouser's Position

19. Ms. Frankhouser's position required extensive work utilizing the computer in her CCCTC office.

20. At all times material hereto, Mr. Walk was employed by CCCTC as the Internet Technology Administrator and was responsible for troubleshooting and resolving any work-related computer problems encountered by Ms. Frankhouser or other employees of CCCTC.

21. During the 2016-2017 school year, Ms. Frankhouser experienced multiple technological issues and glitches with the computer in her office at CCCTC.

22. During the 2016-2017 school year Ms. Frankhouser's work computer required a hard drive replacement which Mr. Walk completed.

23. After successful replacement of the hard drive, Ms. Frankhouser's work-related computer applications and file extensions had to be reloaded and resynched several times. Dropbox was one of those applications requiring resynch.

Dropbox

24. Dropbox is an application that allows certain files to be synched to specified computers, phones, and/or similar devices, so that those files may be accessed from the specified device without storing the file on that device.

25. Dropbox is not and never has been a file or folder that is stored directly on a device. Rather, it is an application that allows remotely stored files to be accessed from a computer, phone, and/or similar device.

26. Dropbox, Inc. is a company headquartered in San Francisco, California and files accessed through Dropbox are stored on servers located throughout the United States.

27. The purpose of a Dropbox account is to allow users to not clutter up space on their computers by saving items locally, rather, all files are stored on the “cloud” and can be accessed using a log-in on any internet connected device.

28. Synching a Dropbox account with a device does not save the documents, files, or folders contained therein on the hard drive of the device with which it is synched. Rather, it provides a vehicle or access point for the documents, files, and folders that are hosted and stored remotely in the Dropbox “cloud.”

29. In order to synch a device with a Dropbox account, a user must enter a username and password; without those safeguards, a Dropbox account cannot be accessed.

30. Dropbox uses multiple levels of security and encryption to safeguard user’s private data, therefore, Ms. Frankhouser had a reasonable expectation of privacy in her files which were hosted remotely on Dropbox servers.

Ms. Frankhouser's Dropbox Account

31. Ms. Frankhouser's private Dropbox account was one of the applications which had to be resynched multiple times when the hard drive of her work computer was replaced, since this application provided access to both personal and work-related content folders.

32. Although the Dropbox account was Ms. Frankhouser's private account and was hosted remotely in the cloud owned and operated by Dropbox, it was also authorized by CCCTC to be used for work-related matters.

33. Ms. Frankhouser's Dropbox application contained folders (containing personal files and/or documents), work folders (containing work related files and/or documents), and a Camera folder, which contained private pictures that Ms. Frankhouser had taken and stored there.

34. Ms. Frankhouser's Camera folder contained thousands of private and personal pictures. Among those were two (2) pictures of Ms. Frankhouser's boyfriend that could be considered borderline explicit.

35. Aside from these two (2) pictures, the Camera folder contained no other pictures of a questionably explicit nature.

36. Ms. Frankhouser's Camera folder also contained pictures of parties she had attended; and while some pictures might be considered off-color, none were salacious or otherwise explicit.

37. With the exception of a photo of Ms. Frankhouser skydiving, no personal photographs were ever stored or made their way onto her work computer.

38. Ms. Frankhouser's Dropbox account was accessible only with her private and confidential username and password.

39. Ms. Frankhouser's personal folder contained an Excel spreadsheet that contained her usernames and passwords Ms. Frankhouser was required to know for both personal and work access to various accounts and/or applications, including for her Dropbox account.

40. Mr. Walk was aware of and had personal knowledge of the existence and location of this Excel spreadsheet that contained Ms. Frankhouser's usernames and passwords.

41. Upon information and belief, during the process of replacing Ms. Frankhouser's hard drive, Mr. Walk took the hard drive home, accessed the Excel spreadsheet, and used her username and password contained therein to access Ms. Frankhouser's private Dropbox account and folders.

42. At no time did Ms. Frankhouser authorize, expressly or implicitly, Mr. Walk to access her Excel spreadsheet or her Dropbox account.

Mr. Walk and Mr. McClelland

43. In or around August of 2017, Mr. McClelland, CCCTC's Truck Driver Recruiter, was under investigation by Ms. Frankhouser for questionable work practices.

44. Mr. McClelland was aware of the investigation and that Ms. Frankhouser had initiated the investigation.

45. In or about August of 2017, Mr. McClelland was overheard stating that he would "like to kill" Ms. Frankhouser for initiating the investigation.

46. Upon information and belief, Mr. McClelland and Mr. Walk are close personal friends.

47. In early August of 2017, Mr. Walk's wife was one (1) of two (2) candidates who applied for an open Instructional Aide position with CCCTC.

48. As part of her job duties, Ms. Frankhouser formed the committee which interviewed applicants for the Instructional Aide position and took part in the interviewing process of the two applicants.

49. Mr. Walk's wife was not selected to fill the Instructional Aide position.

50. Upon information and belief, Mr. Walk and Mr. McClelland harbored personal animus towards Ms. Frankhouser, and their actions, as hereinafter described, were motivated by that personal animus.

The Accusation and Involuntary Resignation

51. Shortly after the Instructional Aide selection was made, on or about August 23, 2017, Mr. Paladina and Michelle Dutrow, CCCTC's Superintendent ("Ms. Dutrow"), met with Ms. Frankhouser and accused her of storing "naked pictures" of herself and/or others as well as inappropriate pictures of her "partying," on her CCCTC issued computer and/or cellphone.

52. Mr. Paladina had hard copies of several pictures, and informed Ms. Frankhouser that these pictures had shown up at his office and been brought to his attention that morning.

53. The pictures in Mr. Paladina's possession included the two (2) previously mentioned photographs of Ms. Frankhouser's boyfriend, and some pictures of Ms. Frankhouser at parties.

54. Mr. Paladina asked Ms. Frankhouser if she had ever shown any of the aforementioned pictures to students, which she denied.

55. Pertinently, the pictures in Mr. Paladina's possession were from Ms. Frankhouser's private and personal Camera folder, which was only accessible via her username and password-protected Dropbox account.

56. The only other individual who had access to the passwords for Ms. Frankhouser's Dropbox account was Mr. Walk.

57. At no time did Ms. Frankhouser store any “inappropriate” content on her CCCTC-issued property.

58. On or about August 24, 2017, Mr. Paladina informed Ms. Frankhouser that she would be forced to resign and directed Ms. Frankhouser to leave the building.

59. In return for her resignation, Mr. Paladina assured Ms. Frankhouser that he would not report any of the alleged pictures to the Pennsylvania Department of Education.

60. Upon information and belief, Mr. Paladina, Mr. Jefferies, Mr. McClelland, Mr. Walk, and Ms. Dutrow were all state-mandated reporters.

61. Upon information and belief, if any of the individuals named in the preceding paragraph believed the allegations made against Ms. Frankhouser to be true, they were required under Pennsylvania law to make a report to the Pennsylvania Department of Education as state-mandated reporters.

The Separation Agreement

62. On or about August 28, 2017, Mr. Paladina emailed Ms. Frankhouser a Separation Agreement and phoned her to provide specific instructions thereon.

63. During that phone call, Mr. Paladina ordered Ms. Frankhouser to sign and return the Separation Agreement that same day, August 28, 2017.

64. During the August 28, 2017, telephone conversation, Mr. Paladina told Ms. Frankhouser that if she voluntarily signed the Separation Agreement, he would not allow anything to happen regarding her certifications, that he would not contact the Pennsylvania Department of Education, that she would be compensated for her unused vacation and personal days, and that she would maintain health insurance coverage through October 31, 2017.

65. Mr. Paladina further assured Ms. Frankhouser that CCCTC would not dispute her Unemployment Compensation claim and provided her with instructions as to how to complete the Unemployment Compensation paperwork.

66. Ms. Frankhouser was and is a professional who has worked hard to obtain her credentials to build her stellar reputation and recognized the obvious threats to her career and future employability made by Mr. Paladina.

67. Under duress and coercion, Ms. Frankhouser signed and faxed the resignation documents back to Mr. Paladina on or before August 29, 2017.

68. Pertinently, the Separation Agreement stipulated a consideration period of twenty-one (21) days to review and sign the agreement, as well as a seven (7) day revocation period.

69. Per Mr. Paladina's orders that the Separation Agreement be returned immediately, Ms. Frankhouser was not provided the review time that was stipulated in the Separation Agreement and required by law.

70. Ms. Frankhouser was afforded only two (2) options by Mr. Paladina; either she could sign the resignation immediately and without proper time to process the significance of the resignation or obtain legal counsel, or she could choose not to sign the agreement and suffer irreparable harm to her state credentials and her reputation.

71. At no time was Ms. Frankhouser afforded a *Loudermill* hearing which is required as part of the “due process” that must be afforded to a public employee prior to removing the individual or impacting their employment.

72. At no point was the “resignation” from CCCTC voluntary when viewed objectively or subjectively.

Further Accusations

73. Subsequent to her termination and/or forced resignation, Ms. Frankhouser received a phone call from Dick Jones, CCCTC’s Truck Driving Instructor (“Mr. Jones”), informing her that Mr. McClelland had stated that Ms. Frankhouser had hundreds of naked pictures on her work computer and that there were also videos of Ms. Frankhouser molesting her own grandchildren.

74. Subsequent to her termination and/or forced resignation, Ms. Frankhouser received a call from Jen Womer (“Ms. Womer”), the cosmetology teacher at CCCTC, who informed her that CCCTC’s guidance counselor, Jess

McKendrick (“Ms. McKendrick”), had announced that Ms. Frankhouser had hundreds of naked pictures on her school issued computer.

CCCTC’s Investigation

75. On or about September 15, 2017, Mr. Paladina called Ms. Frankhouser and informed her that the pictures that had been delivered to his office, and which formed the basis for her forced resignation or termination, had been left on the doorstep of Mr. Jeffries, CCCTC’s School Board/JOC President, by Mr. McClelland.

76. Mr. Paladina explained that Mr. McClelland had received the pictures from Mr. Walk.

77. Mr. Paladina further stated that that Mr. Walk was going to face charges from CCCTC due to his conduct in accessing Ms. Frankhouser’s private and personal Dropbox files.

78. Mr. Paladina also confirmed that subsequent investigations had revealed that no inappropriate pictures were on Ms. Frankhouser’s CCCTC-issued computer or cell phone.

79. Upon information and belief, Mr. Walk was subsequently terminated from CCCTC for removing school property (Ms. Frankhouser’s computer hard drive) from school and taking it to his private residence.

80. Upon information and belief, Mr. Walk intentionally violated Ms. Frankhouser's privacy by accessing her private pictures, files, and/or documents from Ms. Frankhouser's Dropbox account and disseminating them in an effort to undermine her position and defame her good name.

81. Upon information and belief, Mr. McClelland acted in concert with Mr. Walk, and was well aware that Mr. Walk had violated Ms. Frankhouser's privacy.

Ms. Frankhouser's Replacement

82. Upon information and belief, CCCTC temporarily filled the position of Executive Director with a male.

83. Thereafter, the position of Executive Director was permanently filled by a male.

84. Mr. Jefferies had previously indicated he would have preferred this male permanent hire to hold the position rather than Ms. Frankhouser.

85. Upon information and belief, the male individual who replaced Ms. Frankhouser on a permanent basis was given significantly higher pay raises than Ms. Frankhouser had previously been given at CCCTC, although both received positive reviews.

86. To add insult to injury, Ms. Frankhouser has been accused by Unemployment Compensation of filling out the forms incorrectly and receiving

more than \$12,000.00 “fraudulently,” simply because she followed Mr. Paladina’s instructions in completing the Unemployment Compensation paperwork.

COUNT I

**TITLE VII VIOLATIONS SEXUAL HARASSMENT, GENDER
DISCRIMINATION AND RETALIATION**

**Elizabeth Frankhouser v. Clearfield County
Career and Technology Center**

87. All prior paragraphs are incorporated herein as if set forth fully below.

88. Ms. Frankhouser filed a charge of discrimination with the United States Equal Employment Opportunity Commission, which was docketed as Charge Number 533-2018-01435, and for which a Notice of Right to Sue was issued on November 7, 2018, thereby exhausting Ms. Frankhouser’s administrative remedies prior to bringing this Count.

89. Defendant created and permitted a hostile work environment based upon Ms. Frankhouser’s female gender.

90. The acts of the Defendant and its officers, agents and employees manifesting and permitting this hostile environment included allowing Mr. Jeffries to sexually harass Ms. Frankhouser and to retaliate against her once she reported his actions.

91. As a consequence of the hostile environment supported and encouraged by Defendant's actions and failures to act, Ms. Frankhouser was subjected to emotional distress, humiliation, ridicule, and a negative effect on her work product and ability to fully and effectively perform her job duties and responsibilities, all of which manifested itself in mental distress, injury, and damage.

92. As a result of the hostile environment, Ms. Frankhouser has suffered and continues to suffer, emotional distress, a loss of self-respect and confidence, and has been subjected to great damage to her career and professional standing.

93. The actions of the Defendant set forth above, constitute violations of Title VII.

WHEREFORE, Plaintiff, Elizabeth Frankhouser, respectfully requests this Honorable Court enter judgment in her favor and against Clearfield County Career and Technology Center, together with compensatory damages, punitive damages, reasonable attorneys' fees and costs, and any such other relief as this Honorable Court deems just and appropriate.

COUNT II

VIOLATION OF THE CIVIL RIGHTS ACT (42 U.S.C. §1983)

Elizabeth Frankhouser v. All Defendants

94. All prior paragraphs are incorporated herein as if set forth fully below.

95. Section 1983 states in pertinent part:

Every person who under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, Suit in equity, or other proper proceeding for redress

42 U.S.C. § 1983.

96. All Defendants are “persons” within the meaning of Section 1983 in that at all times material to this action, they were acting under the color of state law as a political subdivision of the Commonwealth of Pennsylvania, or a representative thereof.

97. Defendants’ unlawful access to the pictures and/or files contained in Ms. Frankhouser’s Dropbox account as described above, deprived Ms. Frankhouser of her right to privacy as protected by the Fourth Amendment of the United States Constitution. Notably, Ms. Frankhouser never housed any of her personal files on or accessed any of her personal files through her employer’s servers or computers.

98. Ms. Frankhouser learned of this violation of her privacy rights on or about August of 2017, and this action has been commenced within the applicable two-year statute of limitations.

99. Defendants' actions, as described above, were committed consciously, intentionally, wantonly, and with malicious intent, entitling Ms. Frankhouser to an award of punitive damages.

100. Ms. Frankhouser has no adequate remedy at law for Defendant's violation of The Civil Rights Act.

WHEREFORE, Plaintiff, Elizabeth Frankhouser, respectfully requests this Honorable Court to enter judgment in her favor and against all Defendants, together with compensatory damages, punitive damages, reasonable attorneys' fees and costs, and any such other relief as this Honorable Court deems just and appropriate.

COUNT III

VIOLATION OF THE 4TH AMENDMENT TO THE U.S. CONSTITUTION

Elizabeth Frankhouser v. All Defendants

101. All prior paragraphs are incorporated herein as if set forth fully below.

102. Under the protection of the Fourth Amendment of the United States Constitution, U.S. CONST. Amend. IV, Plaintiff had a reasonable expectation of privacy with respect to the use of her private Dropbox account which is hosted on a remote server owned by Dropbox and which can only be accessed via the entry of a username and password.

103. All Defendants were acting under the color of state law as a political subdivision of the Commonwealth of Pennsylvania, or a representative thereof.

104. Mr. Walk, as a representative of the school and at the school's instruction, in his capacity as an IT professional, gained access to Ms. Frankhouser's Dropbox account which contained private photographs which she deliberately did not store on or access through CCCTC provided phones or computers.

105. Upon information and belief, Defendants, including Mr. Walk and Mr. McClelland conspired together and worked in concert to violate Ms. Frankhouser's expectation of privacy and to use the unlawfully obtained photographs to affect her employment status with CCCTC.

106. CCCTC knowingly used these unlawfully obtained photographs to force Ms. Frankhouser to involuntarily resign her position.

107. It was known to decision makers and those in charge at CCCTC that the photographs had not been hosted on or accessed through school-issued phones or computers and had been obtained unlawfully by Mr. Walk.

108. Ms. Frankhouser has no adequate remedy at law for Defendant's violation of the 4th Amendment to the U.S. Constitution.

109. By failing to take corrective action immediately against Mr. Walk for the invasion of Ms. Frankhouser's privacy, and by terminating Ms. Frankhouser under false pretenses, CCCTC not only allowed the invasion of privacy to take place, they in fact "benefited" from the unlawfully obtained documents.

WHEREFORE, Plaintiff, Elizabeth Frankhouser, respectfully requests this Honorable Court to enter judgment in her favor and against all Defendants, jointly and severally, together with compensatory damages, punitive damages, reasonable attorneys' fees and costs, and any such other relief as this Honorable Court deems just and appropriate.

COUNT IV

VIOLATION OF THE EQUAL PAY ACT

Elizabeth Frankhouser v. Clearfield County Career and Technology Center

110. All prior paragraphs are incorporated herein as if set forth fully below.

111. At all times material hereto, and pursuant to the Equal Pay Act of 1963, 29 U.S.C. Section 206 *et seq.*, Ms. Frankhouser had a reasonable expectation that she should be compensated for her position within CCCTC at a rate equal to male individuals who held the same position and were performing the same duties.

112. Upon Ms. Frankhouser's forced resignation, CCCTC temporarily hired a male individual and then a permanently hired a male individual to replace

her; both men performed essentially the exact same job functions as Executive Director.

113. Upon information and belief, both males who replaced Ms. Frankhouser as Executive Director enjoy(ed) a higher rate of pay and larger pay increases than Ms. Frankhouser did while she was employed at CCCTC, even though both individuals had positive reviews and performed the same job duties within the designated position of Executive Director.

114. By committing the aforementioned acts, Defendants violated the Equal Pay Act of 1963, 29 U.S.C. Section 206 *et seq.*, by using sex as a determining factor for pay.

115. Defendants conduct was willful.

WHEREFORE, Plaintiff, Elizabeth Frankhouser, respectfully requests this Honorable Court to enter judgment in her favor and against Defendant, CCCTC, including liquidated damages, costs, and attorney's fees, and any such other relief as this Honorable Court deems just and appropriate.

COUNT V

**VIOLATION OF THE 14TH AMENDMENT TO THE
U.S. CONSTITUTION**

**Elizabeth Frankhouser v. Clearfield County
Career and Technology Center**

116. All prior paragraphs are incorporated herein as if set forth fully below.

117. Under the protection of the Fourteenth Amendment of the United States Constitution, U.S. CONST. Amend. XIV, and by virtue of being an employee of a government/quasi-government entity, Ms. Frankhouser had a right to due process before her forced resignation.

118. Due process requires that after being accused of an infraction at work and after being notified of potential discipline, the accused has a right to a hearing, commonly referred to as a *Loudermill* hearing.

119. Ms. Frankhouser was never afforded an opportunity to face her accusers and respond to the accusations leveled against her prior to being forced to resign under threat of being reported to the Pennsylvania Department of Education and having her certifications and credentialing threatened.

WHEREFORE, Plaintiff, Elizabeth Frankhouser, respectfully requests this Honorable Court to enter judgment in her favor and against Defendant, CCCTC, together with compensatory damages, punitive damages, reasonable attorneys' fees

and costs, and any such other relief as this Honorable Court deems just and appropriate.

COUNT VI

INVASION OF PRIVACY: PENNSYLVANIA COMMON LAW

Elizabeth Frankhouser v. All Defendants

120. All prior paragraphs are incorporated herein as if set forth fully below.

121. At all times material hereto, and pursuant to the common law of the Commonwealth of Pennsylvania, Ms. Frankhouser had a reasonable expectation of privacy with respect to the content contained on her private Dropbox account.

122. At no time did Ms. Frankhouser authorize Mr. Walk, CCCTC, or any of the named Defendants to access her Dropbox account.

123. At all times, Ms. Frankhouser kept her personal and private photographs on her Dropbox to deliberately avoid having them saved on any CCCTC property and to keep them protected by a username and password. Notably, Ms. Frankhouser never housed any of her personal files on or accessed any of her personal files through her employer's servers or computers.

124. Upon information and belief, Mr. Walk illegally obtained access to Ms. Frankhouser's Dropbox account, gathered her private pictures and/or files, and provided said photographs to decision makers within CCCTC, who had knowledge

of the unlawful origination of the photographs, and who then unlawfully terminated Ms. Frankhouser from her position with CCCTC.

WHEREFORE, Plaintiff, Elizabeth Frankhouser, respectfully requests this Honorable Court to enter judgment in her favor and against all Defendants, jointly and severally, together with compensatory damages, punitive damages, reasonable attorneys' fees and costs, and any such other relief as this Honorable Court deems just and appropriate.

COUNT VII

DEFAMATION PER SE

Elizabeth Frankhouser v. All Defendants

125. All prior paragraphs are incorporated herein as if set forth fully below.

126. Pursuant to Pennsylvania law, in any action for defamation, the plaintiff has the burden of proving:

1. The defamatory character of the communication.
2. Its publication by the defendant.
3. Its application to the plaintiff.
4. The understanding by the recipient of its defamatory meaning.
5. The understanding by the recipient of it as intended to be applied to the plaintiff.

6. Special harm resulting to the plaintiff from its publication.
7. Abuse of a conditionally privileged occasion.

42 Pa. C.S.A. § 8343.

127. The facts which were plead with specificity above, clearly evince a plan by Mr. Walk, Mr. McClelland, Mr. Jeffries, and others to use photographs that were unlawfully obtained from Ms. Frankhouser's Dropbox account, and to disseminate them to individuals who would use that information to ruin Ms. Frankhouser's reputation, force her resignation (termination), threaten her professional certifications, and cost her future employment opportunities.

128. Ms. Frankhouser has been made aware on several occasions by acquaintances of hers that public mention was made in meetings that she had been terminated for inappropriate pictures on her CCCTC issued computer and phone, which was untrue because Ms. Frankhouser did not store or access any inappropriate pictures through her CCCTC issued computer or phone.

129. Ms. Frankhouser has been made directly aware on several occasions that rumors originating from Mr. Walk, but spreading through other members of CCCTC staff from top to bottom, claimed that she had photos and videos on her CCCTC issued property of her molesting her own grandchildren and engaging in

disgusting displays of a sexual nature, all of which claims are patently false with no basis in reality.

130. Ms. Frankhouser is acutely aware of stories in the local newspaper who used sources within CCCTC claiming she had resigned due to inappropriate pictures on CCCTC issued computers or phones, which was untrue because Ms. Frankhouser did not store or access any inappropriate pictures through her CCCTC issued computer or phone.

131. Ms. Frankhouser has suffered extreme emotional harm, financial harm, actual forced resignation (termination) from CCCTC, and the loss of employment opportunity in the educational field.

132. Ms. Frankhouser has applied for and been summarily turned down for jobs for which she is qualified or over-qualified within the education field in Pennsylvania, because her good name and reputation have been forever tarnished due to the defamatory conduct of Mr. Walk, Mr. McClelland, Mr. Paladina, Mr. Jefferies, and CCCTC, generally.

133. Ms. Frankhouser has been informed by individuals at educational facilities to which she has applied for work, that she would have been hired “but for” the false claims made about her character by individuals within CCCTC and the “circumstances” surrounding her “resignation” from CCCTC.

134. Ms. Frankhouser has suffered extreme emotional and financial harm due to a few individuals within CCCTC who knowingly relied on ill-gotten means of access and who knew the photographs were never once saved on any CCCTC issued phones or computers which was the false story carried out in a malicious way by CCCTC and its employees and agents.

WHEREFORE, Plaintiff, Elizabeth Frankhouser, respectfully requests this Honorable Court to enter judgment in her favor and against all Defendants, jointly and severally, together with compensatory damages, punitive damages, reasonable attorneys' fees and costs, and any such other relief as this Honorable Court deems just and appropriate.

VIII.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Elizabeth Frankhouser v. All Defendants

135. All prior paragraphs are incorporated herein as if set forth fully below.

136. Pursuant to §46 of The Second Restatement of Torts, and as adopted by Pennsylvania law, damages for claims of Intentional Infliction of Emotional Distress are available where "One who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress, and if bodily harm to the other results from it,

for such bodily harm.” *See, Kazatsky v. King David Mem'l Park, Inc.*, 515 Pa. 183, 190, 527 A.2d 988, 991 (1987).

137. The facts which were pled with specificity above show a clear plan by all Defendants to not only allow and encourage the theft of personal pictures hosted in a private Dropbox account, but to target Ms. Frankhouser’s position at CCCTC and to smear her good name and standing in the community.

138. The Defendant’s actions in this matter were extreme and outrageous both in the method in which the alleged photographs were stolen from a personal remotely hosted account and the manner in which the stolen photographs were used to disseminate lies about Ms. Frankhouser and to coerce her into resigning her position under duress.

139. Ms. Frankhouser has suffered the loss of her career, loss of benefits, loss of reputation and standing and in the community, and irreparable damage to her chances of ever being hired in the education community in the future.

140. As a result of the shocking and outrageous activities of the Defendants, Ms. Frankhouser has lost a considerable amount of weight, experienced great difficulty sleeping, and has been forced to increase medication to treat her anxiety.

WHEREFORE, Plaintiff, Elizabeth Frankhouser, respectfully requests this Honorable Court to enter judgment in her favor and against all Defendants, jointly

and severally, together with compensatory damages, punitive damages, reasonable attorneys' fees and costs, and any such other relief as this Honorable Court deems just and appropriate.

DEMAND FOR JURY

Pursuant to Federal Rule of Civil Procedure 38(b) and otherwise, Plaintiff respectfully demands a trial by jury on all issues for which a right to a jury trial exists.

Respectfully submitted,

McCarthy Weisberg Cummings, P.C.

December 4, 2018

Date

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