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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ERIC DODGE, an individual,

Plaintiff,

vs.

Case No.

COMPLAINT

EVERGREEN SCHOOL DISTRICT NO. 114,
a public corporation; CAROLINE GARRETT,
an individual; and JANA E GOMES, an
individual,

Defendants.

Jury Trial Requested

Plaintiff Eric Dodge alleges as follows:

INTRODUCTION

1. As recognized by the Supreme Court of the United States: “Speech by citizens on matters of public concern lies at the heart of the First Amendment, which was fashioned to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people.” *Lane v. Franks*, 573 U.S. 228, 235 (2014) (internal quotation omitted).

2. This constitutional right to freedom of speech also protects individuals who are employed by governmental entities: “public employees *do not renounce their citizenship* when they accept employment, and this Court has cautioned time and again that public employers may not condition employment on the relinquishment of constitutional rights.” *Id.* (italics added).

1 Thus, when not performing work in their official capacity, such employees remain private
2 citizens and are free to have their own interests, beliefs, and opinions—including on matters of
3 politics—without being punished for them by their public employers and supervisors.

4 3. Plaintiff Eric Dodge was a long-standing and respected teacher employed by a
5 public school district in Vancouver, Washington, who was returning to start new duties in a
6 different middle school following an extended absence to rehabilitate from a stroke, from which
7 he had finally recovered.

8 4. On his second day back to work, and before students had even returned, Dodge
9 was verbally attacked and defamed by his new principal for the political opinions he held as a
10 private citizen—specifically, statements in support of President Trump—which caused not only
11 emotional devastation to plaintiff but also a recurrence of the debilitating stroke symptoms from
12 which he had previously recovered. These emotional and physical injuries have caused plaintiff
13 to be unable to continue his livelihood by working as a teacher.

14 5. Seeking redress, plaintiff filed a complaint about the principal’s discrimination
15 and retaliation with the school district’s human resources department, but the HR director
16 worked closely with the principal behind the scenes to ensure that a predetermined outcome of
17 “unsubstantiated” was achieved. As part of these efforts, the HR director hired an outside
18 investigator to look into plaintiff’s complaint, but when that investigator returned numerous
19 findings that were supportive of plaintiff and critical of the principal, the HR director refused to
20 share any of this information with plaintiff. Instead, the HR director wrote her own report to
21 provide to plaintiff, in which she misstated and misrepresented the investigator’s actual findings
22 in order to close the investigation as unsubstantiated.

23 6. Plaintiff then appealed HR’s determination to the school district’s elected board
24 members, who declined to take any corrective action. Notably, the school district refused to give
25 plaintiff a copy of the investigator’s full report until weeks after the appeal was already over.

1 17. Over these years, plaintiff developed a reputation for being an excellent teacher
2 and coach, known for his genuine concern for the well-being of his students and for the respect
3 and cooperation he has shown toward his colleagues.

4 18. On October 23, 2017, while working at Evergreen’s Mountain View High School,
5 plaintiff unexpectedly suffered a stroke, which caused numerous symptoms including loss of
6 strength, loss of coordination, and a verbal stutter.

7 19. Plaintiff took a leave of absence for the remainder of the 2017/2018 schoolyear,
8 focusing on extensive rehab and therapy in an effort to reach full recovery.

9 20. During the 2018/2019 schoolyear, plaintiff continued with his rehab and returned
10 to work at Evergreen on a part-time basis as a substitute teacher. By the end of the schoolyear,
11 plaintiff’s stroke-related symptoms had essentially resolved, and he and his physician agreed he
12 was ready to return to classroom work on a full-time basis.

13 21. Because his former position at Mountain View High School was no longer open,
14 Evergreen assigned plaintiff to teach Science at Wy’East for the 2019/2020 schoolyear. Plaintiff
15 was very happy about the prospect of returning to full-time duty as a teacher.

16 22. Outside of work, plaintiff has had many activities and interests. In addition to
17 being a husband and father, plaintiff has enjoyed reading about and discussing the news and
18 politics as an informed citizen. He has particularly enjoyed friendly debate and open exchange
19 of ideas among people with different backgrounds and perspectives.

20 23. Plaintiff identifies himself as politically “independent” but leaning Republican.
21 He did not vote for Donald Trump in 2016 out of concerns about Trump’s character, but as time
22 passed with Trump serving as President, plaintiff approved of the job he was doing and so began
23 to be supportive of him.

24 24. Early in the summer of 2019, plaintiff saw a red “Make America Great Again” hat
25 (“MAGA hat” herein) for sale with an internal tag that said: “Made in China”. Plaintiff

1 purchased the hat both because he supported Trump but also because he found it ironic and
2 humorous that the hat had been made in China.

3 25. During the summer holidays in 2019, plaintiff would at times wear the MAGA hat
4 while at gatherings or out in the public. He liked to wear the hat as a conversation-starter, with
5 the idea of explaining that ordinary and normal people support Trump, despite some of Trump's
6 flaws (as symbolized by the "Made in China" tag in the hat).

7 26. He would also wear the MAGA hat when he was going to be outside on a sunny
8 day to protect the sun spots on his head from developing skin cancer, as he had been cautioned to
9 do by his physician in the summer of 2019 after the sun spots had been bleeding. At that time,
10 the MAGA hat was the only hat owned by plaintiff.

11 27. Plaintiff's first day of work at Wy'East was on August 22, 2019, which was the
12 start of a week planned for teacher training and preparation, with no students present.

13 28. It was a sunny day, and so plaintiff was wearing his MAGA hat while walking
14 from his vehicle to the entrance of Wy'East. When he arrived at the front door, he doffed the
15 MAGA hat, and he did not subsequently wear or purposefully display it while inside Wy'East.

16 29. After completion of a training session, plaintiff was approached in his classroom
17 by his new principal, defendant Garrett, with whom he had not previously worked.

18 30. Unbeknownst to plaintiff at the time, Garrett had a prior history at Wy'East of
19 aggressively promoting political ideology and messages within the school, both in her official
20 and personal capacities, and in creating a fearful and hostile environment with certain staff
21 members, including creating a double standard for staff whose political views differed from her
22 own.

23 31. During this first meeting, Garrett voiced her concerns about plaintiff's MAGA
24 hat. Plaintiff assured Garrett that he was not trying to offend anyone with the hat. Garrett
25 concluded by stating she wouldn't say he couldn't wear the hat, but that she would advise him to

1 “use his better judgment”, which was a veiled way of stating he should not wear the hat. Given
2 that plaintiff had never worn the MAGA hat inside of Wy’East, plaintiff reasonably understood
3 Garrett’s concerns to be directed at the fact that he owned the hat at all and/or that he might wear
4 it on his personal time.

5 32. The next morning, August 23, 2019, when plaintiff arrived at Wy’East for more
6 training and preparation, he left his MAGA hat in his car, not wanting to cause any friction with
7 Garrett and hoping to succeed at Wy’East.

8 33. Around mid-day, plaintiff left Wy’East to attend a training session at a different
9 Evergreen location. Given that Garrett was not present at that off-site location, plaintiff wore the
10 MAGA hat in that off-site parking lot while walking to and from his vehicle to the front door,
11 but plaintiff did not wear it or purposefully display it while inside the building. When plaintiff
12 returned to Wy’East that same afternoon, plaintiff again left the MAGA hat in his car and did not
13 wear it or display it at or around Wy’East.

14 34. At no other point did plaintiff wear or bring the MAGA hat with him while on
15 Evergreen properties. Notably, in a subsequent investigation, Evergreen concluded that plaintiff
16 had never violated any Evergreen policy or rule in wearing the MAGA hat at any time.

17 35. Back at Wy’East that same afternoon, Garrett approached and cornered plaintiff
18 with an aggressive and hostile tone. She began the conversation by exclaiming: “OK, what is the
19 fucking deal with you and your hat!”

20 36. Plaintiff was caught off-guard and by surprise, as the MAGA hat was in his car
21 and had not been in the building, and as her tone was dramatically different from the day before.

22 37. For the next 15 minutes, Garrett—acting under color of state law, and acting as
23 plaintiff’s new boss—repeatedly and aggressively berated plaintiff. Among other things, she
24 declared that plaintiff was a “racist”, “bigot”, “homophobe”, “liar”, and “hateful person”.
25 Plaintiff felt threatened, insulted and bullied, simply because he owned a hat of which Garrett

1 disapproved.

2 38. Garrett concluded her verbal assault by telling plaintiff to get union representation
3 because he “would need it” the next time they talked, thereby threatening discipline to plaintiff
4 based solely on his political beliefs and speech.

5 39. The effects of Garrett’s attack were devastating to plaintiff. In addition to causing
6 severe emotional distress, humiliation, and fear, Garrett’s attack caused plaintiff’s post-stroke
7 symptoms to recur, wiping out his progress from rehab and immediately bringing back his verbal
8 stutter and an inability to walk in a straight line.

9 40. As a result of these emotional and physical injuries, plaintiff has been unable to
10 continue teaching for Evergreen and remains on an unpaid leave of absence from employment.

11 41. Seeking redress, plaintiff filed an internal complaint with Evergreen’s Human
12 Resources department, including that Garrett violated Evergreen’s policies mandating civility
13 and prohibiting harassment, intimidation, and bullying.

14 42. This HR complaint was managed by defendant Gomes, who handled the
15 investigation in a biased and unfair manner intended to support and protect Garrett to the
16 detriment of plaintiff.

17 43. In fact, before plaintiff had even filed his complaint with HR, Gomes had already
18 been communicating and working with Garrett to coordinate a response to the allegations and to
19 ensure that plaintiff would not return to work at Wy’East.

20 44. Upon information and belief, Gomes and Garrett also conceived a plan to try to
21 prevent plaintiff’s HR complaint from being investigated. Specifically, before the HR
22 investigation was completed, Gomes blackmailed plaintiff in an effort to get him to drop his
23 complaint against Garrett. Gomes told plaintiff that there had been a public records request filed
24 related to his complaint (not filed by plaintiff) and threatened that if plaintiff did not immediately
25 drop his complaint, then she would be forced to turn over sensitive and private/personal

1 information—including protected medical information—about plaintiff to the outside party who
2 had made the records request. Plaintiff rejected the blackmail and advised Gomes to follow
3 applicable laws in responding to any public records requests, including by withholding or
4 redacting any protected information.

5 45. Gomes also used her position in other ways to try to harm plaintiff and end his
6 employment. For example, in responding to plaintiff’s requests for leave, Gomes repeatedly
7 demanded the entirety of plaintiff’s medical records from both primary care providers and
8 specialists without any reasonable limitation on the scope of those medical records.

9 46. With regard to plaintiff’s inquiries regarding benefits—which are typically
10 handled by different HR staff members who manage benefits administration—Gomes prohibited
11 any of those staff members from speaking with plaintiff; rather, Gomes insisted that she be the
12 sole person to communicate with plaintiff going forward. Gomes then placed a series of
13 roadblocks in front of every effort by plaintiff to obtain various benefits to which he was entitled.

14 47. When plaintiff refused to drop his HR complaint against Garrett, Gomes advised
15 plaintiff that Evergreen was hiring an “independent investigator” to look into the allegations.
16 However, when the investigation was completed, Gomes refused to share the investigator’s
17 report or findings to plaintiff.

18 48. Instead, on October 1, 2019, Gomes sent to plaintiff only her own written
19 summary report of the investigator’s findings, which concluded that “an act of discrimination,
20 harassment, intimidation and bullying [by Garrett] *did not occur*” and therefore closed plaintiff’s
21 HR complaint as unsubstantiated. (Italics added.) Gomes’s report went on to assert that, in fact,
22 the “preponderance of the evidence” showed that *plaintiff* was the one who made others
23 uncomfortable (even though no HR complaint had been made or investigated against plaintiff).

24 49. Plaintiff subsequently met with Gomes and asked her again to share the
25 investigator’s reports and reconsider her decision, but Gomes rejected all of these requests. As a

1 result, on October 30, 2019, pursuant to Evergreen’s policies, plaintiff appealed Gomes’s
2 decision to Evergreen’s elected board of directors. He also again requested copies of all relevant
3 records, especially the actual records and reports from the “independent investigator”.

4 50. In response, Evergreen scheduled the board’s appeal hearing to occur on
5 November 14, 2019—just two weeks out—but stonewalled the records request by providing
6 multiple copies of records that were irrelevant or known to be already in plaintiff’s possession,
7 rather than any of the key records requested.

8 51. On November 14, 2019, plaintiff argued his appeal, but despite being informed
9 about this misconduct by Garrett and Gomes, Evergreen’s board refused to take any action to
10 correct it.

11 52. With regard to the investigator’s documents, Evergreen inexplicably waited until
12 November 8, 2019 (*i.e.*, just a few days before the hearing) to provide the investigator’s 5-page
13 abridged report and until December 2, 2019 (*i.e.*, long after the hearing) to provide the
14 investigator’s full 18-page report, despite the fact that both reports were fully drafted and in
15 Evergreen’s possession by September 23, 2019.

16 53. Moreover, these reports demonstrated that Gomes’s summary report from October
17 1, 2019, had significantly misstated and distorted the actual findings made by the investigator.
18 For example, Gomes’s summary report omitted all references to the investigator’s findings that
19 were adverse to Garrett and/or Evergreen, such as Garrett’s established and well-known history
20 of pushing political statements and symbols in the school and permitting others holding similar
21 political views as her to do so as well, thereby creating a “double standard” among the
22 employees based on their personal political views.

23 54. Gomes’s report further omitted reference to the finding that Garrett had been
24 motivated to confront plaintiff on August 23, 2019 simply because he wore the MAGA hat.
25 According to the investigator, Garrett herself admitted she had told plaintiff that “she did not

1 want him wearing the hat anymore”, whether at Wy’East, or at other schools, or even just “out
2 there in the world” as a representative of her school.

3 55. In addition, the investigator’s report made it clear that Gomes had falsely asserted
4 that plaintiff had violated school district policies by a “preponderance of the evidence” by
5 making others uncomfortable. To the contrary, the investigator explicitly found that plaintiff had
6 *not* violated any of Evergreen’s policies, including by wearing the MAGA hat.

7 56. The investigator further concluded that the plaintiff had “reasonably perceived”
8 Garrett’s statements to include “a threat of discipline” for wearing the hat, and that Garrett’s
9 conduct toward plaintiff “did have a negative substantial affect [sic] on Mr. Dodge.”

10 **FIRST CLAIM FOR RELIEF**

11 **(Civil Rights; 42 U.S.C. §1983)**

12 **(Against All Defendants)**

13 57. Plaintiff hereby incorporates the allegations in Paragraphs 1 through 56 as if fully
14 set forth here.

15 58. Defendants are each a “person” under 42 U.S.C. §1983.

16 59. As set forth above, defendants violated plaintiff’s constitutional rights to freedom
17 of speech and due process under the First, Fifth, and Fourteenth Amendments to the United
18 States Constitution.

19 60. The actions of defendants were willful, intentional, and in reckless disregard of
20 plaintiff’s constitutional rights.

21 61. Plaintiff has consequently suffered injury, harm, and damages.

22 62. Plaintiff’s damages include economic damages, including but not limited to lost
23 wages, lost benefits, loss of future earnings capacity and benefits, and medical expenses;
24 noneconomic damages, including but not limited to mental anguish, distress, humiliation,
25 anxiety, pain and suffering, loss to reputation, embarrassment, and fear; and punitive damages, in

1 amounts to be proven at trial.

2 63. Plaintiff is also entitled to prevailing plaintiff attorneys' fees and costs under 42
3 U.S.C. §1988 or as otherwise provided by law.

4 **SECOND CLAIM FOR RELIEF**

5 **(Conspiracy to Violate Civil Rights; 42 U.S.C. §1985)**

6 **(Against All Defendants)**

7 64. Plaintiff hereby incorporates the allegations in Paragraphs 1 through 63 as if fully
8 set forth here.

9 65. Defendants concertedly deprived plaintiff of his constitutional rights to freedom
10 of speech and due process, and those concerted acts evidence a conspiracy to deprive plaintiff of
11 equal privileges or immunities under the laws in violation of 42 U.S.C. §1985 (3).

12 66. Plaintiff has consequently suffered injury and damages, as set forth above.

13 **THIRD CLAIM FOR RELIEF**

14 **(Neglect to Prevent Violation of Civil Rights; 42 U.S.C. §1986)**

15 **(Against All Defendants)**

16 67. Plaintiff hereby incorporates the allegations in Paragraphs 1 through 66 as if fully
17 set forth here.

18 68. Under 42 U.S.C. §1986, a person who has actual or constructive knowledge of but
19 neglects to prevent acts prohibited by 42 U.S.C. §1985 is liable for damages resulting from the
20 acts.

21 69. Each defendant was aware, actually or constructively, of the discriminatory and
22 retaliatory actions of the other defendants or their own employees, had the ability to prevent the
23 actions, and failed to prevent the actions, in violation of 42 U.S.C. §1986.

24 70. Plaintiff has consequently suffered injury and damages, as set forth above.

25 ///

FOURTH CLAIM FOR RELIEF

(Civil Rights; Washington State Constitution)

(Against All Defendants)

71. Plaintiff hereby incorporates the allegations in Paragraphs 1 through 70 as if fully set forth here.

72. As set forth above, defendants violated plaintiff's constitutional rights to freedom of speech and due process under Article I, Section 3 and Article I, Section 5 of the Washington State Constitution.

73. The actions of defendants were willful, intentional, and in reckless disregard of plaintiff's constitutional rights.

74. Plaintiff has consequently suffered injury and damages, as set forth above.

FIFTH CLAIM FOR RELIEF

(State Civil Service Law Violations; RCW 41.06.250)

(Against All Defendants)

75. Plaintiff hereby incorporates the allegations in Paragraphs 1 through 74 as if fully set forth here.

76. RCW 41.06.250(2) provides that "[e]mployees of the state or any political subdivision thereof shall have the right to vote and to express their opinions on all political subjects and candidates...."

77. As set forth above, defendants deprived plaintiff of the rights guaranteed to him under RCW 41.06.250 as a public employee.

78. Plaintiff has consequently suffered injury and damages, as set forth above.

SIXTH CLAIM FOR RELIEF

(Outrage)

(Against All Defendants)

1 79. Plaintiff hereby incorporates the allegations in Paragraphs 1 through 78 as if fully
2 set forth here.

3 80. As set forth above, defendants engaged in extreme and outrageous conduct
4 directed to plaintiff, which intentionally or recklessly inflicted emotional distress on plaintiff.

5 81. Plaintiff has consequently suffered severe emotional distress and damages, as set
6 forth above.

7 **SEVENTH CLAIM FOR RELIEF**

8 **(Defamation)**

9 **(Against Defendant Garrett Only)**

10 82. Plaintiff hereby incorporates the allegations in Paragraphs 1 through 81 as if fully
11 set forth here.

12 83. Upon information and belief, defendant Garrett made false and defamatory
13 statements about plaintiff to other employees and agents of Evergreen, such as that plaintiff was
14 “racist”, “bigoted”, or “hateful” for wearing the MAGA hat.

15 84. The defamatory statements by Garrett were intentional, malicious, and not
16 privileged.

17 85. The defamatory statements caused actual damage to plaintiff, including harm to
18 his reputation at Evergreen.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, plaintiff Eric Dodge respectfully prays for judgment to be entered
21 granting him relief as follows:

- 22 A. Compensatory damages in an amount to be proven at trial;
23 B. Punitive damages in an amount to be proven at trial;
24 C. Prejudgment interest on any award of lost wages and lost benefits;
25 D. Plaintiff’s reasonable attorneys’ fees and costs under 42 U.S.C. §1988 or as

1 otherwise provided by law;

2 E. A declaration that defendants have committed the above violations of plaintiff's
3 civil rights; and

4 F. Such other and further relief as the Court may allow.

5 **DEMAND FOR JURY TRIAL**

6 Plaintiff hereby demands a jury trial on all questions so triable.

7
8 Dated this 11th day of March, 2020.

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