

relevant times, he was employed as the Associate Director of Athletic Programs in the Department of Parks and Recreation (“DPR”). During his employment at DPR, Plaintiff was never subject to any disciplinary action. He is an “employee” and a “whistleblower” as defined by the D.C. Whistleblower Protection Act (“WPA”) D.C. Code § 1-615.52(a)(3) and (9). Plaintiff is not a public figure.

3. Defendant District of Columbia is the Government of the District of Columbia. The District of Columbia is a municipal corporation capable of being sued. Timely and adequate written notice relating to this action was provided to the Mayor of the District of Columbia, in satisfaction of the requirements of D.C. Code § 12-309.

4. At all relevant times, Defendant Adrian M. Fenty has been the Mayor of and employed by the District of Columbia. He is a “supervisor” as defined by the WPA, D.C. Code § 1-615.52(a)(8). This Complaint arises out of actions taken by Defendant Fenty for personal reasons, but using the authority of his official capacity and acting within the scope of his employment.

5. At all relevant times, Defendant Clark E. Ray was employed by as Director of the DPR. He is a “supervisor” as defined by the WPA, D.C. Code § 1-615.52(a)(8). This Complaint arises out of actions taken by Defendant Ray for personal reasons, but using the authority of his official capacity and acting within the scope of his employment.

FACTUAL BACKGROUND

6. In or about January 2008, Plaintiff was appointed to be in charge of recreation as Associate Director for Athletic Programs, within the DPR. His supervisor was Defendant Clark E. Ray, the Director of DPR.

7. Throughout his employment, Plaintiff exceeded expectations in the performance of his duties. He was evaluated accordingly by his supervisor, Defendant Ray, on October 31, 2008.

8. As Associate Director for Athletic Programs, Plaintiff was responsible for the administration of DPR's youth basketball leagues. Participation in these leagues is governed by rules, including rules establishing age limits for players in age-defined divisions. Thus, players in the Recreation leagues start with a "Pee Wee" division, for players aged 6, 7 and 8; and then graduate, in order, to "Pony" (ages 9 and 10), "Junior" (ages 11 and 12), "Intermediate" (ages 13, 14 and 15), and "Senior" (ages 16, 17 and 18).

9. The DPR Rules provide that "no player can be over the designated age for their respective division prior to April 5th." Thus, a player who turns 9 before April 5, 2009 is not eligible to play in the Pee Wee division during 2009, but should play in the Pony division.

10. In addition, the DPR Rules require that each player provide documentation each season, including a registration sheet, an insurance information sheet, agreement to the player and parent code of conduct, age verification, up-to-date physicals, and an updated picture.

11. The DPR Rules are designed "to provide a safe, healthy and positive environment for all youth participants."

12. On or about February 11, 2009, staff members of DPR notified Plaintiff that they were receiving calls from members of the public complaining about violations of the DPR Rules. Specifically, callers complained that the twin sons of Defendant Fenty were playing, inappropriately, for Emery Playground's team in the Pee Wee division (for children aged 6, 7 and 8).

13. Because Defendant Fenty's children turned 9 on March 8, 2009, they are "league age" 9 for the 2009 season, and ineligible to compete with the children in the Pee Wee division.

14. During the February 11 discussion, the staff members of DPR told Plaintiff they were concerned because they believed that Defendant Fenty was flouting the DPR rules that the DPR staffers were required to uphold with respect to all other participants in the youth leagues. They also reported that Sean Conley, a DPR senior staff person who is a personal aide to Mayor Fenty, had told DPR staff that Defendant Fenty's sons were to play in the Pee Wee division. Plaintiff told the staffers that he would take responsibility to ensure that all participants followed the Rules.

15. On or about February 13, 2009, Plaintiff learned of additional complaints from parents of younger children, concerned about Defendant Fenty's violation of the rules designed "to provide a safe, healthy and positive environment for all youth participants" with respect to favorable placement of his sons.

16. On or about February 13, 2009, Plaintiff called Mr. Conley and asked about Defendant Fenty's children. Mr. Conley admitted that Defendant Fenty's children were playing in a younger division in violation of the rules. Mr. Conley confirmed that Defendant Fenty was aware of the violation.

17. Later that day, Plaintiff called his supervisor, Defendant Ray. Plaintiff disclosed to his supervisor, Defendant Ray, the facts he had learned about Defendant Fenty's children playing in violation of the rules.

18. Plaintiff reasonably believed that the facts he disclosed to Defendant Ray evidenced both the abuse of authority in connection with the administration of a public program

and a violation of a DPR rule or regulation. He told Defendant Ray that he was concerned that the facts would be reported in the press, thereby discrediting the DPR.

19. Defendant Ray admitted that Defendant Fenty's children were playing in violation of the rules. Defendant Ray promised to call the District's Office of Communications and get advice on how to handle the situation.

20. On or about February 17, 2009, Plaintiff asked Defendant Ray if he had gotten direction from the Office of Communications about the situation with Defendant Fenty's children. Defendant Ray snarled at Plaintiff and told him that Defendant Fenty's children were going to continue to play in the Pee Wee division. Defendant Ray did not explain why this violation of the DPR rules was to be permitted.

21. On or about February 17, 2009, Plaintiff asked an associate to call Defendant Fenty in order to discuss the situation. The associate had no apprehension about calling Defendant Fenty. However, Defendant Fenty responded to the call by cursing and belittling the associate. The associate was still upset by the way he was treated when he reported Mayor Fenty's responses to Plaintiff the next day, February 18, 2009.

22. Plaintiff reasonably believed that the facts he disclosed to Defendant Fenty via the associate evidenced both the abuse of authority in connection with the administration of a public program and the violation of a DPR rule or regulation.

23. On Thursday, February 19, 2009, Plaintiff received a bundle of paperwork that had been sent to the DPR offices as the document submission for Defendant Fenty's sons. The documents have the handwritten names of each child and bold writing stating "**Mayor's son.**" The documents do not include birth certificates, nor parent signatures on the registration and

waiver forms. Plaintiff explained to the staff member of the recreation center that he should ask Defendant Fenty to complete the required paperwork, when he saw him next. The staff member replied that everyone was afraid to ask Defendant Fenty to fill out the paperwork.

24. On Monday, February 23, 2009 at about 4:00 P.M., Plaintiff was called into the office of his supervisor, Defendant Ray. He was told that he was being terminated on “15 days” notice, although his separation would be “effective close of business Monday, March 9, 2009,” *i.e.*, only 14 days later.

25. Upon receiving the notice of termination, Plaintiff was placed on administrative leave, effective immediately. He was told to relinquish all keys, badges, paper based documents and computer based documents in his possession.

26. Defendant Ray told Plaintiff he was being let go for budget reasons and affirmed that Plaintiff was not being terminated for performance reasons. When Plaintiff pointed out that the “budget” explanation was illogical, Defendant Ray admitted that the budget was a pretext for the dismissal, saying “you are smart and can figure it out.”

27. In fact, Plaintiff was terminated in retaliation for having made disclosures protected by the WPA when he raised concerns about Defendant Fenty’s abuse of authority in connection with the administration of the DPR youth basketball league, a public program.

28. In fact, Plaintiff was not terminated for a “budget” reason. No one else in the DPR was terminated at or around this time as a cost-cutting measure, the Fiscal Year 2009 budget has not been changed and no plan has been approved to reduce expenses by eliminating positions in DPR. Defendant Ray’s reliance on “budget” reasons was a pretext to conceal the true reason, which was retaliation.

29. On February 27, 2009, counsel for Plaintiff had a letter delivered by hand to Dan Tangherlini, the City Administrator and Deputy Mayor, and to Peter Nickles, the Attorney General. The letter advised them and the District of Columbia that Plaintiff was about to be terminated for disclosing an abuse of authority in connection with the administration of a public program, in violation of the WPA. The letter asked them to stop the proposed termination of Plaintiff and requested a meeting to address the concerns. Mr. Tangherlini and Mr. Nickles received the letter on February 27, but they never replied.

30. On March 5, 2009, Mr. Tangherlini and Mr. Nickles received additional copies of the above-described letter, via email. They have never replied, except to acknowledge that Mr. Tangherlini received the letter.

31. On March 25, 2009, Plaintiff gave testimony at a hearing of the DC Council Committee on Libraries, Parks and Recreation (the “Council Committee”)—a public body of the District of Columbia.

32. Plaintiff disclosed to the Council Committee the facts recited above, concerning the children of Defendant Fenty playing in violation of DPR rules, as well as the fact of his termination in violation of the DC Whistleblowers’ Protection Act.

33. Plaintiff reasonably believed that the facts he disclosed to the Council Committee evidenced both the abuse of authority in connection with the administration of a public program and the violation of a DPR rule or regulation.

34. Neither the District of Columbia, Mayor Fenty, Mr. Tangherlini, Mr. Nickles, nor any other agent or employee of the Defendants has ever offered any official or “on the record” justification for firing Plaintiff.

35. Neither the District of Columbia, Mayor Fenty, Mr. Tanghlerini, Mr. Nickles, nor any other agent or employee of the defendants has ever denied, officially or “on the record,” Plaintiff’s assertion that he was fired for disclosing an abuse of authority in connection with the administration of a public program, in violation of the DC Whistleblowers’ Protection Act.

36. Rather than disputing Plaintiff’s assertions of unlawful termination with on-the – record statements of fact to Plaintiff, his counsel, the Press or the Council Committee, agents and employees of Defendant District of Columbia have retaliated against plaintiff by publishing and/or republishing false and defamatory “explanations” for his abrupt termination. Specifically, they have claimed that Plaintiff was terminated for “embezzlement.”

37. The term “embezzlement” implies criminal conduct and dishonesty..

38. In fact, Plaintiff has not committed embezzlement, nor has he been accused of embezzlement or any other misconduct.

39. On information and belief, a senior official of the District of Columbia government who was displeased with Plaintiff’s allegations of unlawful, retaliatory termination and his testimony to the Council Committee, initiated publication of the false rumor that Plaintiff was terminated for “embezzlement,” in order to discredit Plaintiff and to retaliate against him for his protected activities.

40. Individuals who are present and former employees of DPR and/or are active in youth sports activities have called Plaintiff to tell him that the (false) rumor accusing him of embezzlement is “out there” in the community.

41. Plaintiff has lost wages and benefits, suffered emotional distress and suffered damage to his reputation as a result of the retaliation described herein.

42. The wrongful conduct of Defendants against Plaintiff, which continues to this day, has been willful, wanton, motivated by actual malice and ill will, and done in complete disregard of the standards of decency in this community.

COUNT I

(Termination In Violation of the Whistleblowers' Protection Act)

43. Plaintiff incorporates herein by reference each and every allegation previously stated.

44. Plaintiff is an "employee" and Defendants Fenty and Ray are "supervisors" within the meaning of the WPA.

45. Defendants Fenty and Ray had the authority to take, direct, recommend, or approve any personnel action against Plaintiff.

46. Plaintiff engaged in legally protected activities when he made disclosures protected by the WPA when he raised concerns about Defendant Fenty's abuse of authority in connection with the administration of the DPR youth basketball league, a public program.

47. The Defendant's had knowledge of Plaintiff's protected activities.

48. Plaintiff is a "whistleblower" within the meaning of the WPA.

49. Defendants Fenty and Ray used their authority to cause the termination of Plaintiff, in retaliation for his activities as a whistleblower, protected by the WPA.

50. Defendants District of Columbia, Fenty and Ray terminated Plaintiff because of the protected disclosures Plaintiff made, in violation of the WPA.

51. As a result of the unlawful termination of his employment, Plaintiff suffered lost wages and benefits, injury to his professional reputation, and emotional distress.

52. Defendants are liable to Plaintiff, Michael Williams, for injuries and damages

caused by their termination of his employment in violation of the WPA.

COUNT II

(Retaliatory Defamation in Violation of the Whistleblowers' Protection Act)

53. Plaintiff incorporates herein by reference each and every allegation previously stated.

54. The acts of unknown-named agents and employees of Defendant District of Columbia, spreading false and defamatory "explanations" for his abrupt termination, constitute slander per se and unlawful retaliation and a "prohibited personnel action" in violation of the WPA.

55. As a result of the unlawful defamatory statements, Plaintiff suffered injury to his personal and professional reputation, and emotional distress.

COUNT III

(Common Law Defamation—Slander Per Se)

56. Plaintiff incorporates herein by reference each and every allegation previously stated.

57. Defendant District of Columbia, through its agents and employees, knowingly published and republished information concerning Plaintiff that was defamatory. This information was false and had the effect of adversely effecting Plaintiff's reputation. The publications were not privileged.

58. The conduct of agents and employees of Defendant District of Columbia, in publishing and republishing false and defamatory "explanations" for Plaintiff's abrupt termination, constitute slander per se and defamation.

59. As a direct and natural consequence of the false and defamatory oral publications by Defendant District of Columbia, through its agents and employees, Plaintiff has been exposed to public scorn, hatred, contempt and ridicule, thereby discouraging others in the community from having a good opinion of, or associating with, him.

60. The publication of false accusations against Plaintiff has caused him to suffer loss of reputation, embarrassment and personal humiliation, and can be assumed to cause similar and expanding harm in the future. In addition, the false and defamatory statements made by agents and employees of the District of Columbia have caused Plaintiff to be help up to contempt and disgrace and caused him to be shunned and avoided by the community and by prospective employers.

61. As a result of the Defendant District of Columbia's publication of unlawful defamatory statements, Plaintiff has suffered damages, including injury to his personal and professional reputation, and emotional distress, and will continue to suffer these damages in the future.

COUNT IV
(Intentional Infliction of Emotional Distress)

62. Plaintiff incorporates herein by reference each and every allegation previously stated.

63. Defendants District of Columbia, Fenty and Ray acted intentionally or recklessly in abruptly terminating Plaintiff's successful career.

64. Defendants' conduct was extreme and outrageous.

65. As a result of Defendants' conduct, Plaintiff has suffered severe emotional

distress

66. Defendants are liable to Plaintiff for injuries and damages caused by their intentional termination of Plaintiff's career.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in his favor against Defendants for:

- 1) Actual, compensatory and statutory damages for the injuries and financial losses suffered as a result of Defendants' wrongful conduct as alleged herein, with interest, in excess of FIVE MILLION DOLLARS (\$5,000,000.00);
- 2) Punitive Damages against each defendant, severally, in an amount to be determined at trial;
- 3) Injunctive and Declaratory Relief;
- 4) Attorneys' fees and costs incurred in bringing this action; and
- 5) Such further relief as this court deems just and equitable.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: _____

Respectfully submitted,

CLIFFORD & GARDE, LLP

John M. Clifford, D.C. Bar No. 191866
Stephanie Bryant, D.C. Bar No. 981718
Billie Pirner Garde, D.C. Bar No. 454465
1707 L Street, N.W., Suite 500
Washington, D.C. 20036
(202) 280-6115
Fax: 202-289-8992
jclifford@cliffordgarde.com

Attorneys for Plaintiff