

19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

NUMBER 665201 DIVISION "23"

CATHY DERBONNE

VERSUS

STATE POLICE COMMISSION

PETITION

The Petition of Cathy Derbonne, a resident of the full age of majority of East Baton Rouge Parish, Louisiana, respectfully represents:

1.

Made defendant herein is the State Police Commission, a Louisiana entity and arm of the State of Louisiana domiciled in East Baton Rouge Parish, Louisiana, created pursuant to La. Const. Art. X, Part IV, §43 which is justly and truly indebted unto Petitioner for all sums as are reasonable under the premises, attorney's fees as allowed by law, all costs of these proceedings, legal interest thereon from the date of judicial demand until paid, and all such other relief to which Petitioner is entitled at law or in equity.

2.

The State Police Commission was created pursuant to La. Const. Art. X, Part IV, §43. Sections 41 – 51 of Article X govern the State Police Service. As created, the Constitution required that the Commission be comprised of seven (7) members who are electors of the State of Louisiana. The members of the Commission are required to be chosen pursuant to a slate of no more than three (3) nominees by each of the following institutions: Centenary College, Dillard University, Louisiana College, Loyola University, Tulane University, and Xavier University, plus a member elected by the classified state police officers of this State. From the nominees of the identified institutions of higher learning, the Governor was to then select one from the slate of no more than three (3) nominated. While the Constitution permits removal by the Governor for cause, the Constitution does not allow the Governor to appoint Commission members independent of those proffered as nominees by the institutions.

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CATHY DERBONNE

3.

On April 6, 2009, Petitioner was hired as the Executive Director of the defendant, State Police Commission. In that capacity, Petitioner was responsible for oversight of the State Police Commission which included ensuring the Commission and its members abided by their obligations under the law. The State Police Commission serves as the “civil service” for all regularly commissioned full time law enforcement officers employed by the Department of Public Safety and Corrections, office of state police, or its successor, who are graduates of the state police training academy course of instruction and are vested with full state police powers, as provided by law, and persons in training to become such officers. In that regard, the State Police Commission is responsible for ensuring the Louisiana State Police abides by all applicable pay plans, disciplinary rules and regulations, and applicable law.

4.

On December 18, 2015, Petitioner was notified that active classified members of the Louisiana State Police, through the Louisiana State Troopers Association (LSTA) were making political contributions and engaging in “political activities” and, further, that members of the State Police Commission were making political contributions while sitting as active members and officers of the State Police Commission. Pursuant to La. Const. Art. X, §47, “[N]o member of the commission and no state police officer in the classified service shall participate or engage in political activity; . . . make or solicit contributions for any political party, faction, candidate, or any political campaign. . .” . . . “[N]o person shall solicit contributions for political purposes from any classified state police officer or use or attempt to use his position to punish or coerce the political action of a classified state police officer.” Pursuant to §47C, “political activity” “means an effort to support or oppose the election of a candidate for political office or to support a particular political party in an election.”

5.

In addition to the prohibitions contained in the Louisiana Constitution, State Police Commission Rule 14.2 prohibits all members of the State Police Commission and classified members of the State Police Service from the following: “1. Participate or engage in political activity, including, but not limited to, any effort to support or oppose the election of a candidate for political office or support or oppose a particular party in an election . . . 4. Make or solicit contributions for any political purpose, party, faction or candidate; . . 6. Take active part in the

management of the affairs of a political party, faction, candidate, or any political campaign. . . 8. Directly or indirectly, pay or promise to pay any assessment, subscription, or contribution for any political party, faction, or candidate, nor solicit or take part in soliciting any such assessment, subscription or contribution, and no person shall solicit any such assessment, subscription or contribution of any classified employee in the State Police Service”.

6.

Upon receipt of the information in December, 2015, Petitioner began an investigation of the prohibited activities of current, active, and classified members of the State Police Service and brought the matters to the attention of the State Police Commission. On January 13, 2016, then State Police Commission Chairman sent an email to Petitioner advising that she was not to take any steps regarding political activities of the LSTA and, further, that the State Police Commission has no jurisdiction over the LSTA – only its classified employees/members. On January 14, 2016, Petitioner was advised that the LSTA Executive Director had been making political contributions to various political candidates in his name, but that he was reimbursed by the LSTA from dues collected by LSTA from its members, including current, active members of the State Police classified service.

7.

On February 27, 2016, Petitioner contacted the Director of Louisiana State Civil Service Commission regarding the prohibited political activities, who confirmed Petitioner’s understanding that any such political activities violated Louisiana law, La. Const. Art. X, §47 and State Police Commission Rule 14.2.

8.

On March 16, 2016, Petitioner forwarded her written report of findings (dated March 14, 2016) to the Governor and his counsel that at least three (3) then members of the State Police Commission, including its then Chairman, had made political contributions during their terms in office with the State Police Commission. In that same document, Petitioner also reported that the wife of one of the cited members of the State Police Commission had also made political contributions while serving as an elected board member on the Louisiana Education Television Authority (LETA). Likewise, Petitioner reported the political activities by active classified State Police employees through the LSTA and the use of straw donations through its Executive Director.

9.

In that same March 14, 2016, document, Petitioner advised the governor and his counsel that she had already reported the improper political activities to the Louisiana Board of Ethics which she had done on March 7, 2016. On March 16, 2016, Petitioner met with the Louisiana Commissioner of Administration and gave him a copy of her March 14, 2016, document.

10.

On April 14, 2016, Petitioner listed the matter of prohibited political activities on the State Police Commission Agenda as an item to investigate and address.

11.

In the interim, Petitioner met with the Governor's counsel on March 28, 2016, who advised Petitioner the State Police Commission members and its Chairman would be given the opportunity to resign. When Petitioner contacted the then Chairman regarding the Governor's counsel's statements, he stated he will not resign and that the Governor will have to remove him. Also on March 28, 2016, upon information and belief, the President of LSTA informed its membership the FBI is involved, had issued formal process for documents and that the FBI had requested copies of LSTA checks for the dates between October, 2015, to January 26, 2016. On April 5, 2016, Petitioner issued a subpoena to the LSTA regarding political activities by its members who are active classified members of the State Police as part of her investigation.

12.

On April 9, 2016, and April 11, 2016, State Police Commission member Doss sent Petitioner emails ordering her to respond with information regarding attorney Townsend's contract with the Commission who had been hired to assist Petitioner with her investigations. On April 12, 2016, the Chairman requested the identical information as Doss. On April 14, 2016, the Chairman and member Goldring resigned. Member Pitcher had already resigned on March 29, 2016. The members and Chairman of the State Police Commission were replaced by appointment of three (3) new members who, upon information and belief, were selected by the Governor and not as required pursuant to La. Const. Art. X, §43. Petitioner protested the appointments as in violation of Louisiana law. Petitioner further submits that as a result of her protected activities protesting the unlawful political activities, the Governor repaid several thousands of dollars in campaign donations he had received.

13.

On February 29, 2016, an email was disseminated announcing the appointment of Major Jason Starnes as Interim Undersecretary for Office of Management & Finance, replacing Jill Boudreaux who, although she had resigned, remained on payroll through April 11, 2016, as an "active employee." Upon receipt of the email from then Colonel Mike Edmonson, Petitioner advised Edmonson that Starnes could not remain in the Undersecretary position which was in violation of State Police Commission Rule 14.3 which prohibits the appointment, promotion, transfer, or in any way employment of any classified member of the State Police to any position which is not within the State Police Service. The Undersecretary position for the Office of Management & Finance is within Public Safety Services and not within State Police Service. On March 6, 2016, Petitioner protested the purported appointment of Starnes to the Interim Undersecretary position to Lt. Col Charlie Dupuy, Deputy Superintendent and to Starnes himself as being in violation of law. Thereafter, on May 11, 2016, a formal complaint regarding Starnes' appointment was filed with the State Police Commission and which was docketed by Petitioner. The Commission's May 11, 2016, meeting lacked a quorum. On May 27, 2016, then Colonel Edmonson contacted Petitioner regarding the complaint and, in the process, disparaged the complainant.

14.

On June 1, 2016, the pay plan for State Police was rescinded as not in compliance with State law. On June 6, 2016, Petitioner was contacted by the LSTA Executive Director, the LSTA General Counsel, and LSP's counsel inquiring if Petitioner had canceled the Commission's June 9, 2016, meeting yet because there would not be a quorum.

15.

On June 24, 2016, at the LSTA convention held in Lafayette, upon information and belief, Commission member Doss stated that Petitioner had caused the resignation of three (3) Commission members, that Petitioner was not following Commission rules and policy, that she had hired outside counsel without authorization, that what was happening with the Commission and LSTA was the fault of Petitioner and that Petitioner had lost her mind.

16.

On July 14, 2017, Petitioner was advised by a Commission member that Doss had been detailed to Baton Rouge and assigned to Headquarters with the purpose of closely monitoring and observing Petitioner's daily routine. On July 14, 2017, Doss was elected Chairman of the Commission. On July 15, 2016, Doss appeared unannounced at Petitioner's office and proceeded to ask Petitioner when was the last time she had been evaluated which Petitioner understood was a threat.

17.

On July 19, 2017, during a telephone call with the Chairman of the Gaming Control Board, DPS General Counsel Blackburn, and Deputy DPS Counsel Williams, while Petitioner was present but unbeknownst to the Gaming Control Board Chair, he stated that the Governor's office had told Petitioner to "shut the f up" after Petitioner had previously complained about the unlawful constitution of the Commission.

18.

On July 26, 2017, Doss, on behalf of the Commission sent an email to Petitioner requesting that she initiate a rule process designed to prevent Petitioner, as Executive Director, from having control over decisions and holding information and, further, proposing the creation of an Executive Committee of three (3) which would perform the functions of the Executive Director.

19.

On August 11, 2016, during a Commission meeting, then Colonel Edmonson requested creation of an unclassified position within State Police Service entitled Lieutenant Colonel as Deputy Superintendent, CAO, designed to support the Office of Management & Finance – the identical position into which Edmonson had previously detailed Starnes. On the same Agenda, the Commission attempted to reduce Petitioner's pay. During the same time frame, Petitioner was advised that Edmonson and at least four (4) of his top Deputies had received pay increases as much as 32% without authorization and in violation of law.

20.

On September 13, 2016, Petitioner brought the unlawful pay raise issue to the attention of the Legislative Fiscal Office and provided documentation to that State body charged with investigating illegal pay issues.

21.

On October 13, 2016, Doss distributed the proposed rule change purporting to dramatically change Petitioner's duties and authority as Executive Director. During that meeting, Petitioner reported to the Commission several findings from her investigation, including that several actions which had occurred violated law incorporated into Commission Rules. Petitioner further notified all members of the Commission of said actions by email dated October 18, 2016. During the November 10, 2016, meeting, Petitioner was asked regarding pay for the LSP Colonel and his top Deputies at which time Petitioner advised that any such pay increases must be approved by the Legislature and the Commission, otherwise, they were unlawful.

22.

On December 8, 2016, at the Commission meeting, Petitioner presented the budget for FY 2017 – 2018. During the meeting, Commission members requested that Petitioner create a position of Deputy Director in case her husband was ill or if she got in a car wreck on her way "here" for a meeting, which Petitioner understood as a threat. Commission members also requested information on how Petitioner's pay is set and insisted that a pay range needed to be set because, according to member Riecke, if Petitioner resigns we would be able to have a range for this position

23.

On December 14, 2016, Petitioner, along with two Commission members, presented the Commission's budget, which had been approved and discussed at the December 8, 2016, meeting to the Joint Legislative Committee. On December 15, 2016, Doss, on behalf of the Commission, requested that Petitioner send him a complete copy of the Commission Rules in Word.

24.

On December 20, 2016, several members of the Commission met with the House Fiscal Budget Analyst regarding the Commission's budget, deliberately excluding Petitioner. On that same date, said Commission members also met with the Division of Administration, deliberately excluding Petitioner.

25.

On January 7, 2017, Petitioner received an anonymous letter dated January 4, 2017, warning her that Doss was leading the “secret charge” for her removal as Executive Director at the behest of upper command.

26.

On January 10, 2017, Commission member Riecke and Chairman Doss arrived at Petitioner’s office, closed the door, and handed Petitioner a pre-prepared Agenda with a letter to Petitioner stating the Commission intends to discuss her professional competence at the next Commission meeting on January 12, 2017, and an Agenda item of consideration of whether her employment should be continued or terminated.

27.

Upon Petitioner’s arrival at the January 12, 2017, meeting, LSP Internal Affairs had pre-setup a large projection screen in order to play video information to be used against Petitioner which included her testimony before the Joint Legislative Committee. During the meeting, Commission members accused Petitioner of lying to the Committee when she testified that the Commission had approved the budget – which it had. Prior to the meeting, the media had been alerted by Commission members to attend because the Commission was going to publicly fire Petitioner and, prior to the meeting, a Commission member told Petitioner that they had four (4) of seven (7) total votes to fire her. Approaching the Agenda items relating to Petitioner’s continued employment, Doss requested a recess. During that recess, members of the Commission pressured Petitioner to resign or they would humiliate her in public and that they already had enough votes to fire her. Having no reasonable alternative, Petitioner resigned as it was clear she was going to be fired because she engaged in activities protected under law, including La. R.S. 23:967.

28.

Petitioner contends that she was harassed and constructively discharged in reprisal for her engaging in activities protected under La. R.S. 23:967. Accordingly, Petitioner contends defendant is liable to her pursuant to La. R.S. 23:967.

29.

As a result of the situation sued upon herein, Petitioner sustained damages which include, but are not limited to, lost pay and benefits, loss of earning capacity, humiliation and

embarrassment, severe emotional distress and mental anguish, and all such other damages as will be more fully shown at trial of this matter for all for which Petitioner specifically sues for herein.

30.

Petitioner is entitled to and desires an award of attorney's fees pursuant to La. R.S. 23:967.

31.

Petitioner is entitled to and desires an award of all such other relief to which she is entitled at law or in equity.

32.

Petitioner is entitled to and desires trial by jury of this matter.

WHEREFORE, Petitioner, Cathy Derbonne, prays for trial by jury and after due proceedings are had that there be judgment herein in her favor and against defendant, State Police Commission, for all sums as are reasonable under the premises, attorney's fees, all costs of these proceedings, legal interest thereon from the date of demand until paid, and all such other relief to which Petitioner is entitled at law or in equity.

Respectfully submitted,

By: _____
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PLEASE SERVE:

State Police Commission
Through its Chairman,
Eulis Simien
LSP Headquarters
7979 Independence Boulevard, Suite 208
Baton Rouge, Louisiana

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VERIFICATION

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned Notary Public, personally came and appeared:

Cathy Derbonne

A resident of the full age of majority of East Baton Rouge Parish, Louisiana, who upon being duly sworn did depose and state that she is the Petitioner in the above and foregoing Petition, that she has read same and all facts and allegations contained therein are true and correct.



SWORN TO AND SUBSCRIBED before me, Notary Public, this 9 day of January,

2018.

