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KING COUNTY
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CASE #: 19-2-20274-2 KNT

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

LARGO WALES, a married woman, Plaintiff, v. CITY OF AUBURN, WA, a Washington State municipality; NANCY BACKUS, as Mayor of the City of Auburn, and Individually and her marital community; and The Committee to Elect Nancy Backus and its J. Doe committee members thereto; and ROB ROSCOE and his marital community, Defendants	)	No. 19-2-20274-2 KNT AMENDED COMPLAINT FOR VIOLATION OF FREEDOM OF SPEECH, RIGHT TO PRIVACY

Plaintiff LARGO WALES alleges:

I. JURISDICTION

1. This court has jurisdiction over the case pursuant to RCW 2.08.010.

II. PARTIES AND VENUE

1. Plaintiff LARGO WALES (Ms. Wales) resides in KING County, Washington and is a City of Auburn, WA Council member;

2. The City of Auburn is a Washington municipality co-located in King and Pierce Counties;

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3. Rob Roscoe was the City of Auburn Director of Human Resources and Risk Management during the period complained of; and

4. Nancy Backus is the Mayor of the City of Auburn, WA.

III. FACTUAL ALLEGATIONS

1. On or about September 2016, Rob Roscoe held a meeting with Ms. Wales on City property. Said meeting was called by Rob Rosco and attended only by he and Ms. Wales.

2. During said meeting Rob Roscoe complained about a statement. allegedly made by Ms. Wales in an open, non-government, forum and advising Ms. Wales that her speech should be attenuated.

3. Rob Roscoe reported directly to Mayor Nancy Backus during September 2016.

4. Whereas the Roscoe – Wales discussion was private any characterization of its ends and means would be unknown and speculative. However, Nancy Backus' Committee to Elect Nancy Backus issued a campaign notice describing the Roscoe – Wales interaction as "The City of Auburn chastised Largo Wales...."

COUNT I – Violation of Free Speech

1. The Rosco – Wales meeting was a violation Ms. Wales United States First Amendment right to free speech by the City of Auburn as prescribed by the Washington State Supreme Court in Sprague v. Spokane Valley Fire Department, to wit:

> "However, a reasonable restriction cannot be justified when it "is in fact based on the desire to suppress a particular point of view." Cornelius, 473 U.S. at 812. When the government targets particular views taken by speakers on a subject, it violates the First Amendment's requirement of viewpoint neutrality. Rosenberger, 515 U.S. at 829. "'[T]he government violates the First Amendment when it denies access to a speaker solely to suppress the point of view he espouses on an otherwise includible subject.'" Lamb's Chapel, 508 U.S. at 394 (quoting Cornelius, 473 U.S. at 806). *Sprague v. Spokane Valley Fire Department 93800-8, 189 Wn.2d 858 (2018).*

2. Mr. Roscoe was acting under color of law for the City.

3. Mr. Roscoe's meeting with Ms. Wales served no legitimate city business.

4. Any Roscoe complained of allegations against Ms. Wales was based on hearsay.

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5. The later release of said meeting contents came from Rob Roscoe, ostensibly to Nancy Backus, and finally the Committee to Elect Nancy Backus.

6. Ms. Wales ultimately suffered damage to reputation from the Roscoe meeting, which was illegitimately released and ultimately intentionally misused.

7. Rob Rosco proximately caused Ms. Wales damages by infringing on her right to exercise free speech.

8. Nancy Backus proximately caused Ms. Wales damages by releasing the Roscoe – Wales meeting alleged content to her Committee to elect her as Mayor.

9. Nancy Backus, as Mayor of the City of Auburn, violated Ms. Wales right to free speech by using her position to create unfavorable information on a political opponent and then releasing said information that Backus would not have had in her possession but for her position as Mayor.

10. The Committee to Elect Nancy Backus and its members proximately caused the damages to Ms. Wales by using information it knew or should have known was ill gotten.

11. Defendants Roscoe, Backus, the City of Auburn, and the Committee to Elect Nancy Backus and its members, are jointly and severally liable to plaintiff in an amount to be proved at trial.

COUNT II – Violation of Right to Privacy

1. The release of said meeting contents by and between Rob Roscoe and Ms. Wales was a violation on Ms. Wales expectation of privacy, as enunciated by the Washington State Supreme Court in State v Afana at paragraph 15, to wit:

   "… our state constitution "clearly recognizes an individual's right to privacy with no express limitations." State v. White, 97 Wn.2d 92, 110, 640 P.2d 1061 (1982). In contrast to the Fourth Amendment, article I, section 7 emphasizes "protecting personal rights rather than … curbing governmental actions." *State v. Afana, 169 Wn.2d 169, 233 P.3d 879, 2010 Wash. LEXIS 539, 169 Wn.2d 169, 233 P.3d 879, 2010 Wash. LEXIS 539*

2. There were no other attendees to the Roscoe – Wales meeting so anything said therein could have been factually true or false.

3. Ms. Wales ultimately suffered damage to reputation from the Roscoe meeting when its alleged substance was illegitimately released and ultimately intentionally misused.

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4. Rob Rosco proximately caused Ms. Wales damages by infringing on her right to privacy by releasing any version of the meeting substance.

5. Nancy Backus violated Ms. Wales right to privacy and proximately caused Ms. Wales damages by releasing the alleged Roscoe – Wales meeting content to her Committee to elect her as Mayor.

6. Nancy Backus, as Mayor of the City of Auburn, violated Ms. Wales right to privacy by using her position to create unfavorable information on a political opponent and then releasing said information Backus would not have had in her possession but for her position as Mayor.

7. The Committee to Elect Nancy Backus and its members violated Ms. Wales right to privacy and proximately caused the damages to Ms. Wales by using information it knew or should have known was ill gotten.

8. Defendants Roscoe, Backus, the City of Auburn and the Committee to Elect Nancy Backus and its members, are jointly and severally liable to plaintiff in an amount to be proved at trial.

V. DEMAND FOR RELIEF

Plaintiff requests that the court enter judgment against defendants Roscoe, Backus, the City of Auburn and the Committee to Elect Nancy Backus and its member as follows:

1. Awarding plaintiff special damages for lost potential future earnings.

2. Awarding plaintiff general damages for pain, suffering and mental anguish.

3. Awarding plaintiff her statutory costs and attorney fees incurred in this action.

4. Awarding plaintiff any additional or further relief which the court finds appropriate or just.

Dated: 9/12/19

LARGO WALES, Plaintiff

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