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IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

ROBERT PINKOS,

Plaintiff,

CASE NO.

v.

THE SCHOOL BOARD OF
PALM BEACH COUNTY,
FLORIDA,

Defendant.

_____ /

**PLAINTIFF'S COMPLAINT
AND DEMAND FOR JURY TRIAL**

Plaintiff ROBERT PINKOS ("Plaintiff") brings this suit against the THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA ("Defendant" or "The District") and alleges as follows:

NATURE OF ACTION

1. Plaintiff brings this action for money damages in excess of \$30,000.00 exclusive of interest, costs, and attorney's fees, and to enjoin the Defendant's retaliatory practices as prohibited by the Florida Public Whistle-Blowers Act, § 112.3187 *et seq.*, Florida Statutes.

JURISDICTION, PARTIES AND VENUE

2. Jurisdiction is founded upon Article 5, Sections 5 and 20, Florida Constitution, Chapter 86, Florida Statutes, and § 112.3187(8)(c), Florida Statutes.

3. Plaintiff is a resident of Palm Beach County, Florida.

4. This cause of action accrued in Palm Beach County, Florida, as the Defendant operates at 3300 Forest Hill Boulevard, West Palm Beach, Florida 33406.

5. Palm Beach County, Florida, is the proper venue for this action because: Defendant operates in Palm Beach County, Florida; at all times material hereto, Plaintiff was employed by and had dealings with Defendant in Palm Beach County, Florida; and Defendant's wrongful and damaging conduct took place in Palm Beach County, Florida.

GENERAL FACTUAL ALLEGATIONS

6. Plaintiff had been employed with the District since October 14, 1985 through September 30, 2020.

7. On August 1, 2019, Plaintiff met with Vicki Evans-Pare, Director of Employee and Labor Relations. At that time, Ms. Evans-Pare assigned Plaintiff to the Dr. William Latson investigation (the "Latson case").

8. Previously, as the story attained widespread media coverage, Ms. Evans-Pare and Plaintiff had differing views regarding Dr. Latson's actions. Plaintiff voiced that Dr. Latson should not be a principal anywhere for essentially being a Holocaust denier. Ms. Evans-Pare disagreed with him by stating Dr. Latson could be a principal elsewhere, just not at Spanish River High. Plaintiff responded he should not be a principal anywhere, not even as far away as Anchorage, Alaska, and Ms. Evans-Pare stated that since he had such a strong opinion, Plaintiff would not be assigned to the Latson case.

9. Nevertheless, on the morning of August 1, 2019, Plaintiff met with Ms. Evans-Pare and she assigned him the Latson case. He reminded Ms. Evans-Pare of her past comment that he would not be given the assignment, and requested he be allowed to recuse himself. Frustrated, Ms. Evans-Pare said, she "can't have another person recuse" because someone had already recused themselves and she needed Plaintiff to take on the case.

10. Ms. Evans-Pare stated the investigation would be limited in scope, allowing Plaintiff to only investigate 3 questions: (1) Did Dr. Latson submit PBSO form 0032 (Leave of Absence) for his absences of July 8, 9, 10, and 11, 2019? (2) Did Dr. Latson give notice to his supervisor(s) via a Google Doc of his anticipated absences of July 8, 9, 10, and 11, 2019? (3) Did Dr. Latson effectively communicate with the Superintendent, Deputy Superintendent, Chief of Staff, their secretaries, as well as Regional Office staff et al from July 5-13, 2019?

11. Plaintiff questioned Ms. Evans-Pare as to the narrow focus of the investigation and the obvious omission to comments attributed to Dr. Latson about the Holocaust. Ms. Evans-Pare then stated he would be like Robert Mueller by having a limited investigative scope. Plaintiff explained that constraining him to a limited scope made him uncomfortable, considering that investigations by their very nature often grow; in order to get a full understanding of an incident one should not restrict the scope of investigations. Dr. Latson's actions regarding his return of phone calls etc. was obviously related to the controversial Holocaust comments.

12. Plaintiff reported that to his knowledge, no administrators reported to HR the wrongdoing of Dr. Latson's comments. Glenda Sheffield, Ian Saltzman, and Keith Oswald were top ranking administrators that didn't report the wrongdoing to HR as required by School Board Policy. It was his understanding that each of the aforementioned administrators knew about Dr. Latson's comments for about a year; yet none reported. Ms. Evans-Pare replied that those administrators chose to address the issues with Dr. Latson through training. Plaintiff responded that training is not a substitute

for their obligation to report. Clearly, at this point, it was clear that the investigation was not intended to collect all the available facts.

13. Plaintiff expressed his concern that it appeared rather disingenuous that District administrators, who knew about Dr. Latson's comments for over a year and did not report the misconduct to HR, now were apparently filled with righteous indignation. Yet, no investigation into their actions were to be a part of an investigation regarding the deeply troubling comments about the Holocaust. Moreover, the comments attributed to Dr. Latson were not going to be looked at as part of the investigation.

14. Although Ms. Evans-Pare had already taken a statement from Keith Oswald, Deputy Superintendent of Schools, it was not notarized and contained grammatical errors. As such, Plaintiff advised Ms. Evans-Pare that he would need to meet with Mr. Oswald to secure a notarized statement, and she then phoned the Deputy Superintendent's office and arranged for Plaintiff to meet with Mr. Oswald later that day.

15. Plaintiff met Mr. Oswald in his office. Mr. Oswald's statement was largely a timeline of communication he had with Dr. Latson from July 6 – July 10, 2019, including attachments of texts, email, and phone log. When Plaintiff asked Mr. Oswald if he would like to provide more detail of his phone conversations with Dr. Latson, he declined and stated he became aware of Dr. Latson's Holocaust comments soon after the South Regional Office knew of the issue. Plaintiff questioned Mr. Oswald as to why neither he nor anyone else reported the misconduct at the time they became aware. Mr. Oswald lamented there were a lot of things he wished he had done differently. Mr. Oswald stated he tried to work with Dr. Latson but when Dr. Latson didn't communicate with him in early

July 2019, the situation reached the point where he (Oswald) could no longer support Dr. Latson.

16. Mr. Oswald continued by explaining that the study of the Holocaust was a State mandate but there was also an "opt-out" provision in State Statute that not many people knew about. Mr. Oswald stated that although he knew of the Holocaust comments for several months, it was incumbent upon the South Regional Superintendent, Dr. Ian Saltzman, to have notified HR of the wrongdoing.

17. In contrast to his statement, Plaintiff explained that Instructional Superintendent Dr. Glenda Sheffield, and not Dr. Saltzman, was Dr. Latson's direct supervisor who had the primary responsibility to contact Plaintiff. Importantly, Dr. Saltzman had recently retired from his position and, therefore, became a candidate to be a scapegoat. Plaintiff advised Mr. Oswald that by overlooking Dr. Sheffield's responsibility and projecting that onto her supervisor was a ladder game that would likely lead back to him. After all, one would assume the highest-ranking administrator knowing of the wrongdoing would be the responsible party to notify HR.

18. As regional administrators know, Plaintiff was typically contacted as the South Regional HR Manager when an employee commits an act of wrongdoing. Plaintiff is known to document the wrongdoing and bring closure to the case, but he was not contacted by anyone regarding the William Latson email comments.

19. Also on August 1, 2019, Plaintiff contacted IT Solutions Project Manager Rick Saturnini who confirmed there was no record of Dr. Latson submitting a leave of absence form in July 2019.

20. On August 2, 2019, South Regional Executive Secretary Nancy Villarreal emailed Plaintiff a Google Doc entitled Schools Coverage South Region. The document indicates Dr. Latson entered "vacation" for July 8-11 and July 15-July 18, 2019.

21. On August 2, 2019, Plaintiff met with Spanish River High School Administrative Assistant Lisa Core. Ms. Core provided a sworn statement that she had seen a hardcopy of Dr. Latson's leave form for his July absences.

22. On August 7, 2019, Ms. Evans-Pare emailed the representatives of Dr. Latson asking for any and all communication Dr. Latson had from July 5-13 with the Superintendent, Deputy Superintendent, Chief of Staff etc.

23. On or about August 13, 2019, Ms. Evans-Pare forwarded an email from Dr. Elfers, Dr. Latson's representative. The email included 3 attachments; *Elfers Ltr to Evans re her query on August 1, communication of Latson.doc; Final Latson timeline 8-12-19 pdf; Final Will Latson – phone, textlog. Pdf.*

24. On August 15, 2019, Plaintiff met with Ms. Evans-Pare and handed her a hardcopy of a draft memorandum that indicated some of his areas of concern with the investigation. In part, the draft read:

Commencing an investigation was precipitated by the recommendation of the Superintendent to non-reappoint Dr. Latson. On July 11, 2019, the Superintendent recommended Dr. Latson's non-reappointment via a video recording. The recommendation was allegedly based on recently publicized accounts of Dr. Latson's April 2018 email exchange with a parent regarding the Holocaust. It is my understanding, District administrators from the South Regional office, Department of Teaching and Learning, and the Superintendent's staff, knew of Dr. Latson's comments for months prior to the email reaching the public domain through media.

At no point, to my knowledge, did any administrator report improper conduct to HR that the Superintendent would later deem worthy of a non-reappointment. Such conduct appears to run counter to School Board Policy 3.02 Code of Ethics

(4.F.) which states each employee agrees and pledges to report improper conduct.

It is my understanding that to date; no investigation has been initiated that addresses how/when employees responded to their learning of Dr. Latson's wrongdoing. I recommend that such an investigation be considered and that an entity outside of the District is tasked with carrying it out.

Moreover, complications arise when the Deputy Superintendent and perhaps others are apparent complainants to Dr. Latson's alleged ineffective communication while at the same time allegedly being involved for not reporting misconduct to HR deemed to be at the level of a non-reappointment offense. This memorandum serves in part to satisfy your August 1, 2019 advisement to me to report areas outside the parameters of my investigation that likely deserve a thorough examination.

Regardless of the ultimate determination, please be advised of past cases when principals gave no notice of an absence and did not receive formal disciplinary action.

25. In response to the memo, Ms. Evans-Pare stated: "I don't see the connection between these two things. I don't look at it that way." Plaintiff responded that he disagreed with her and explained to Ms. Evans-Pare that Dr. Elfers did not mention "opt-out" in his multi-paged defense of Dr. Latson, which was a red flag to Plaintiff. Plaintiff went on to explain Mr. Oswald reported to him about an alleged State Statute that few knew about that allowed students to opt out of Holocaust studies.

26. Plaintiff advised Ms. Evans-Pare he had emailed Mr. Oswald asking him to copy and paste the citation and he hadn't replied. Ms. Evans-Pare advised me, "It probably doesn't exist." Plaintiff asked Ms. Evans-Pare, "So why would he tell me that?" Ms. Evans-Pare replied, "Don't think about it. Nothing to lose sleep over."

27. The conversation was obviously troubling. The Deputy Superintendent, who is also the complainant and formerly the Chief Academic Officer, reported to an HR Manager a falsehood, that given his qualification, he would know better. It continues that

once brought to the attention of the Director of Employee Relations, she responds, "Don't think about it. Nothing to lose sleep over." It was disturbing.

28. Worthy investigators follow up on witnesses giving falsehoods and do not dismiss questionable and inaccurate testimony. To ignore falsehoods raises serious ethical concerns. At this point, Plaintiff realized that the narrow scope of the investigation had significant ethical concerns that he could not reconcile.

29. Needless to say, research revealed that there is no opting out of the State mandate to participate in Holocaust studies. Below is an email exchange between Mr. Oswald and Plaintiff. Notably Mr. Oswald replied to the email nearly two weeks later when he knew Plaintiff was no longer on the case.

30. On August 19, 2019, Plaintiff met with Ms. Evans-Pare in her office to give notice of his recusal and read the following statement:

On Thursday afternoon (8/15), I tried to meet with you to give notice that I had decided to recuse myself from the William Latson investigation but you were unavailable. On Friday afternoon, I left you voicemail.

I see the investigation as unethical, particularly given its limited scope that ignores the alleged wrongdoing of senior administrators, including Keith Oswald, my wife's supervisor. That relationship in and of itself is more than sufficient reason to recuse myself. It has become apparent to me that after 2 weeks investigating this case that the investigation cannot continue without expanding the scope.

If the scope were to be expanded, I would become a potential witness to an investigation I'm conducting; yet another reason for my recusal.

My moral compass, conscience, and sense of ethics does not allow me to continue.

Please keep in mind that in all my years working in this department investigating a wide range of employees and issues, I have never requested or been advised to recuse myself prior to this case. For me to take this action now, should give you some insight as to the graveness of my conviction and decision.

31. Ms. Evans-Pare became very upset, angry. Ms. Evans-Pare stood up from sitting behind her desk and began screaming at Plaintiff at presumably the top of her voice, "Bullshit, Bullshit, Bullshit, Bullshit, Bullshit, Bullshit, Bullshit, Bullshit." Plaintiff had never heard anyone in an office-setting scream and curse so loudly. Watching Ms. Evans-Pare was akin to a child having a temper tantrum but only louder. Witnessing the Director of Employee and Labor Relations act in such an uncontrollable and unprofessional manner was deeply disturbing. It was embarrassing and insulting. Plaintiff could not imagine how his colleagues sitting outside of her office door must have been affected.

32. Ms. Evans-Pare ended her tirade, Plaintiff told her he did not appreciate her screaming and cursing at him and she offered a half-hearted apology. Plaintiff reiterated that his conscience prevented him from continuing to work on the Latson case, and she directed him to turn it over to her. As he said the comment, Plaintiff indicated towards his stomach and then left her office to retrieve the file. Upon his return, he discovered she had locked her office door. When Ms. Evans-Pare came to the door, he followed her in and she mockingly said "You can't recuse yourself for a stomach ache." Ms. Evans-Pare's comment was referencing him minutes ago when he told her his conscience does not allow him to continue as he touched his gut.

33. Ms. Evans-Pare then said, "Get out my space," insinuating that Plaintiff was too close when he handed her the file. He then stood by her office door and asked if she was comfortable where he was now standing. Again, the interaction with Ms. Evans-Pare was similar to witnessing a young child having a tantrum.

34. Because of the unprofessionalism and erratic behavior he witnessed, Plaintiff memorialized some of what transpired on August 19 in an email to Ms. Evans-Pare on the same day:

Vicki,

Your memory is not quite correct regarding our discussion on August 1. As you may remember, you did not provide any directives to me. I told you that I wanted to recuse myself and I provided you reasons. You responded that you couldn't have anyone else to recuse themselves from this case.

I asked you exactly what you wanted me to investigate. I took notes at the meeting. I will see if I can find my notes. My memory varies from yours. You may remember I read my notes back to you as to what you wanted me to look at. I was trying to help you out, realizing you were in a bind.

I complained at the time that the scope of the investigation was too narrow as well as expressing other concerns.

I tried to please you and carry on with the investigation we had discussed. I kept you updated with my work although I continued to wrestle with the ethics. After we met this past Thursday, I realized I could not carry on. I dropped by your office Thursday afternoon to let you know but you were unavailable. I left you voicemail on Friday to let you know, but to date you have not listened to my message.

I did not appreciate you screaming Bullshit over and over again at me when I told you of my decision today to recuse.

I did not appreciate you mocking me when I said my conscious (sic) does not allow me to continue as I touched my gut. You responded that I couldn't recuse myself because of a stomach ache.

I have never recused myself from any prior case.

Your email and some of what you said at today's meeting makes me suspect that you are considering documenting me for not carrying out my job duties. Therefore, I'm asking you if for any reason, you are considering any action that would be adverse to me.

Bob

35. After receiving the Plaintiff's email, Ms. Evans-Pare forwarded it to Dr. La Cava at 4:02 PM On August 19, 2019. Ms. Evan-Pare email read:

This is what I received. And for the record, I only said "bullshit" twice - - which I fully acknowledge I shouldn't have done and did already apologize to Bob for doing so. I also was not mocking him about touching his gut. He said it made his stomach knot up to work on this case. My response was that you don't get to recuse yourself because the case makes you queasy. As I told them in a staff meeting last week, you may only recuse yourself if you have a "direct, personal and significant personal involvement with the accused or a critical witness.

36. At 4:06 PM on the same day, Dr. La Cava replied to Ms. Evans-Pare: "Vicki, Let's speak when I get downstairs and document our conversation." Plaintiff was unaware of the aforementioned email exchange and only became aware of the email between Evans-Pare and La Cava, when the attorney representing William Latson made a public records request and received a hardcopy of the exchange. That hardcopy was shared with Plaintiff's counsel on January 19, 2020.

37. From August 19, 2019 through the present, Dr. La Cava chose not to meet with Plaintiff regarding the mistreatment he endured from Ms. Evans-Pare even though he was aware of the misconduct from the confessional email. In fact, Dr. La Cava repeatedly blocked every attempt by Plaintiff to have his complaint heard and acted under the pretense that he was unaware of Ms. Evans-Pare's misconduct. Moreover, Dr. La Cava chose to orchestrate a series of retaliatory actions against the Plaintiff to intimidate and demoralize him.

38. On August 20, 2019, Ms. Evans-Pare responded to Plaintiff's correspondence:

I would like to open an investigation into the "alleged wrongdoing of senior administrators -- including Keith Oswald"; however, I do not have sufficient information to provide an outside investigator as to these allegations. Please provide a more detailed accounting of what information you uncovered including the names of the administrators and the wrongdoing attributable to each as soon as possible.

39. On August 20, 2019, after receiving the email, Plaintiff went to Ms. Evans-Pare's office and told her he was unsure if he could respond to the email since he had recused himself, and didn't know if it would essentially be "unrecusing" himself. Plaintiff offered to seek legal advice to make sure he wasn't putting himself into jeopardy, to which she agreed that seeking legal advice would be prudent.

40. Nevertheless, Ms. Evans-Pare was still noticeably upset. The Latson case documents that had been given to her a day earlier were spread across her desk. Plaintiff asked if she was okay, and she responded that she was "frustrated."

41. Plaintiff asked Ms. Evans-Pare if anyone else had been recused from the case and she said "no". This response was contrary to what she told Plaintiff on August 1, 2019, that he was receiving the case as a result of an HR Manager having recused. Plaintiff again asked, "No one?" and Ms. Evans-Pare then responded something akin to "Yes, someone else had recused for religious reasons." Ms. Evans-Pare went on to say that particular employee's recusal was confidential by law because it was for religious reasons.

42. Plaintiff knew from conversations with HR Manager Brenda Johnson she had recused herself from the Latson case sometime before he was assigned the case, but not for religious reasons. Ms. Johnson reported to Plaintiff that she told Ms. Evans-Pare she had recused herself because she thought that the focus of investigation was designed to find reasons to terminate and those reasons were illegitimate. In other words, Ms. Johnson's recusal was worded differently than Plaintiff's recusal but both recusals were essentially the same; the scope of the investigation needed to be expanded. Per

Ms. Johnson, unlike Plaintiff, she was not directed to turn over to Ms. Evans-Pare a written statement explaining her recusal.

43. To reiterate, on August 20, 2019, Ms. Evans-Pare first denied no one had recused from the case and then admitted someone had recused but for religious reasons. In response to her update, Plaintiff told Ms. Evans-Pare, "I don't trust you." After all, he knew better. Ms. Evans-Pare's lack of forthrightness began with promising Plaintiff that he would not be assigned the Latson case and now she lacked truthfulness regarding a previous recusal.

44. On August 20, 2019, Plaintiff emailed Ms. Evans-Pare letting her know he will respond to her as soon as he could. That evening, Plaintiff received legal advice in drafting a response to Ms. Evans-Pare and wrote:

Vicki,

As you know, I agree with your decision to bring the investigation to an outside investigator.

I did not investigate these issues so I cannot give you a detailed accounting. It's my belief that issues regarding Will Latson should be looked at in unison with District administrators that interacted with him. To do otherwise, I believe, would skew an understanding of how we got to this point.

It is my understanding, that no one reported Dr. Latson's conduct to HR prior to it becoming public. Not reporting suspected misconduct is part of the Code of Ethics. This ties in with effective communication.

Here are some employees I understand have knowledge of this issue and should be interviewed are: Glenda Sheffield, Ian Saltzman, Diana Federman, Maureen Carter, Keith Oswald. As the investigation is carried on, there may well be additional individuals that come up.

The complete paragraph which you quoted reads,

On Thursday afternoon (8/15), I tried to meet with you to give notice that I had decided to recuse myself from the William Latson investigation but you were unavailable. On Friday afternoon, I left you voicemail.

I see the investigation as unethical, particularly given its limited scope that ignores the alleged wrongdoing of senior administrators, including Keith Oswald, my wife's supervisor (underline added) That relationship in and of itself is more than sufficient reason to recuse myself. It has become apparent to me that after 2 weeks investigating this case that the investigation cannot continue without expanding the scope.

If the scope were to be expanded, I would become a potential witness to an investigation I'm conducting; yet another reason for my recusal.

My moral compass, conscious, and sense of ethics does not allow me to continue.

Please keep in mind that in all my years working in this department investigating a wide range of employees and issues, I have never requested or been advised to recuse myself prior to this case. For me to take this action now, should give you some insight as to the graveness of my conviction and decision.

I think an investigator should meet individually with employees. Here's a sample of questions. No doubt, an investigator would have more questions.

- 1. When did you first learn of Dr. Latson's email with a parent regarding the Holocaust?*
- 2. How did you learn of the email?*
- 3. What specific knowledge of the email did you have prior to it becoming public?*
- 4. What employees do you know that had knowledge of the email prior to it becoming covered by the media?*
- 5. What did you do upon learning of the email?*
- 6. Did you report the email to anyone? Why did you report the email to that/those individual(s)? What knowledge do you have as to any action taken by the individual(s)?*
- 7. Do you think Dr. Latson's email comments regarding the Holocaust were appropriate? Explain.*
- 8. Do you believe Dr. Latson's email contributed to the Superintendent's recommendation to terminate Dr. Latson? if so, as to what degree (major/minor etc). Explain.*
- 9. Have you ever reported wrongdoing (alleged or otherwise) to HR? If so, how often? What generally did you report (i.e. insubordination, absenteeism, inappropriate language etc)?*
- 10. Whom in HR did specifically (i.e. manager) did you report conduct you deemed inappropriate?*
- 11. Has HR assisted you with documenting employees you report?*

12. Explain how the severity Dr. Laton's conduct regarding the Holocaust compared to other issues you reported to HR?

13. Are you aware of SB Policy 3.02 that states to report improper conduct? What does that mean to you?

14. In retrospect, do you think at or about the time you learned of the incident(s) HR should have been contacted?

15. Do you think its a worthy endeavor by the District to look into how District personnel addressed the Latson email issue prior to it becoming public? Why?

Glad to help.

Bob

45. The suggested questions provided to Ms. Evans-Pare by Plaintiff had a particular focus. Senior District administrators would all certainly have reported employees in the past for wrongdoing for far less severe misconduct, so why wouldn't Dr. Latson's comments not be reported to HR? Administrators had a duty and responsibility to report Dr. Laston's Holocaust comments and they did not. By doing so, they violated School Board Policy and were complicit in how the issue unfolded a year later in the media. It also should be noted that Florida Administrative Code 1012.31, has specific time constraints for personnel investigative cases to reach completion.

46. Plaintiff's understanding was that at the time the Holocaust story reached the media, 1012.31 prevented an investigation of Dr. Latson's comments because administrators had known about the issue for so long that an investigation into those matters would be prohibited per 1012.31.

47. Therefore, it became apparent to Plaintiff and everyone else involved that the investigation was redirected to Dr. Latson's not returning recent phone calls etc. to Mr. Oswald in part as a cover-up of improper actions at the highest levels of the District's administrators. Dr. Latson's termination based on not responding to a supervisor in a

“timely” manner had/has a chilling effect on employees throughout the District and prevented a fuller inquiry as to the actions of others.

48. Then, the retaliation began. On October 16, 2019, Plaintiff received an email from Ms. Evans-Pare that stated: “It was brought to my attention that you attended the Hispanic luncheon for a half day on Friday. Please complete a leave slip for the hours you were gone. In the future, make sure that you request time off in advance.”

49. Upon reading the email, Plaintiff immediately made his way to Ms. Evans-Pare’s office as he was deeply offended. He met with Ms. Evans-Pare and she explained that Dr. La Cava had notified her that Plaintiff and another HR Manager, Jose Fred, were at the event. Plaintiff explained that the Hispanic Education Coalition Awards was a two-hour program, not a half-day and he has participated in the event every year since its inception 5 years ago. No previous supervisor ever questioned his attendance, but rather encouraged it. The HEC Awards is a District sponsored event that provides tens of thousands of dollars in scholarships to students in need of assistance. The event is arguably the premier District sponsored event of the year and is attended by around 40 District administrators each year. Plaintiff’s attendance at the event is fulfilling his job responsibility and the District’s mission.

50. Moreover, the 2019 event, Plaintiff was sitting with Chairman of the Board Frank Barbieri who received an award for outstanding work for the Hispanic Community, Board member Marcia Andrews, Superintendent Dr. Donald Fennoy, Assistant Superintendent for Global Studies and Community Outreach Dr. Margarita Pinkos and the President of HEC, Dr. Joaquin Garcia.

51. Ms. Evans-Pare responded that Plaintiff should have completed a leave form for personal time for his attendance at the event but not for a half a day as her email had stated, but only for one of the two hours. After all, it was a 2-hour event and one of the two hours would be covered by his daily scheduled lunch. Ms. Evans-Pare then stated she did not know where Plaintiff was and that he is “like a teacher” and should have completed a leave form. Plaintiff stated he is not a teacher, but an administrator that travels extensively throughout the county as part of his daily routine.

52. Plaintiff doubted any of the scores of administrators at the event completed a leave form. Plaintiff then informed Ms. Evans-Pare that he told her personal secretary on the morning of the event that he was attending the HEC Luncheon. In addition, his calendar attested to his location had the HEC Awards entered as well. All supervisors throughout the District can access their subordinates’ Google Calendars.

53. Ms. Evans-Pare still would not budge, insisting Plaintiff take an hour of personal leave. Plaintiff advised Ms. Evans-Pare that he would not do so until he spoke with Dr. La Cava as he would certainly understand.

54. Plaintiff contacted Dr. La Cava’s office soon thereafter to schedule a meeting. Dr. La Cava did not respond. The following day Plaintiff saw Dr. La Cava in the atrium outside of school district offices. He was on his phone so Plaintiff gestured for him to call him and he nodded. When Dr. La Cava did not call, Plaintiff sent him an email on October 18, 2019, asking to schedule a meeting with him and Jose Fred. Dr. La Cava responded on the same day, adding Ms. Evans-Pare, and asking her to schedule a meeting.

55. Plaintiff now began sensing that Dr. La Cava was trying to avoid him and that he was likely working with Ms. Evans-Pare to harass him by requiring a personal leave of absence for his attendance at the HEC Awards. The motive for the harassment was clearly his recusal from the Latson case, and refusal to rubber stamp a baseless investigation to circumvent the District's failure to properly and timely reprimand Dr. Latson.

56. Plaintiff further understood that Ms. Evans-Pare's tantrum of August 19, 2019, was probably standing in the way for them (La Cava & Evans-Pare) to take disciplinary action against him for allegedly being insubordinate due to his recusal. He also understood that reporting Ms. Evans-Pare's misconduct at a meeting in the presence of Dr. La Cava gave cause for him (La Cava) to be reluctant to meet. It was also looking more likely that Ms. Evans-Pare's directive for Plaintiff to put in for personal leave for a legitimate District sponsored event had its genesis with Dr. La Cava. Yet, another reason for apparent avoidance.

57. Plaintiff received a calendar invite to meet on November 8, 2019, with Dr. La Cava, Ms. Evans-Pare, and Mr. Fred. He was now prepared to get to the bottom of the nonsense of directing him to put in for personal leave for attending the HEC Awards. Plaintiff also planned to report the August 19, 2019, misconduct of Ms. Evans-Pare. This meeting needed to be accurately recorded. Therefore, on November 6, 2019, Plaintiff asked for a full hour for the meeting and a recording device to be used for an accurate transcript.

58. The same day, Dr. La Cava canceled the meeting and directed Plaintiff to “immediately bring any grievances or concerns to your direct supervisor so that she can address immediately and provide you with guidance.”

59. In response, Plaintiff explained to Dr. La Cava that both Mr. Fred and Plaintiff met with Ms. Evans-Pare and are requesting to meet with Dr. La Cava at this point. Plaintiff asked Dr. La Cava if he needed take up the issue with the Chief of Staff.

60. Although Plaintiff never received a response from Dr. La Cava, 38 minutes after he asked Dr. La Cava if he needed to address the issues with the Chief of Staff, Plaintiff received an email from Ms. Evans-Pare stating:

In this instance, due to the fact that I was not advised in advance that you wished to attend this luncheon, I am standing by my request that you use personal leave for the time missed. In the future, should you wish to attend a District sponsored or community event that is outside of but related to your daily work, I expect to be asked in advance; supplied an explanation of how it is tied to your job; and provided with a completed TDE under Policy 3.65 to account for the absence and to establish that you were working during that event for liability purposes.

61. Also on November 6, 2019, Plaintiff emailed Ed Tierney, Chief of Staff to address his concerns. No response was ever received.

62. In summary, Plaintiff would not be able to report Ms. Evans-Pare’s wrongdoing to her supervisor, the Chief of HR, Dr. La Cava or to the Chief of Staff. Ms. Evans-Pare continued to direct Plaintiff to put in for personal time for an event he should have attended as per his job duties, responsibilities etc.

63. Plaintiff was trying to report the wrongdoing of an employee and District administrators were stonewalling his efforts.

64. Unfortunately Mr. Fred was collateral damage. It was Plaintiff that Dr. La Cava and Ms. Evans-Pare wanted to punish for his recusal from the Latson case.

65. On November 8, 2019, at or about 8:20 AM, Plaintiff parked his car in Fulton-Holland Educational Services Center (FHESC) parking lot and was on his way to enter the building when he noticed Dr. La Cava exiting his car. Dr. La Cava's parking spot is directly opposite the entry door to FHESC.

66. Plaintiff walked by his car as he was getting out and asked if he was going to meet with him. Dr. La Cava responded, "I'm not going to meet with you." Dr. La Cava then told Plaintiff to go "[m]eet with Vicki." Plaintiff responded, "I already met with Vicki. Vicki is the problem. That's why I need to meet with you. Isn't that your job to meet with me?" Dr. La Cava responded, "I'm not going to meet with you," as he pointed his finger at Plaintiff. Plaintiff replied, "Don't wag your finger at me." Dr. La Cava looked at his finger, presumably having been unaware of his gesturing, and then lowered his hand. At this point, Dr. La Cava went to the back door of his car (driver's side) and said, "Don't confront me again at my car." Plaintiff replied, "We both need to take a step back." Dr. La Cava then stated, "I'm going to hold back from saying what I'm thinking." At this point, Plaintiff walked away and entered FHESC.

67. Upon checking his email soon thereafter, Plaintiff noticed the monthly breakfast celebration was occurring in Suite A-106. Noticeably absent was Ms. Evans-Pare. Ms. Evans-Pare appeared towards the end of the breakfast by entering through Dr. La Cava's suite. At this time, Plaintiff was speaking with HR Manager Brenda Johnson regarding the reassignment of an employee, but immediately brought Ms. Evans-Pare into the conversation.

68. Based on information received by Plaintiff, Chief of Staff Tierney was updating Assistant Superintendent Dr. Margarita Pinkos at this time as to the progress of

dismissing Ms. Evans-Pare's personal leave requirement for the two administrators attending the HEC event. Based on Plaintiff's conversations with Dr. Margarita Pinkos, it is the understanding and supposition of Plaintiff that when Dr. La Cava entered his office, he was met by the Chief of Staff Ed Tierney. Mr. Tierney advised Dr. La Cava to cease and desist from requiring just 2 administrators (Jose Fred and Mr. Pinkos) out of the scores that attended to submit a leave form for personal time. This issue now had apparently reached the Superintendent, the same Superintendent that Plaintiff shared a table with at the HEC district-sponsored event.

69. Later that afternoon, Plaintiff received a phone call from Board Member Marcia Andrews who confirmed that the HEC Awards issue had been settled, and Plaintiff would not be required to submit for a leave of absence for personal time. Plaintiff would receive no adverse action for attending the HEC awards. Plaintiff questioned Marcia Andrews that he had not received anything in writing to confirm that the issue had been resolved and she stated he would receive something in writing sometime next week and, if not, to call her. Ms. Andrews was aware of Plaintiff's conversation with Dr. La Cava earlier in the day and advised him that it was a non-issue.

70. Notably, Dr. La Cava apparently did not value HEC for its annual scholarship event. At the 2019 event, he did not pay for his plate. Recruitment & Retention Director Edwine Michel attended the event with Dr. La Cava. Sandra Arroyo, a HEC member, witnessed Dr. La Cava telling Mr. Michel, "Dessert looks good. Too bad you're not getting any. We're leaving." Dr. La Cava left before the scholarships were awarded.

71. On the afternoon of Monday, November 11, 2019, HR Manager Jose Fred received a phone call from Vicki Evans-Pare directing him to report to her by the close of

the day. On November 12, 2019, Mr. Fred and Plaintiff received the following email from Ms. Evans-Pare:

Yesterday, I had further conversations with Jose regarding this issue. Based upon this discussion and as a one time accommodation, I will not require you to put in a leave of absence for the luncheon you attended on October 11th. In the future, should you wish to attend a District sponsored or community event that is outside of, but related to, your daily work, you are directed to request to attend in advance; supply an explanation of how it is tied to your job; and complete a TDE under Policy 3.65 to account for the absence and to establish that you were working during that event for liability purposes. If I do not agree that there is a nexus between the event and your job responsibilities, you will need to take personal leave to attend.

72. The staged meeting with Jose Fred merely served as a ruse so that Ms. Evans-Pare could save face. The issue had already been resolved in Mr. Fred and Plaintiff's favor by Board member Marcia Andrews and Chief of Staff Ed Tierney. This particular means of harassment had been shut down.

73. Yet, the retaliation continued. On Thursday, November 14, 2019, Plaintiff received a voicemail from HR Manager Mary Powers to call School Police Detective Lockhart. As an HR Manager, Plaintiff frequently worked with the police. However, once Plaintiff called Detective Lockhart, it was clear she was not calling for his assistance on a particular case, but rather on a personnel matter involving Plaintiff. Detective Lockhart said there were no allegations against Plaintiff but she still wanted to speak with him at her office at Turning Points. Plaintiff informed her that he would not speak with her without representation and Detective Lockhart never called back.

74. Plaintiff's phone conversation with Detective Lockhart gave cause for concern and suspected this was something related to Dr. La Cava. It was odd for him to get a call from a detective he didn't know and one from Turning Points, a school he did

not serve. There is little doubt that this was yet one more incident of harassment devised by Dr. La Cava to intimidate Plaintiff.

75. On Friday afternoon, November 15, 2019, Plaintiff was directed to Ms. Evans-Pare's office. Upon arriving, Plaintiff was met by Compensation Director Mark Mitchell sitting with Ms. Evans-Pare and was handed two documents; Memorandum RE: Failure to Fulfill Job Responsibilities/Insubordination and a letter reassigning him to the South Regional Office effective Wednesday, November 20, 2019. Plaintiff signed for receipt of the memorandum for his recusal from the Latson case.

76. The memorandum documenting him for allegedly failing to fulfill job responsibilities and insubordination was issued to Plaintiff nearly 3 months after he had recused himself (August 19, 2019). Documenting an employee months after the supervisor became aware of area of concern is an unacceptable HR practice.

77. Ms. Evans-Pare stated that today, November 15, 2019, would be his last day working at FHESC. Plaintiff opposed the immediacy given the sheer number of open files with which he was tasked and explained it would be helpful to have his last day at FHESC be Tuesday, November 19. Ms. Evans-Pare refused to allow him to stay.

78. The reassignment letter signed by Ms. Evans-Pare in part read, "This letter is direction to and confirmation of your new job duty location at the South Regional Office, 1790 N.W. Spanish River Boulevard, Boca Raton 33431 beginning Wednesday, November 20, 2019." (Underlined for emphasis).

79. Plaintiff was involuntarily removed from his work location that was 7 miles from his home to a location approximately 27 miles away. Plaintiff mentioned to Mr. Mitchell and Ms. Evans-Pare that it will now cost him more to commute as his travel

mileage reimbursement would be affected. Ms. Evans-Pare responded that he could still put in for mileage reimbursement, apparently not understanding how the move to Boca Raton as his main work office dramatically impacted mileage calculations per policy. Nevertheless, Plaintiff was not offered any accommodation for the inconvenience and driving costs.

80. Plaintiff departed the meeting by saying to Mr. Mitchell and Ms. Evans-Pare that he has 10 months before retirement and all he wants to do is work in peace and harmony.

81. Plaintiff understood as a seasoned HR Manager that his reassignment letter with the effective date of his reassignment had to be at the direction of the Superintendent even though the letter was signed by Ms. Evans-Pare.

82. Determined to humiliate and further punish Plaintiff, Ms. Evans-Pare directed Plaintiff to return to his cubicle and quickly gather his belongings, a full five (5) days earlier than the directive stated in the letter. Ms. Evans-Pare's conduct was clearly vindictive and an act of insubordination against directive presumably by the Superintendent. Within minutes, IT was hauling away Plaintiff's office equipment.

83. In an effort to lessen the blow, Plaintiff informed his colleagues he had arranged a deal regarding the transfer. The level of humiliation inflicted upon Plaintiff by the methodic harassment of Ms. Evans-Pare and Dr. La Cava was unbearable. Plaintiff did his best to keep his dignity as his colleagues helped load his car.

84. At this juncture, Plaintiff was transferred far from the main office and his home. He was denied having the meeting he was due to report the misconduct of Ms.

Evans-Pare. Plaintiff was effectively prevented from reporting the harassment he was enduring. That harassment, as it turns out, continued with Dr. La Cava.

85. On the day before his scheduled vacation, November 19, 2019, Plaintiff received the following email from Germaine Z. English: "I am conducting an investigation into complaints made by employees in which you are the subject. I would like to interview you on Wednesday, November 20, 2019 in the afternoon in your office at the South Regional Office. I'm available from noon on tomorrow. Please let me know what time will work for you. You can have representation at this meeting. If you would like to bring legal representation, please let me know so we can have the attorneys coordinate a time for this interview."

86. Apparently, Dr. La Cava did not agree that Plaintiff should be permitted to work in peace and harmony. The harassment continued even though he was now working in Boca Raton, far from FHESC.

87. Plaintiff sought to have his complaints addressed from the Palm Beach Schools Office of Inspector General (OIG) on January 15, 2020, by filing a Whistleblower Complaint pursuant to Palm Beach County School Board Policy 3.28. The complaint asserted two allegations.

- a. District administrators may have violated District Policy (Code of Ethics) for failing to report remarks made by William Latson regarding the Holocaust in April 2018, to Human Resources.
- b. Chief of Human Resources Gonzalo La Cava and the Director of Employee and Labor Relations Vicki Evans-Pare retaliated against the Plaintiff for raising concerns about the limited scope of the investigation and subsequently recusing from said investigation. Retaliation consisted of being harassed for attending a Hispanic Education Coalition fundraiser; being transferred from District Headquarters to Boca Raton; being written up for Failure to Fulfill Job Responsibilities/Insubordination, and being placed under investigation.

88. At this time, Plaintiff officially retained counsel. In response, the District retained outside counsel to “investigate” Plaintiff. On February 12, 2020, Plaintiff was presented with a document titled: “Investigation Final Report: Complaints Against Robert Pinkos Regarding the November 8, 2019 Altercation.”

89. Shortly thereafter, on March 9, 2020, Plaintiff’s attorneys were presented with a Pre-Determination Meeting Notice based on Plaintiff’s initiation of “an altercation in the School District parking lot which involved the School District’s Chief of Human Resources, Dr. Gonzalo La Cava.”

90. The District’s attempts to terminate Plaintiff’s employment prior to his retirement were only unsuccessful due to the pandemic and inability to hold in-person meeting through the varying strains. As such, Plaintiff retired on September 30, 2020.

91. Notwithstanding Plaintiff’s retirement, the Chief of Operations Officer, Wanda Paul, collared the Plaintiff’s ability to work for the District as it referenced a retaliatory and fraudulent investigation against Plaintiff. Ms. Paul stated in a letter dated October 23, 2020, that any future employment of Plaintiff “would be reviewed {in light of the ‘pending investigation] prior to any official offer of employment.” (Bracketed matter added). The existence of an open investigation hanging over Plaintiff inhibits his procurement of any and all employment.

92. Notably, Ms. Evans-Pare and Dr. La Cava have a history of mistreating employees. On August 28, 2019, Administrative Assistant Clara Trammel, a Hispanic woman nearing retirement, received a \$15,000 settlement from an EEOC complaint that centered on the conduct of Dr. La Cava and Ms. Evans-Pare. Ms. Trammel was transferred from under the supervision of both Dr. La Cava and Ms. Evans-Pare to the

Department of Multicultural Education. Ms. Trammel reported that both Dr. La Cava and Ms. Evans-Pare were relentless in their mistreatment of her. As documented above, Plaintiff became a witness to this treatment firsthand.

93. By way of his written complaint to the Inspector General, Plaintiff complained about the resources being expended on conducting a bare-bones investigation into Dr. Latson's actions, while refusing to examine the conduct of other district employees surrounding the incident. It has now been two years since OIG received the complaint and commenced an investigation into the allegations. Yet no investigative reports have been turned over to the Plaintiff or made public on the District's website. In fact, counsel for the Plaintiff has made numerous requests for the report and has been denied its rightful claim to review the OIG investigative report(s). By doing so, the District has denied the Plaintiff due process and conducted itself in such a manner as to perpetuate the retaliatory conduct.

94. Plaintiff's involuntary transfer to Boca Raton is a direct and proximate adverse employment action stemming from his engagement in good faith reporting and disclosure of wrongful conduct at the highest levels of the District, as well as the various attempts at disciplinary actions, and he clearly suffered from reprisal.

95. Defendant's explanation for Plaintiff's demotion and discipline were mere pretext.

Gross Mismanagement of Resources

96. During the two years of time with Defendant when he was assigned with the Latson case, he conducted the investigation, then recused himself and faced retaliation, Plaintiff routinely observed mismanagement of taxpayer money and resources.

97. Plaintiff has exhausted all available contractual or administrative remedies pursuant to § 112.3187, Florida Statutes.

COUNT I
VIOLATION OF FPWA

Plaintiff realleges and references each and every allegation contained in the preceding paragraphs 1 through 97, and incorporates the same as if set forth fully herein.

98. Plaintiff made complaints regarding the District's gross mismanagement as it relates to public funds, which pose a substantial and/or specific danger to the public's health, safety and/or welfare.

99. Furthermore, the District's lack of financial safeguards constitute a gross neglect of duty by the District of its responsibilities under the law.

100. Plaintiff's complaints about these violations constitute protected conduct under the FPWA.

101. Following the Plaintiff's complaints and in retaliation for those complaints Defendant engaged in adverse action against the Plaintiff by transferring and thereby demoting him, which would dissuade a reasonable person from making any future complaints.

102. As a result of the aforesaid conduct, Defendant has violated the FPWA. As a direct and proximate result of Defendant's violations, Plaintiff has suffered harm.

103. Plaintiff requests reasonable front pay.

104. The smear campaign lodged by Ms. Evans-Pare and Dr. La Cava continues to follow Plaintiff in his professional capacity. Plaintiff requests compensation for lost wages, benefits, and other remuneration caused by the adverse actions of Defendant.

105. Plaintiff further requests reasonable costs, including attorney's fees

pursuant to Fla. Stat. § 112.3187(9).

106. Plaintiff requests that the Court issue an injunction to preclude Defendant from participating in any further or future retaliatory actions against Plaintiff.

WHEREFORE, Plaintiff, ROBERT PINKOS, prays that judgment be entered in his favor against the Defendant, THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA, as follows: that Plaintiff be awarded general and compensatory damages; front pay; back pay; full fringe benefits; prejudgment interest; reasonable attorney's fees and costs pursuant to Florida Statute § 112.3187(9), *et seq.*; and such other relief as the Court deems just and proper.

COUNT II
RETALIATION
IN VIOLATION OF § 448.102(1)

Plaintiff realleges and references each and every allegation contained in the preceding paragraphs 1 through 97, and incorporate the same as if set forth fully herein.

107. Plaintiff made complaints regarding the Defendant's gross mismanagement as it relates to public funds, which pose a substantial and/or specific danger to the public's health, safety and/or welfare.

108. Furthermore, Defendant's lack of financial safeguards constitute a gross neglect of duty by Defendant of its responsibilities under the law.

109. The Plaintiff's complaints about these violations constitute protected conduct under the FPWA.

110. Following the Plaintiff's complaints and in retaliation for those complaints Defendant engaged in adverse action against the Plaintiff by transferring and thereby demoting him, which would dissuade a reasonable person from making any future

complaints.

111. As a result of the aforesaid conduct, Defendant has violated the FPWA.

112. As a direct and proximate result of Defendant's violations, Plaintiff has suffered harm.

113. Plaintiff requests reasonable front pay.

114. Plaintiff requests compensation for lost wages, benefits, and other remuneration caused by the adverse actions of Defendant.

115. Plaintiff further requests reasonable costs, including attorney's fees pursuant to Fla. Stat. § 112.3187(9).

116. Plaintiff requests that the Court issue an injunction to preclude Defendant from participating in any further or future retaliatory actions against Plaintiff.

WHEREFORE, Plaintiff, ROBERT PINKOS, prays that judgment be entered in his favor against the Defendant, THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA, as follows: that Plaintiff be awarded general and compensatory damages; front pay; back pay; full fringe benefits; prejudgment interest; reasonable attorney's fees and costs pursuant to Florida Statute § 112.3187(9), *et seq.*; and such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document will be served via original service of process.

/s/ Fred A. Schwartz

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