

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

JENNIFER B. REISINGER
1819 Settlement Trail
Sheboygan, WI 53081

Plaintiff,

v.

Civil Action No.

JUAN PEREZ
Individually and in his official capacity,

STEPHEN G. McLEAN
In his official capacity,

DAVID E. KIRK
In his official capacity,

SUSAN RICHARDS
In her official capacity, and

CITY OF SHEBOYGAN
828 Center Avenue
Sheboygan, WI 53081

Defendants.

COMPLAINT

The Plaintiff, Jennifer B. Reisinger, by her attorneys, GATZKE & RUPPELT, S.C. and Attorney Paul E. Bucher, hereby alleges and shows to the Court as follows:

NATURE OF THE CASE

This action is brought to secure the Plaintiff's First Amendment right to freedom of speech without incurring a penalty in violation of 42 U.S.C. § 1983 (2006).

JURISDICTION AND VENUE

Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343 and 2201 (2006), conferring jurisdiction upon this Court over the claims set forth in this

complaint. In addition, Plaintiff timely served a Notice of Claim upon all governmental and quasi-governmental entities therein preserving all rights available for all stated causes of action.

PARTIES

1. Plaintiff, Jennifer B. Reisinger (“Ms. Reisinger”), is an adult resident of the County of Sheboygan, State of Wisconsin, and whose primary occupation is as a web developer.

2. Defendant, Mayor Juan Perez (“Mayor Perez”), an adult resident of Wisconsin, residing in the Eastern District of Wisconsin, at all times relevant to this action, is and was employed by the City of Sheboygan as the Mayor, and has the ultimate control over the City Attorney and other city employees and officials, and is a party in both his individual and official capacities. The mayor is the chief executive officer, and in that capacity, is to take care that city ordinances and state laws are observed and enforced, and that all city officers and employees discharge their duties according to law.

2. Defendant, City Attorney Stephen G. McLean (“City Attorney McLean”), an adult resident of Wisconsin, residing in the Eastern District of Wisconsin, at all times relevant to this action, is and was employed by the City of Sheboygan as the city attorney, and is a party in his official capacity only. The city attorney is to conduct all the law business in which the City of Sheboygan is interested, and when requested by city officers, give written legal opinions, which are to be filed with the clerk. In addition, the city attorney is to draft all ordinances, bonds and other instruments, and examine other legal documents necessary and requested by other city officials.

3. Defendant, Police Chief David E. Kirk (“Chief Kirk”), an adult resident of Wisconsin, residing in the Eastern District of Wisconsin, at all times relevant to this action, is and was employed by the City of Sheboygan as the chief of police, and has the

ultimate control over employees and officers of the City of Sheboygan Police Department, and is a party in his official capacity only. The chief of police has a command of the police force of the city under the direction of the mayor. The chief of police shall obey all lawful written orders of the mayor or common Council, and the chief of police possesses the powers, enjoy the privileges and is subject to the liabilities conferred and imposed by law. In addition, the duties of the chief of police include having charge of all city jails and shall arrest, with or without process and with reasonable diligence, take before the municipal judge or other proper court every person found in the city engaging in any disturbance of the peace or violating any law of the state or ordinance of the City of Sheboygan.

4. Defendant, City Clerk Susan Richards (“Clerk Richards”), an adult resident of Wisconsin, residing in the Eastern District of Wisconsin, at all times relevant to this action, is and was employed by the City of Sheboygan as the City Clerk, and is a party in her official capacity only. The city clerk shall have care and custody of corporate seal and papers of the City of Sheboygan, attend the meetings of the council, keep a full record of proceedings, draw and sign all orders upon the treasury, keep an accurate account with the treasurer, and keep all papers and records in the clerk’s office under safe and secure conditions, subject to open inspection. The clerk has the power to administer oaths and accept all filings within the City of Sheboygan.

5. Defendant, City of Sheboygan (“City”), is a municipal corporation organized under the laws of the State of Wisconsin, with its principal offices located at 828 Center Avenue, Sheboygan, WI 53081, located in the Eastern District of Wisconsin, and is and was at all material times hereto, a municipal employer.

STATEMENT OF CLAIMS

6. Plaintiff, Jennifer B. Reisinger, is a resident and business person who had maintained several websites within the City of Sheboygan. One of the websites maintained is “Brat City Web Design”, of which the Plaintiff is the sole proprietor. The website address is bratcitywebdesign.com. The Plaintiff also contributes regularly to a blog being maintained in the City of Sheboygan and known as sheboyganshenanigans.com and sheboyganspirit.com.

7. Ms. Reisinger is an active member of the community within the City of Sheboygan and is active in city politics, specifically as they relate to the election of the Mayor of the City of Sheboygan, as well as a recall effort that was undertaken to recall the current Mayor, Juan Perez.

8. During the year 2006, Ms. Reisinger began to frequent a forum dealing with issues concerning the City of Sheboygan and Mayor Perez. Various individuals contributing to the forum began discussing a possible recall effort of Mayor Perez. Ms. Reisinger, while participating in the forum, suggested the creation of a website devoted to the recall efforts. Various individuals requested that Ms. Reisinger create said website, and it was subsequently launched on May 19, 2006.

9. After the initial launching of the website, Ms. Reisinger was provided with information relative to a political action group known as “Citizens for Responsible Government”, which was spearheading the recall effort of Mayor Perez. Ms. Reisinger, who publicly identified herself, attended a meeting and her name was subsequently placed on the member list of said group.

10. Subsequent to the creation of the website, Ms. Reisinger also created a forum and photo gallery as links to the website, and various citizens of the City of

Sheboygan posted comments and photographs on said site, including postings relative to the effort to recall Mayor Perez.

11. As part of her normal routine, Ms. Reisinger had several links on her Brat City Web Design site, which is her business web site. One of those particular links was to the City of Sheboygan Police Department. The City of Sheboygan Police Department is a law enforcement agency and enforces all laws within the City of Sheboygan. It is a public agency and performs investigations relative to criminal law violations. Said website was non-descript and actually promoted the City of Sheboygan, by encouraging individuals to visit various websites, including the Sheboygan Chamber of Commerce. Additionally, this website was a business website being utilized by Ms. Reisinger as one of her primary areas of revenue. It was an apolitical website with numerous links to several public agencies in Sheboygan. This website, with its' various links to City of Sheboygan agencies, continued uninterrupted until October 2007.

12. In an email dated October 18, 2007, to City Attorney McLean and copied to Mayor Perez, Mary Rajer of the Office of the Mayor indicated that Ms. Reisinger had a business named Brat City Web Design and she was listing the Sheboygan Police Department as a local link on this website. This email indicated that Mayor Perez, in his official capacity as Mayor, was inquiring if this was permissible for Ms. Reisinger to do without authorization.

13. The aforementioned email was answered by City Attorney McLean, indicating:

“Anyone can create a link to someone else’s website very easily without the knowledge or consent of the linked party.”

City Attorney McLean further indicated that he had checked with a Margie Verhelst, and Ms. Verhelst indicated that she was not aware whether the City had obtained permission

from the entities to which the City's website links. However, City Attorney McLean indicated that, nonetheless, he could issue a "cease and desist" letter to Ms. Reisinger, if the Mayor so desired. In response to that email, Mary Rajer, Assistant to the Mayor, indicated that Mayor Perez, in his official capacity, wanted City Attorney McLean to issue a cease and desist letter regarding the link Ms. Reisinger had on her business website to the City of Sheboygan Police Department.

14. In response to this official directive from Mayor Perez, a letter dated October 19, 2007, drafted on City of Sheboygan stationery and addressed to Ms. Reisinger, indicated that information had been brought to the attention of City Attorney McLean that Ms. Reisinger had a link to the City of Sheboygan Police Department on a website identified as "sheboyganspirit.com." It was later determined that this was in error, and that City Attorney McLean was actually referring to "bratcitywebdesign.com." The letter further indicated that, in his official capacity as City Attorney, and on behalf of the City of Sheboygan, he was demanding that Ms. Reisinger sever the link and "cease and desist" from linking her website to the City of Sheboygan Police Department.

15. City Attorney McLean sent this letter in his official capacity and under orders from Mayor Perez in his official capacity as Mayor of the City of Sheboygan. This letter did not include City Attorney McLean's opinion previously given to Mayor Perez that "anyone could create a link to another person's website without consent."

16. In response to this letter received from City Attorney McLean, Ms. Reisinger expressed her surprise that the City of Sheboygan had a concern relative to a local business sharing a tax payer-funded website with visitors to the City, and felt intimidated as a result of receiving the official letter on City Attorney letterhead, and concerned for the waste of tax payer resources on this matter. Ms. Reisinger indicated:

“I do think this is very silly, very trite, and very, very wrong, but if this is what you wish, so be it. I will remove the link but that won’t stop my support of the police.”

The link was removed by Ms. Reisinger, in response to this demand that she “cease and desist” in this activity of informing the public of services provided by the City of Sheboygan Police Department.

17. In response, City Attorney McLean, on October 22, 2007, thanked Ms. Reisinger for removing the link. Shortly thereafter, Ms. Reisinger was informed that there was now an official police investigation relative to the linking of her website to the City of Sheboygan Police Department. In fact, Ms. Reisinger received a telephone call from a superior investigating officer of the Sheboygan Police Department, inquiring as to the circumstances surrounding the website link.

18. This contact from the Police Department caused extreme concern and emotional upset for Ms. Reisinger. Whereupon, she then sent a letter dated Thursday, November 1, 2007, to the City Attorney, reiterating the communication they had regarding the link to the City of Police Department and her removal of the link. She also expressed her concern that there was now a police investigation of this matter, which was causing her significant distress and public humiliation, embarrassment and even ridicule on other websites and blogs. It was also now publicized in the local newspaper. Lt. Jeff Johnson of the City of Sheboygan Police Department contacted Ms. Reisinger, by leaving a message on her voice mail, indicating that he wished to speak with her concerning her link to the City of Sheboygan’s website. Lt. Johnson indicated very clearly that he was conducting an investigation that he “was assigned to do concerning a link to their website.”

19. Ms. Reisinger went on to indicate that she felt this was a total waste of time and money on behalf of the tax payers, and wished to know the authority that disallows such a link. Subsequently, Ms. Reisinger retained counsel, Attorney Paul E. Bucher of the firm of Gatzke & Ruppelt, S.C., who advised Ms. Reisinger not to remove the link, and to place the link back on her website. Attorney Bucher then began contacting city officials and advising them of his involvement in the matter.

20. Shortly thereafter, by letter dated November 6, 2007, Attorney Bucher was notified that the city was withdrawing their demand that the link between Ms. Reisinger's website, bratcitywebdesign.com, and the City of Sheboygan Police Department be severed or that she "cease and desist" from engaging in that activity. In fact, in this letter, the City of Sheboygan now indicated that they wanted her to continue to use the link to the Police Department in a positive and responsible manner.

21. As a result of the contacts from Mayor Perez, the Mayor's Office, the City Attorney and the City Police Department, Ms. Reisinger experienced death threats, other threats to her personal safety, including vulgar and obscene comments and letters left at her residence, causing her fear for her own personal safety, as well as embarrassment and ridicule. This activity escalated to the point that video cameras and a burglar alarm was installed at the Reisinger residence. As a result of contact by the City of Sheboygan as described above, Ms. Reisinger's ability to express herself either on her websites or in any other fashion, as it relates to the City of Sheboygan, has been diminished, discouraged and forced to discontinue.

22. As a result of contact by the City of Sheboygan, Ms. Reisinger has suffered a significant decrease in income, resulting in an estimated 53% decrease in her personal annual income, significant emotional distress and concern for her safety. Ms. Reisinger was not able to seek counseling or assistance, due to her diminished income

and lack of health insurance. Ms. Reisinger sought counseling through her pastor/minister, since it was provided free of charge.

**CAUSE OF ACTION FOR VIOLATION OF
FIRST AMENDMENT RIGHT OF FREE SPEECH
UNDER COLOR OF STATE LAW**

23. Reallege and incorporate herein by reference paragraphs 1 through 22 of this Complaint as set forth at length herein.

24. The Plaintiff, Jennifer B. Reisinger, engaged in protected free speech by contributing regularly to a blog being maintained in the City of Sheboygan and known as sheboyganshenanigans.com and sheboyganspirit.com.

25. Ms. Reisinger was active in City of Sheboygan politics, and specifically as it related to the Mayoral election in the City of Sheboygan, as well as in the recall effort undertaken to recall the current Mayor of Sheboygan, Juan Perez.

26. The City of Sheboygan, acting under color of law through the Office of the Mayor by the Mayor himself, and through the Office of the City Attorney and the Office of the Police Chief, retaliated against Ms. Reisinger for the aforementioned political participation by ordering her to “cease and desist” in promoting her website’s links to various City of Sheboygan government websites, including the City of Sheboygan Police Department. Said links were intended to promote the City of Sheboygan and encouraged citizens to visit the City’s websites, as well as exercise Ms. Reisinger’s right to freedom of expression and speech under the First Amendment.

27. The retaliatory actions taken against Ms. Reisinger by the City of Sheboygan were on orders of Mayor Perez, personally and in his capacity as Mayor of the City of Sheboygan and instituted as a means to intimidate and punish Ms. Reisinger for her past political activity and to intimidate and restrict or control her ability to express

herself through her website and, as such, were a clear violation of her First Amendment rights of free speech.

28. As a result of the defendants' combined actions of retaliation against the Plaintiff, Jennifer B. Reisinger, she suffered threats to her personal safety, damage to her reputation, mental anguish, physical suffering, monetary damages, attorney fees and other expenses. Further, Ms. Reisinger's right to pursue her economic goals has been diminished.

29. The combined retaliatory actions taken against Ms. Reisinger by the City of Sheboygan and by Mayor Perez, personally and in his official capacity as Mayor, were a willful, wanton and intentional disregard of her constitutional rights, designed to punish Ms. Reisinger for her past and present political activity involving Mayor Perez, and to cause her public humiliation and ridicule, making punitive damages against the defendants in their individual capacities appropriate and necessary to stop these repeated patterns from occurring.

WHEREFORE, Plaintiff, Jennifer B. Reisinger, respectfully requests that this Court:

- A. Assume jurisdiction of this case;
- B. Declare that the defendants' retaliatory and punitive actions against the Plaintiff operated to deny her right of free speech and expression, in violation to the First Amendment to the United States Constitution, and enter a declaratory judgment to that effect;
- C. Award compensatory damages against the defendants jointly and severally in the sum of \$250,000.00;
- D. Award punitive damages against the defendants jointly and severally in a sum to be determined by a jury;

E. Grant the Plaintiff her costs, disbursements and actual attorney fees in bringing this action;

F. Grant such further relief as the Court deems just and necessary.

A TRIAL BY JURY IS HEREBY DEMANDED.

Dated in New Berlin, Wisconsin this 18th day of August, 2008.

GATZKE & RUPPELT, S.C.
Attorneys for Plaintiff

/s Paul E. Bucher

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