

STATE OF NEW MEXICO  
COUNTY OF DOÑA ANA  
JUDICIAL DISTRICT COURT

ANDREA FERRALES-NARVAEZ,

Plaintiff,

vs.

Case No. D-307-CV-2024-00054  
Judge Fitch, Casey B.

BOARD OF COUNTY COMMISSIONERS  
FOR DOÑA ANA COUNTY

Defendants.

**COMPLAINT FOR VIOLATIONS  
OF THE WHISTLEBLOWER PROTECTION ACT AND DAMAGES**

COMES NOW the Petitioner, Andrea Ferrales-Narvaez, by and through her counsel of record, The Justice Legal Team, LLC (Amy L. Orlando), and respectfully submits this Complaint for Violations of the Whistleblower Protection Act and Damages. Plaintiff seeks to recover damages based on the retaliation she suffered after reporting and/or refusing to go along with illegal or improper conduct on the part of the Doña Ana County Sheriff's Department, Doña Ana County Sheriff Kim Stewart, County Manager Fernando Macias, and Doña Ana County. In support of her Complaint, Plaintiff alleges the following:

**PARTIES, JURISDICTION AND VENUE**

1. The Doña Ana County Sheriff's Department and Doña Ana County are both agencies, departments, or divisions of the County of Doña Ana and are headquartered in Doña Ana County, New Mexico, and are both a "public employer" as that term has meaning within the Whistleblower Protection Act ("the Act"), NMSA 1978 § 10-16C-1 *et seq.*

2. The Plaintiff was an employee of the Doña Ana County Sheriff's Department ("DASO") for three (3) years. The Plaintiff was the Sheriff's Administrative Assistant and then was promoted to Undersheriff. The Plaintiff was the Undersheriff at the time of the retaliation and termination.

3. The Plaintiff was a "public employee" as that term has meaning within the Act at all times material to the allegations in this Complaint.

4. The Plaintiff is a resident of Doña Ana County, New Mexico.

5. Kim Stewart, ("Defendant Stewart") is the Sheriff for Doña Ana County and as such is the final decision-making authority for DASO. She is sued here in her official capacity.

6. Fernando Macias, ("Defendant Macias") is the County Manager for Doña Ana County and as such has final decision-making authority for the County which oversees DASO. Defendant Macias was the individual that signed off on the decision to retaliate against Plaintiff Ferrales that was made by Defendant Stewart. He is sued here in his official capacity.

7. This Court has jurisdiction over the subject matter and the parties to this action pursuant to the Court's general jurisdiction and NMSA 1978 § 10-16C-4, NMSA 1978 §38-3-1.1, and upon Article VI, Section 13 of the New Mexico Constitution.

8. Venue is proper in Doña Ana County and in this judicial district pursuant to NMSA 1978 § 38-3-1(A) and (G).

## **FACTUAL BACKGROUND**

9. The Plaintiff met Defendant Stewart in 2018 when Defendant Stewart was running for Sherriff.

10. In January 2019 Defendant Stewart became the Sheriff in Doña Ana County.

11. Once Defendant Stewart became Sheriff, she hired Plaintiff to be her Administrative Assistant. During this time frame Plaintiff had total access to everything Defendant Stewart did almost every day. The Plaintiff had access to Defendant's calendar, as well as being located right outside of Defendant's office and could hear many conversations. On numerous occasions, Defendant Stewart went into the Plaintiff's office and laid on her couch and shared many things including her opinions of other employees, who was on Defendant Stewart's "bad" list, and some of Defendant Stewart's retaliation plans of other employees.

12. The Plaintiff was running numerous programs as Defendant Stewart's Administrative Assistant. One of the programs was the Peer Support Program.

13. In September 2021, Plaintiff was promoted and selected by Defendant Stewart to serve as her Undersheriff.

14. Initially, the Plaintiff believed she could work well with Defendant Stewart based on her promises to Plaintiff and the relationship they had, but Plaintiff realized that Defendant Stewart acted unethically, corrupt, and demanded that her employees never challenge her or disagree with her. The Plaintiff learned from Defendant Stewart that DASO staff were expected to do as told no matter what the consequences were.

15. The Plaintiff attempted to guide Defendant Stewart in the right direction, and explained to her on multiple occasions that there were rules she had to follow.

16. On some occasions Defendant Stewart would listen to the Plaintiff and change her directives and or behaviors. On many occasions Defendant Stewart would ignore the Plaintiff and continue with her corrupt directives and would force the Plaintiff to go behind her and attempt to fix the mess or simply ignore the corrupt directives.

17. The Plaintiff was successful and was well respected by the staff at DASO. However, once the Plaintiff started to push back and inform Defendant Stewart that she was committing improper acts contrary to the law, DASO policy, and procedures, Defendant Stewart retaliated against the Plaintiff and fired her on January 5, 2022.

18. The Plaintiff is aware of multiple times that Defendant Stewart targeted an employee and made their life miserable in the hopes of getting them to quit or be set up to be fired. Defendant Stewart is notorious for creating hostile work environments.

19. Plaintiff personally witnessed many acts committed by Defendant Stewart that clearly constituted retaliatory actions against the Plaintiff, and staff at DASO, as well as unlawful or improper acts that constituted gross mismanagement, waste of funds, and an abuse of her authority.

20. When Defendant Stewart realized the Plaintiff was not following Defendant Stewart's directives and in fact was openly challenging her corrupt behavior, Defendant Stewart retaliated against the Plaintiff for her unwillingness to be part of the corruption.

21. Defendant Stewart ordered the Plaintiff to be interrogated for over three (3) hours by two of Defendant Stewart's soldiers for absolutely no reason. After the

interrogation and to effectuate her retaliation against the Plaintiff, DASO and Defendant Stewart wrongfully fired the Plaintiff.

22. This illegal detention and interrogation caused the Plaintiff severe fear and anxiety. It is clear from the interrogation that Defendant Stewart's soldiers had their marching orders to turn an "interview" into an interrogation to create an issue to terminate the Plaintiff.

23. The wrongful termination and retaliation caused severe emotional and mental distress.

24. The retaliation by Defendant Stewart started in December 2021 when for no reason, Defendant Stewart effectively fired the Plaintiff by sending her home and telling her to not report to work for the month of December 2021. Plaintiff had done nothing wrong and had received no formal or informal discipline for any behavior.

25. When Plaintiff reported back to work in January 2022, Defendant Stewart ordered the Plaintiff to participate in an "interview" with her soldiers, a Captain, and a Lieutenant. The "interview" lasted three (3) hours and turned into an interrogation against Plaintiff.

26. Defendant Stewart set up the Plaintiff, she moved her from the Administrative Assistant position to Undersheriff, so that it was easy to remove the Plaintiff by simply saying "expiration of appointment."

27. This behavior by Defendant Stewart highlights her vindictive, unstable, and corrupt behavior.

28. This conduct by Defendant Stewart and condoned by the County constituted time-fraud. They instructed the Plaintiff to stay home and not to come into

the office. The Defendants had to approve her hours as worked even though they had taken away her ability to work.

29. DASO and Doña Ana County are vicariously liable under the doctrine of respondent superior for the wrongful act of their employees.

30. The following are some of Defendant Stewart's unlawful or improper acts, gross mismanagement, waste of funds, retaliation, acts of harassment, and abuse of her authority that were known and observed by Plaintiff and for which Defendant Stewart retaliated against her:

- a. Sometime in early 2020, Defendant Stewart hired a company to help run the process of promotions of law enforcement officers in the department. The company's Director, Kimberly Miller, refused to turn over any documents requested by the Plaintiff. The company was an out of state company that purported to help find the best candidate for any position. The Plaintiff believes Doña Ana County paid well over \$20,000.00 for the contract with Ms. Miller. However, Defendant never followed the new procedure and instead simply handpicked candidates of her own choosing. This action constitutes gross mismanagement, waste of funds, and an abuse of Defendant Stewart's authority.
- b. In December 2020, a position for Captain became available and Defendant Stewart shared with the Plaintiff that she had a candidate pre-selected, and she was going to make sure Jeremy Hash was going to be the next Captain. Defendant Stewart, to effectuate her plan, instructed Captain Manuel Long to sit in the interview process. Defendant Stewart

told Captain Long as well as the Plaintiff multiple times that she had a candidate in mind and that Jeremy Hash was going to be the next Captain. Long after the interview process was completed, Defendant Stewart instructed Captain Long to score the candidates. He was again instructed by Defendant Stewart who to pick and she told him the rest of the panel had selected Mr. Hash. Defendant Stewart specifically told him that Jeremy Hash should be at least number 3 on the list so she could promote him. The Plaintiff has personal knowledge that Defendant Stewart skipped the highest-ranking candidates and promoted Mr. Hash. This incident caused extreme stress and pressure on the Plaintiff knowing that Defendant Stewart purposefully violated the County's hiring policies against pre-selecting a candidate as well as violating all the other candidates' rights.

- c. During December of 2020 or early January of 2021, Defendant Stewart informed the Plaintiff that she was going to have DASO Chaplain Carr reassigned to the patrol division in order to get him to quit. Defendant Stewart shared that she knew that Chaplain Carr did not possess physical stamina and experience and that if moved he would not last at DASO. Plaintiff knew that Defendant Stewart does not believe in God and did not want the Chaplain working at her agency. After moving Chaplain Carr and harassing him for no reason he was forced to leave the agency. This action constitutes gross mismanagement and an abuse of Defendant

Stewart's authority. It also was an act of Discrimination based on religious beliefs.

- d. In June 2021 the Plaintiff learned from Defendant Stewart that she was going to contract with an individual that donated and worked on Defendant Stewart's political campaign. The Plaintiff also knew that Captain Long knew about this decision and that Captain Long had made the office staff at DASO aware that Defendant Stewart had to disclose her personal relationship with all individuals she contracts with pursuant to State rules. The Plaintiff knew that the day after Captain Long discussed the issue with DASO staff, Defendant Stewart immediately retaliated against him and cut off all access to the building, his computer and phone. Plaintiff knew that Captain Long had simply done his job, but Defendant Stewart was mad at him because she felt he was going behind her back, attempting to make her follow the rules and undermining her. Defendant Stewart admitted she was not going to allow Captain Long to ever set foot in the office no matter what. Defendant Stewart also admitted that she knew that Captain Long had done nothing wrong. This action caused extreme stress to the Plaintiff because she realized the extent the Defendant would go to if you confronted her or acted contrary to her illegal orders. It made the Plaintiff even more anxious and emotionally scared when Defendant Macias and Defendant County did nothing to protect the Captain.
- e. This behavior by Defendant Stewart showed the Plaintiff the amount of power and retaliation that she was able to get away with.



- f. On another occasion where there was a promotion process involving Sergeant Flores applying for a Lieutenant promotion, the documents, results from the test, and the testing material from Ms. Miller were being held in Defendant Stewart's office. Defendant Stewart shared with Plaintiff that she did not like the candidates that had scored in the top three positions, and instead she was going to hand-pick her preselected candidates. Defendant Stewart ordered Plaintiff to immediately mail the materials back to Ms. Miller so no one could see the results and challenge her decision. The Plaintiff had seen this behavior previously with the promotion of Jeremy Hash and realized no one was going to stop this corrupt behavior on the part of Defendant Stewart.
- g. Defendant Stewart told the Plaintiff that she was not going to promote Eric Flores because she did not trust him because he and his wife, Sergeant Eden Flores, were too involved in union activities. Moreover, he and his wife were not part of Defendant Stewart's inner circle. This action constitutes gross mismanagement and an abuse of Defendant Stewart's authority. This action also constituted direct retaliation against an employee for participating in union activities.
- h. Prior to Defendant Stewart becoming Sherriff, DASO had a great working Peer Support Program under the direction of Chaplain Carr. It wasn't until Defendant Stewart targeted Chaplain Carr and forced him to leave DASO that everything fell apart.

- i. The Peer Support Program was to allow staff, including the commissioned deputies, to feel free to talk to others about issues relating to their job without the fear of retaliation. To support the program there were several local private therapists and counselors that gave their time to DASO. One of the private counselors was Robyn Rehbein-Narvaez.
- j. In April 2021 the Plaintiff and some members from the Peer Support Program, including Robyn, attended a training in California. During this training all attendees represented DASO. Ms. Rehbein-Narvaez behaved extremely inappropriately and made the Plaintiff feel uncomfortable. The Plaintiff upon returning to work shared her concerns with Defendant Stewart. Nothing was done regarding the issues with Ms. Rehbein-Narvaez because she was only a volunteer, and the Plaintiff had no authority to deal with the unprofessional behavior.
- k. In September 2021 the Plaintiff was promoted to Undersheriff.
- l. In September or October 2021 Defendant Stewart gave Ms. Rehbein-Narvaez a contract to oversee the Peer Support Program. Defendant Stewart did not use the RFP process, she simply hand-picked her friend and her personal counselor. In addition to not following the laws for procurement, Defendant Stewart gave Ms. Rehbein-Narvaez an office to use, equipment to use, vehicles to use, and paid for her travel. These actions are all contrary to the rules regarding contract employees.
- m. The procurement process did not go through the purchasing department and Ms. Rehbein-Narvaez had very minimal, if any at all, training in

understanding the mental health of first responders, and had no qualifications to receive the contract. The Plaintiff and others heard Defendant Stewart say, "I don't care who puts in for it, Robyn will get the contract!"

- n. In November 2021 the Plaintiff, Ms. Rehbein-Narvaez, and other members of the peer support program attended a second training to San Diego. During this trip Ms. Rehbein-Narvaez remained drunk almost the entire time, she grinded in a sexual manner against the Plaintiff, she bragged about having a sexual affair with an individual on the team, and she disclosed several of her client's names to include the fact that she was and has been the counselor for Defendant Stewart. This inappropriate behavior and clear violation of client privilege alarmed the Plaintiff.
- o. When the Plaintiff returned to work, she shared her concerns with Defendant Stewart regarding Ms. Rehbein-Narvaez's behavior. The Plaintiff also shared that the Peer Support Program only worked because of the promises that confidentiality will be kept, and that Ms. Rehbein-Narvaez named several clients from DASO she had worked with to include Defendant Stewart.
- p. The Plaintiff was unclear if DASO was paying for Defendant Stewart's counseling sessions which would be clearly a violation of law.
- q. Defendant Stewart became irate and threatened the Plaintiff and the wrath and retaliation of Defendant Stewart began against the Plaintiff. It is very

clear that at this point Defendant Stewart realized the Plaintiff was not going to remain quiet any longer and was challenging Defendant Stewart.

- r. Shortly after this conversation Defendant Stewart removed the Plaintiff from the Peer Support Program entirely.
- s. The next act of retaliation by Defendant Stewart was telling the Plaintiff to go home and that she was not allowed back to the office until January 2022. This is a pattern of Defendant Stewart to retaliate against employees and send them home. This allows Defendant Stewart to search the employees' offices and computers in order to find out what the employee has regarding the Defendant's retaliatory actions, unlawful or improper acts that constitute gross mismanagement, waste of funds, and any abuse of her authority.
- t. When the Plaintiff returned to work, she was ordered to participate in a three (3) hour interrogation regarding Ms. Rehbein-Narvaez. The Plaintiff was not given a target notice nor was she ever told she was the target of an investigation. During this interrogation, Defendant's soldiers verbally attacked the Plaintiff and belittled her. They dismiss her concerns regarding Ms. Rehbein-Narvaez. At one point one of the interrogators states "it is our job to protect the Sheriffs blindside. We will and we are good at it." It is clear that the interrogation was a mechanism to intimidate and scare the Plaintiff. Moreover, it is clear from the audio of the interrogation, that the soldiers were trying to find anyone else that would have information regarding the behavior of Ms. Rehbein-Narvaez so they

could threaten them as well. At one point the soldiers blame the Plaintiff and say she will be the cause of others being terminated. This was all done to protect the illegal actions of Defendant Stewart. During the entire interrogation, Defendant Stewart's soldiers blamed the Plaintiff for everything, asked ridiculous questions, refused to accept the Plaintiff's answers, and berated her for no reason. Again, the Plaintiff was never in trouble, she had simply informed Defendant Stewart of her concerns. Moreover, the Plaintiff was the Undersheriff, and she should never have been questioned so inappropriately by her employees.

- u. One day after this interrogation, the Plaintiff was terminated for no reason.
- v. During her time with DASO, Plaintiff learned from payroll staff that a Captain was having his timesheet changed by a subordinate instead of following the proper DASO policies which provided that only another Captain or above could change his timesheets. The payroll staff was very concerned that this manual change to hours worked was occurring often and that a Captain was helping facilitate manual changes to some of his friends' timesheets as well. Plaintiff reported this to Defendant Stewart, and she did absolutely nothing to fix it. Instead, she had the Captain interrogate the Plaintiff for three (3) hours in order to intimidate the Plaintiff and create a reason to terminate the Plaintiff.

31. DASO and Doña Ana County are vicariously liable under the doctrine of respondent superior for the wrongful act of their employees.

32. This behavior by Defendant Stewart highlights her vindictive, unstable, and corrupt behavior.

33. It needs to be emphasized that the Plaintiff was never accused of doing anything wrong and was never disciplined in any way.

34. It is illegal for an employer to discipline an employee without making even an allegation of wrongdoing and providing due process rights.

35. Defendant Stewart retaliated against the Plaintiff because she instructed her to stay home and not report to work and because she created a hostile work environment.

36. The Plaintiff was fired on January 6, 2022. Therefore, the Defendants are liable for double damages because the Plaintiff was fired in violation of the Act.

37. Defendants DASO, and Doña Ana County are liable for the unlawful retaliatory actions of its supervisory personnel as alleged herein.

38. As a further direct and proximate result of the Defendants' wrongful actions as alleged herein, the Plaintiff has incurred expenses (past and future) and seeks damages to compensate her for the losses as well as for her emotional distress and pain and suffering resulting from Defendants' unlawful retaliatory actions and her constructive discharge.

### **COUNT 1- VIOLATION OF THE WHISTLEBLOWER PROTECTION ACT**

39. Plaintiff incorporates by reference all the foregoing allegations.

40. DASO, Doña Ana County, and Defendant Macias, allowed Defendant Stewart to terminate the Plaintiff by creating a hostile work environment and by

retaliating against the Plaintiff because the Plaintiff refused to violate state law or participate in corrupt behavior.

41. Defendant Stewart realized that Plaintiff was not going to remain silent when she was appointed to be the Undersheriff and Defendant Stewart had to get rid of the Plaintiff. A clear pattern that Defendant Stewart followed and will be testified to by many employees, was to send employees home and block them out of the office and their work equipment so she could go through the employee's office, computer, and phone destroying any documents that they may be in possession of that would implicate Defendant Stewart in any retaliatory actions against employees, and staff at DASO, as well as any unlawful or improper acts that constituted gross mismanagement, waste of funds, and an abuse of her authority.

42. Defendant Stewart, DASO, Doña Ana County, and Defendant Macias violated the Plaintiff's rights under NMSA 1978 §10-16C-1 et seq.

43. The Plaintiff has suffered damages as a result of the unlawful retaliatory actions of all of the Defendants.

44. The Plaintiff is also entitled to her reasonable and necessary attorney's fees, costs, and litigation expenses, and pre- and post-judgement interest as allowed by law.

### **PRAYER FOR RELIEF**

**WHEREFORE** the Plaintiff prays for the following:

A. Actual and compensatory damages, including double lost back pay and future lost pay;

B. Equitable remedies, including the requirement that Defendants provide the Plaintiff with a good and truthful reference. The cleansing of her personnel files to remove from it any false and retaliatory comments, opinions, findings, conclusions, actions taken against her in retaliation for their protected whistleblower activities;

C. Special damages in such sums as will be proven at trial;

D. Reasonable and necessary attorney's fees and costs, and litigation expenses;

E. Pre- and post- judgement interest as authorized by law; and

F. Orders such other relief that is just and proper.

Respectfully submitted,

THE JUSTICE LEGAL TEAM, LLC

By: 

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