

UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF INDIANA  
AT NEW ALBANY

LINDA G. SUMMERS,	)	
Plaintiff	)	
	)	
v.	)	CASE NO. 4:15-cv-93
SALLY WHITIS in her official capacity as	)	
HARRISON COUNTY CLERK,	)	
and	)	
HARRISON COUNTY, a political	)	
subdivision of the State of Indiana	)	
Defendants	)	

COMPLAINT

I. INTRODUCTION

1. This is a proceeding for a declaratory judgment as to Plaintiff's rights and for a permanent injunction, restraining Defendant from maintaining a policy, practice, custom or usage of discriminating against Plaintiff because of her religious beliefs with respect to terms, conditions and privileges of employment and in ways that deprive Plaintiff of equal employment opportunities because of her religious beliefs, and otherwise adversely affect her status as an employee because of her religious beliefs. This Complaint also seeks money damages and restitution to Plaintiff of all rights, privileges, benefits, and income (both past and future) that would have been received by her, but for the Defendant's unlawful and discriminatory practices.

II. JURISDICTION

2. This is a suit in equity authorized and instituted pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e – 2(a)(1), et seq. Jurisdiction of this Court is invoked pursuant to 42 U.S.C. § 2000e-5(f) and 28 U.S.C. § 1343(4). Declaratory relief is

sought under 28 U.S.C. §§ 2201 and 2202. The jurisdiction of this Court is invoked to secure protection of and to redress deprivation of rights secured by 42 U.S.C. §§ 2000e, et seq., providing for injunctive and other relief against racial, religious, national origin and sex discrimination in employment.

3. All conditions precedent to jurisdiction under 42 U.S.C. § 2000e-5(f) (3) have occurred or been complied with, to-wit: A charge of employment discrimination was filed with the Equal Employment Opportunity Commission within 180 days of the commission of the unfair employment practice; Notification of Right to Sue was received from the Equal Employment Opportunity Commission on or about May 7, 2015; this Complaint has been filed within 90 days of receipt of the Notification of Right to Sue.

### III. PARTIES

4. Plaintiff, Linda G. Summers, is a citizen of the United States and the State of Indiana and whose address is 1765 Corydon – New Middletown Road, S.E., Corydon, Harrison County, Indiana 47112 and resides in the Southern District of Indiana.

5. Defendant, Sally Whitis (“Whitis”), is the Clerk of Harrison County in Corydon, Indiana, and is an elected official in the State of Indiana; Whitis is sued in her official capacity only.

6. Whitis has the responsibility for the employment of persons in the Harrison County Clerk’s Office (“HCCO”), including the hire, promotion and termination of employees in the HCCO.

7. Whitis is a person within the meaning of 42 U.S.C. § 2000e(a) and an employer or agent of an employer within the meaning of 42 U.S.C. § 2000e(b).

8. Defendant Harrison County is a political subdivision of the State of Indiana and is an employer within the meaning of 42 U.S.C. § 2000e(b).

9. The unlawful employment practices alleged herein were committed within the Southern District of Indiana.

#### IV. FACTUAL ALLEGATIONS

10. On or about June 30, 2008, Plaintiff, Linda Summers, was employed to work for the Defendant at the Harrison County Superior Court Clerk's Office in Corydon, Indiana.

11. The Plaintiff, Linda Summers is a Christian believer and adherent of the Christian faith and is a member of and regular attender at First Capital Christian Church, Corydon, Indiana.

12. Plaintiff, Linda Summers has a sincerely held religious belief, based upon the tenants of her faith and biblical teaching, such as Leviticus 18:22; Romans 1:26-27, I Cor. 6:9-10; and I Tim 1:9-10, that it is a sin for persons of the same sex to engage in sexual relations and, based upon Genesis 2:18-25, and other biblical authority, that persons of the same sex cannot and should not be morally or legally recognized as husband and wife, and that God will judge individual Christians, as well as the society of which they are a part, who condone or institute same sex marriages.

13. On or about October 22, 2014, Defendant Whitis circulated an email communication to all employees concerning a published decision of the Indiana Supreme Court to recognize marriages between same sex couples and that, "Therefore it is our duty in the Clerk's Office to process those applications." Defendant further stated that,

“Even though it may be against your personal beliefs, we are required by state law to process their applications. We are only doing the paperwork and not performing their ceremony.” A true copy of said email communication is attached hereto and incorporated by this reference herein as Exhibit A.

14. On December 8, 2014, a same sex couple came to the Harrison County Clerk’s Office to apply for a marriage license which Plaintiff Linda Summers was called upon to process. She informed Defendant Whitis that she felt that she could not prepare the appropriate paperwork for a marriage license for the same sex couple because of her religious beliefs against same sex marriages.

15. Later that day, Plaintiff wrote and hand-delivered a letter to Defendant Whitis styled “Religious Accommodation Request,” in which she informed Whitis that she has “a sincerely held religious belief against same sex marriages” and that she felt that being required to process marriage licenses for such couples violated her religious beliefs based upon Biblical teaching. She further requested that Whitis accommodate her sincerely-held religious belief by not requiring her to process such applications for marriage licenses and that there were two other employees of the Harrison County Clerk’s Office who had offered to do so when such applications were received. A true copy of said letter dated December 9, 2014 is attached hereto and incorporated by this reference herein as Exhibit B.

16. On December 9, 2014, immediately after the receipt of Summers’ “Religious Accommodation Request,” Defendant Whitis terminated Plaintiff’s employment with the HCCO because of her refusal to process application(s) for marriage

licenses by same sex couples, which Defendant described, in a Memorandum hand-delivered to Summers, as insubordination, purportedly in accordance with Harrison County personnel policy, which provides that "refusing to perform assigned work or to comply with written or verbal instructions of supervisors," will subject "the individual involved to disciplinary action, up to and including termination." A true copy of said Memorandum from Defendant Whitis to Plaintiff Summers dated December 9, 2014, is attached hereto and incorporated by this reference herein as Exhibit C.

17. The foregoing discharge occurred without any attempt by the Defendant to accommodate Plaintiff and her religious beliefs, despite the fact that Plaintiff made her sincerely-held beliefs known to Defendant Whitis; requested a reasonable accommodation; and that Section 1.4 of the Harrison County Personnel Policies Handbook provides, in relevant part that, "It is the policy of the County of Harrison to provide equal employment opportunity in employment to all employees . . . and **to prohibit discrimination in employment because of race, religion, color, sex, age, national origin, disability, military status, or any other classification under applicable law.**" (emphasis supplied). A true copy of the referenced section of the Harrison County Personnel Policies Handbook is attached hereto and incorporated herein by this reference as Exhibit D.

18. Plaintiff at all times relevant herein was an "employee" of the Defendant as that term is defined in (12 U.S.C. § 2000e(f).]

19. Defendants at all times relevant herein were the "employer," or agent of the "employer," which employed the Plaintiff as that term is defined in 42 U.S.C. §

2000e(b).

## V. CAUSES OF ACTION

### COUNT I

20. Plaintiff incorporates herein by reference each and every allegation of ¶ 1 through ¶ 19 of this Complaint.

21. Defendant Whitis committed an unlawful employment practice to the detriment of Plaintiff when she discharged the Plaintiff, or otherwise discriminated against her with respect to her compensation, terms, conditions, or privileges of employment because of her religion, in violation of 42 U.S.C. § 2000e-2(a)(1).

### COUNT II

22. Plaintiff incorporates herein by reference each and every allegation of ¶ 1 through ¶ 21 of this Complaint.

23. The Defendants committed an unlawful employment practice by limiting, segregating, or classifying the employees of the HCCO, including the Plaintiff, in a way which deprived or tended to deprive the Plaintiff of employment opportunities or otherwise adversely affected her status as an employee because of her religion, in violation of 42 U.S.C. § 2000e-2(a)(2).

### COUNT III

24. Plaintiff incorporates herein by reference each and every allegation of ¶ 1 through ¶ 23 of this Complaint.

25. The acts, policies, practices, customs, and usages of the Defendants described and complained of hereinabove are unlawful employment practices in that they have the effect of denying employment to, discriminating against, depriving and tending

to deprive equal employment opportunities to Plaintiff, and otherwise adversely affecting Plaintiff, because of her religion in violation of Title 7 of the Civil Rights Act of 1964, 42 U.S.C. § 2000c et seq.

COUNT IV

26. Plaintiff incorporates herein by reference each and every allegation of ¶ 1 through ¶ 25 of this Complaint.

27. Plaintiff has no plain, adequate, or complete remedy at law to redress the wrong alleged, and this suit for injunctive relief and for restitution and damages is her only means of securing adequate relief. Plaintiff is now suffering and will continue to suffer irreparable injury from Defendants' policy, practice, custom and usage as set forth herein until and unless empowered by the Court. Plaintiff is therefore entitled to injunctive relief.

WHEREFORE, Plaintiff, Linda G. Summers, respectfully prays that the Court:

1. Advance this case on the docket, order a speedy hearing at the earliest practicable date and cause this case to be in every way expedited;
2. Grant Plaintiff trial by jury on all claims properly so triable.
3. Permanently enjoin Defendants and all agents, successors, officers, employees, attorneys, and those acting in concert with Defendants from engaging in each of the unlawful practices, policies, customs, and usages sets forth herein, and from continuing any and all other practices shown to be in violation of applicable law;
4. Order examination or modification of practices, policies, customs, and usages set forth herein and all other such practices shown to be in violation of applicable

law so that they do not discriminate on the basis of religion;

5. Compensate and make whole the Plaintiff for all earnings, wages, bonuses and other benefits (both past and future) she would have received but for the discriminatory practices of Defendants, and award Plaintiff a Judgment against Defendants in said amount;

6. Award Plaintiff punitive damages pursuant to 42 U.S.C. § 1981a(a)(1) due to Defendants' knowing and willful violation of Defendants' stated policy of prohibiting discrimination in employment against all employees, including Plaintiff, because of their sincerely held religious beliefs;

7. Award Plaintiff the costs and expenses of this action, including reasonable attorney's fees; and

8. Grant such other relief as may be just and proper.

Respectfully submitted,

**MASTERS, MULLINS & ARRINGTON**

*s/ Earl C. Mullins, Jr.*

Earl C. Mullins, Jr.

[ecmir615@aol.com](mailto:ecmir615@aol.com)

Richard L. Masters

[lawsaver@aol.com](mailto:lawsaver@aol.com)

1012 South Fourth Street

Louisville, Kentucky 40203

502.582.2900/502.587.0931 (fax)

Chris Lane

[lanelawoffice@gmail.com](mailto:lanelawoffice@gmail.com)

409 Bank Street

New Albany IN 47150

812.944.5300

**Counsel for Plaintiff**



JS 44 (Rev 09/10)

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA**

**CIVIL COVER SHEET**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law.

**Plaintiff(s):**

**First Listed Plaintiff:**

Linda G Summers ;

**County of Residence:** Harrison County

**Defendant(s):**

**First Listed Defendant:**

Harrison County Clerk Sally Whitis ;

**County of Residence:** Harrison County

**County Where Claim For Relief Arose:** Harrison County

**Plaintiff's Attorney(s):**

Earl C Mullins Jr (Linda Summers)

Masters, Mullins & Arrington

1012 S 4th ST

Louisville, Kentucky 40203

**Phone:** 5025822900

**Fax:** 5025870931

**Email:** ecmjr615@aol.com

**Defendant's Attorney(s):**

**Basis of Jurisdiction:** 3. Federal Question (U.S. not a party)

**Citizenship of Principal Parties (Diversity Cases Only)**

**Plaintiff:** N/A

**Defendant:** N/A

**Origin:** 1. Original Proceeding

**Nature of Suit:** 442 Employment

**Cause of Action:** 42 U.S.C. Sec. 2000e-2(a)(1) et seq. This is an action for employment discrimination in which Plaintiff was discharged from her employment because of her sincerely-held religious beliefs.

**Requested in Complaint**

**Class Action:** Not filed as a Class Action

**Monetary Demand (in Thousands):**

**Jury Demand:** Yes

**Related Cases:** Is NOT a refiling of a previously dismissed action

**Signature:** Earl C. Mullins, Jr.

**Date:** 7/17/2015

If any of this information is incorrect, please close this window and go back to the Civil Cover Sheet Input form to make the correction and generate the updated JS44. Once corrected, print this form, sign and date it, and submit it with your new civil action.

UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF INDIANA

LINDA G. SUMMERS	)	
	)	
<i>Plaintiff,</i>	)	
vs.	)	Cause No: 4:15-cv-93
	)	
SALLY WHITIS in her official capacity as	)	
HARRISON COUNTY CLERK	)	
and	)	
HARRISON COUNTY, a political	)	
subdivision of the State of Indiana	)	
<i>Defendants.</i>	)	

**SUMMONS IN A CIVIL ACTION**

<p>TO: SALLY WHITIS in her official capacity as HARRISON COUNTY CLERK 300 North Capitol Ave Rm #203 Corydon IN 47112</p>	<p>HARRISON COUNTY, a political subdivision of the State of Indiana c/o Christopher L. Byrd Harrison County Attorney 219 N Capitol Avenue Corydon IN 47112</p>
------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

A lawsuit has been filed against you. Within 21 days after service of this summons on you (not counting the day you received it) or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

*Earl C. Mullins, Jr.  
1012 South Fourth Street  
Louisville KY 40203*

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action Number: \_\_\_\_\_

**PROOF OF SERVICE**

*(this section should not be filed with the court unless required by Fed. R. Civ. P. 4(l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
\_\_\_\_\_ was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with  
*(name)* \_\_\_\_\_ a person of suitable age and  
discretion who resides there, on *(date)* \_\_\_\_\_, and mailed a copy to the  
individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_ or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's Signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.