

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
AT LEXINGTON
CASE NO.: 5:18-CV-00351**

Electronically Filed

NICHOLAS CHARLES BREINER

PLAINTIFF

V.

**REMANDED
COMPLAINT**

**BOARD OF EDUCATION
OF MONTGOMERY COUNTY**

DEFENDANT

Comes now, the Plaintiff and through counsel and for his Complaint states as follows:

I. JURISDICTION

1. The Court has jurisdiction over the subject matter of this case pursuant to 28 USC §§ 1331 and 1343; 29 USC § 6269(c)(1) and 42 USC §2000e (f)(3).

II. EXHAUSTION OF ADMINISTRATIVE REMEDIES

2. On or about August 3, 2017 the Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC) alleging discrimination on the grounds of discrimination based on sex.
3. The Plaintiff received his right to sue letter on March 15, 2018 allowing him ninety (90) days within which to bring an action under Title VII.
4. This action was commenced within that ninety (90) day period.

III. PARTIES

5. The Plaintiff, Nicholas Charles Breiner, is a bisexual male residing in Montgomery County, Kentucky.
6. The Defendant Board of Education of Montgomery County is an employer as defined by 42 USC § 2000e and KRS 344.030(2).

IV. ALLEGATIONS

7. At all times relevant to the Plaintiff's cause of action he was employed by the Defendant as Director of Vocal Music and Director of Theater Development at McNabb Middle School.
8. On April 7, 2017 the Plaintiff disclosed his sexual orientation as a bisexual male over social media .
9. On or about April 10, 2017 the Plaintiff was summonsed to a meeting where he was questioned about his sexual orientation by the Defendant, Deputy Director Rick Culross.
10. On April 11, because of his sexual orientation the Plaintiff was defamed by Administrative Office of the Court employee whose assignment includes McNabb Middle School.
11. The Plaintiff has filed a Complaint against Ledford in Montgomery County Circuit Court, and it is not subject to this action.
12. After the April 10, 2017 meeting the Plaintiff began to experience disparate terms in the condition of his employment including but not limited to calling into unscheduled meeting, accused of violating policy not associated with Plaintiff, harassing phone calls during class and unfavorable evaluation.
13. On or about May 8, 2017 the Plaintiff was "pink slipped" by the Defendant.
14. When the Plaintiff requested the reason for the "pink slip" the Plaintiff was told by the McNabb Middle School Principle that it was due to budget restraints.
15. In July 2017, the Plaintiff discovered that his position at McNabb Middle School was taken by a heterosexual female.
16. The Plaintiff was a victim of disparate treatment due to his sexual orientation.

COUNT I

17. The Plaintiff includes all prior and subsequent paragraphs and incorporates them by reference.
18. The Plaintiff was qualified to continue his position of Director of Vocal Music and Director of Theater Department at McNabb Middle School.
19. Despite his qualifications he was discharged from his employment.
20. His position was taken by a heterosexual female.

21. Upon information and belief, the Plaintiff's sexual orientation was the motivating factor in the Defendant's decision to terminate the Plaintiff.
22. Upon information and belief, the Defendant discharged the Plaintiff due to his sexual orientation.
23. As a result the Plaintiff has suffered past economic losses, consequential damages, damages for embarrassment and harassment, harassment and other non-pecuniary losses which demand compensation.

WHEREFORE, the Plaintiff prays for the following relief:

- A. The Court determines that the Plaintiff was a victim of discrimination based on his sexual orientation in violation of Title VII.
- B. The Court award the Plaintiff damages both pecuniary and non-pecuniary as well as compensatory damages including liquidated damages.
- C. The Court award punitive damages against the Defendant.
- D. The Court award reinstatement and back pay including loss of benefits and in the alternative front pay.
- E. The Court award prejudgment and post judgment interest.
- F. The Court award the Plaintiff reasonable attorney fees and costs of this action.
- G. The Court summons a jury to address all issues raised by the Plaintiff's Complaint.
- H. The Court award any and all legal and/or equitable relief the Plaintiff to which may be entitled.

Respectfully Submitted,

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Certificate of Service

This certifies that a true copy of the foregoing has been served upon the following on this
the 11th day of November, 2020.

Hon. John G. McNeill
Hon. Whitney L. Stepp
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/s/Edward E. Dove
EDWARD E. DOVE