

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GERALD LYNN BOSTOCK,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION
)	NO: 1:16-cv-01460-ELR-WEJ
CLAYTON COUNTY,)	
)	
Defendant.)	

**PLAINTIFF’S STATEMENT OF ADDITIONAL MATERIAL FACTS
PRESENTING GENUINE ISSUE FOR TRIAL**

Pursuant to Fed. R. Civ. P. 56 and L.R. 56.1, N.D. Ga., Plaintiff Gerald Bostock submits this Statement of Additional Material Facts Presenting Genuine Issues for Trial in support of his Response in Opposition to Defendant’s Motion for Summary Judgment.

BACKGROUND

A. The Clayton County Juvenile Court and the Court Appointed Special Advocate Program

1. Clayton County CASA (“court-appointed special advocate”) is a program within the Child Welfare Division of the Clayton County Juvenile Court. (Bostock Depo. at 72:13–17; Teske Depo. at 50:1–5; Teske Depo. at 45:13–15).

B. Mr. Bostock's Background

2. Plaintiff Gerald Bostock is a gay male. (Bostock Depo. at 9:7–9).
3. In his role as chief of the Child Welfare Division, Mr. Bostock was charged with recruitment, training, and retention of CASA volunteers as well as marshalling and funding recruitment, training, and retention. (Teske Depo. at 82:1–19).
4. Mr. Bostock reported to Colin Slay, Chief of Staff. (Bostock Depo. at 78:21–23).
5. Mr. Bostock also reported to John Johnson, the Court Administrator. (John Johnson Depo. at 22:3–5).
6. Johnson and Slay ultimately reported to now retired Judge Teske. (Teske Depo. at 295:16–18; Johnson Depo. at 99:21–24)

C. Background of Friends of Clayton County CASA

7. Friends of Clayton County CASA (“FCCC”) is a separate 501(c)(3) non-profit organization. (Teske Depo. at 45:2–10).
8. The purpose of the FCCC was to help generate funds to support the Clayton County CASA program. (Teske Depo. at 52:3–6).
9. The FCCC helped to recruit volunteers for the CASA program and to secure funds to retain the volunteers for the program. (Crawford Depo. at 17:12–16).
10. Sabrina Crawford was the Board Chair of FCCC from 2005 to 2013. (Crawford

Depo. at 15:3–16:22).

I. THE MEMORANDUM OF UNDERSTANDING

11. In late 2007, a Memorandum of Understanding (“MOU”) was entered between the Superior Court of Clayton County and Clayton County CASA which commemorated this agreement and indicated that Clayton County CASA would receive a \$500 administrative fee when the Superior Court appointed a Clayton County CASA employee to serve as a guardian ad litem. (Teske Depo at 52:8–53:3).

12. This money collected pursuant to the MOU was paid to “Friends of Clayton County CASA, Inc., Care of Gerald Bostock, Program Coordinator of CASA” (the “GAL account”). (Teske Depo. at 53:23–54:14; Teske Depo., Plaintiff’s Exhibit 3 at 2).

13. The Clayton County Superior Court judges wanted the money to go to the FCCC in order to bypass county finance. (Bostock Depo. at 128:9–13.)

14. The GAL funds were not “court funds” “or county funds” (Teske Depo. Ex. 3; Johnson Dep. 178:5-179:15.)

15. Under the MOU, Mr. Bostock was authorized to use these funds “to fund volunteer recruitment, training, and retention” of CASA volunteers. (Teske Depo. at 54:18–21; Teske Depo., Exhibit 3 at 2).

16. This directive in the MOU for how the fees are to be used is not specific. (Slay Depo. at 74:9–17).
17. An individual could volunteer for the CASA program in multiple ways beyond becoming a court appointed advocate or GAL. (Bostock Dep. 206:8-21.)
18. Nothing in the MOU contains any prohibition on use of these funds for alcohol. (Teske Depo. Ex. 3.)
19. No one ever told Mr. Bostock that use of GAL funds to purchase alcohol was an issue, including Mr. Johnson, who for three years reviewed receipts submitted to him by Mr. Bostock that reflected in part the purchase of alcoholic beverages as part of the recruitment, training, and retention expenditures. (Johnson Dep. 137:6-16.)
20. The FCCC had two accounts: their own and a GAL account. (Teske Depo. at 124:20–22).
21. The \$500 collected under the MOU went into the GAL account which was overseen by the Friends of Clayton County CASA board. (Bostock Depo. at 98:23–99:22; Teske Depo. at 154:1–3; Crawford Depo. at 117:7–23).
22. Mr. Bostock reported to the FCCC board concerning the use of these funds and on a regular basis made the bank account records available to the board with annotated explanations for expenditures. (Crawford Depo. at 18:4–14; Bostock

Depo. at 140:6–141:1).

23. Although Plaintiff had spending authority, the FCCC continued to provide oversight of Plaintiff's spending. (Bostock Depo. 111:4-10.)

II. Review of Bank Statements

24. In late 2011 or early 2012, Mr. Bostock began providing annotated copies of bank statements from the GAL account to Mr. Johnson and Mr. Slay for their review. (Slay Depo. at 92:12–18; John Johnson Depo. at 84:21–24 to 86: 14).

25. Colin Slay reviewed the bank statements and generally found Mr. Bostock's explanations for expenditure appropriate. (Slay Depo. at 99:5–9).

III. The Softball League and Discriminatory Audit

26. In or around December 2013, Mr. Bostock began participating in the Hotlanta Softball League - a gay men's sports league. (Bostock Depo. at 177:1–14).

27. Mr. Bostock recruited members of the league to volunteer for CASA or to sponsor events. (Bostock Depo. at 198:20–22; 201:19–24).

28. Mr. Bostock also secured FCCC sponsorships from certain league members. (Bostock Depo. at 201:19–24).

29. Additionally, Mr. Bostock sought and received approval from Friends of Clayton County CASA to use funds from the GAL account to partially fund the purchase of t-shirts for the team which bore the Clayton County CASA logo, along with

logos of other sponsors. (Bostock Depo. at 274:8–20; Bostock Depo., Ex. 17; Teske Depo. at 130:16–20.)

30. On April 30, 2013, John Johnson wrote a memo to Stacey Merritt, Head of Internal Audits, with Slay and Teske copied on the memo, stating in part that the Juvenile Court administration did not have “any direct oversight authority” with respect to the GAL account, requesting an audit of the GAL account and specifically questioning expenditures at “adult/alternative bars” which Johnson testified meant gay bars or alleged “gay friendly” establishments. (John Johnson Depo. at 130:6–21; Ex. 94.)

31. This memo also specifically referenced Mr. Bostock’s softball team. (Johnson Depo. Ex. 94.)

32. Johnson testified that the “concerns” he listed in his memo, which included the softball team and the gay bars were concerns that he, Slay, and Teske had. (Johnson Depo. 129:22-130:1).

33. On May 1, 2013, Teske wrote an email to Johnson with Slay and Merritt copied in which Teske stated that under the terms of the MOU, “we have no authority to gain access” to the GAL funds and directing that Johnson take the MOU “to legal and have them change the paragraph regarding where the monies go.” (Merritt Dep. Ex. 59.)

34. Teske ordered the audit only after Mr. Bostock began participating in the Hotlanta Softball League and recruiting CASA volunteers and sponsors in the Midtown area of Atlanta. (Teske Depo. at 183:17–184:17; Johnson Depo. 129:22-130:1; Johnson Depo. Ex. 94.)
35. At the beginning of the audit, John Johnson told Leslie Moore, the assistant director of internal audit, that Mr. Bostock was gay, even though his sexual orientation was not relevant to the audit. (Moore Depo. at 26:23–27:11; 37:11–19).
36. Johnson did not tell Moore, who conducted the audit, that Mr. Bostock had been providing him GAL bank account statements over the last couple of years and that he had been reviewing them. (Moore Depo. at 28:2–29:1).
37. Ms. Moore testified that it would have been important for her to know this information “because the reason for [Johnson] coming to us about the audit was that there was lack of oversight, and he didn't know what the funds were being spent on” and that “if [Johnson] had been keeping tabs . . . on the bank statements, then that doesn't make sense to me.” (Moore Depo. at 29:2–12).
38. Ms. Moore interviewed Mr. Bostock and found him to be cooperative and forthcoming. (Moore Depo. at 14:16–15:1).
39. Ms. Moore did not ask any member of Friends of Clayton County CASA for

books and records concerning the GAL account and had no answer as to why she did not do so. (Moore Depo. at 18:2–20:14).

40. The audit file contains printouts from the websites of Midtown Atlanta area restaurants including a hand drawn circle around language identifying one establishment as “Atlanta[’s] First and ONLY Gay Sports Bar” and highlighting of the language “Atlanta’s favorite neighborhood gay bar and restaurant” for another establishment. (Moore Dep. Exs. 82, 83, 84.)

41. Of the \$1026.22 reflected in the audit report for 2013 recruitment, training, and retention expenditures, alcohol expenditures comprise only three percent. (Moore Dep. Ex. 10; Moore Dep. 79:2-25.)

42. In response to written questions from Teske, Mr. Bostock provided Teske with detailed information concerning pledges, donations, and volunteers for training he secured from these recruiting efforts. (Bostock Dep. Ex. 10.)

43. At a reception in Birmingham, Mr. Bostock secured verbal commitments for three CASA sponsorships but due to the timing of Mr. Bostock’s termination, these verbal agreements were not consummated before he was terminated. (Bostock Decl. ¶¶ 6-7.)

IV. Teske’s Focus on Mr. Bostock’s Sexuality

44. On June 3, 2013, the day Mr. Bostock was fired Teske wrote in his diary his

justification for firing Gerald Bostock, stating that Mr. Bostock had used GAL funds to “sponsor[] his gay softball team in a gay Atlanta softball league.” (Teske Depo. at 168:11–169:1; Teske Depo., Exhibit 43 at 10; Johnson Depo. Ex. 17).

45. Teske further wrote in his diary that Mr. Bostock had used GAL funds for “meals with friends (former boyfriends—he is gay) and to sponsor a softball team in a gay softball league in Atlanta.” (Teske Depo. at 170:3–8; Teske Depo., Exhibit 43 at 10).

46. In his deposition, Teske admitted that he had no evidence that Mr. Bostock was having lunch with former boyfriends. (Teske Depo. at 175:6-8.)

47. Teske also wrote in his diary that Mr. Bostock was “buying meals for potential sponsors in Midtown Atlanta—the gay district of Atlanta.” (Teske Depo. 176:24 -177:1, Exhibit 43 at 11).

48. The audit did not find that Mr. Bostock used GAL funds for meals with former boyfriends. (Moore Depo. at 53:24–54:2).

49. The audit did not conclude that recruiting efforts within the gay community meant that Mr. Bostock was spending money on his own interests. (Moore Depo. at 64:6–16).

50. As part of his justification, Teske also wrote that expenditures for the softball league and for meals in Midtown Atlanta created an “appearance that because

[Mr. Bostock] is gay he is spending money on his own interests.” (Teske Depo. at 176:23-177:1–6; 168:11-169:1; Teske Depo., Exhibit 43 at 11).

51. Teske was suspicious of Mr. Bostock’s spending in Midtown “because [Mr. Bostock] is gay” and Teske considered Midtown “the gay district of Atlanta.” (Teske Depo. at 176:25-177:13; Teske Depo., Exhibit 43 at 11).

52. Teske factored Mr. Bostock’s sexual orientation into his conclusion that Mr. Bostock was spending money on “personal things” when he spent money in Midtown Atlanta. (Teske Depo. at 182:3–25).

53. Teske considered all expenditures at restaurants or bars in Midtown Atlanta to be “suspicious” because the restaurants in Midtown Atlanta could be a “gay restaurant” or a “gay bar.” (Teske Depo. at 207:21–208:2).

54. Johnson testified that if the word “black” were substituted for “gay” in Teske’s diary it would be “troubling” to him as a person of color and a management-level employee and that he would view it as evidence that race was a factor in the termination decision. (Johnson Dep. 204:20 – 207:7.)

55. Moore testified that the fact that Mr. Bostock might be recruiting in the gay community did not mean he was spending money on his own interests any more than if an African-American person were recruiting in the African-American community, that they would spending money on their own interests. (Moore Dep.

64:10-16.)

56. Teske admitted that when Mr. Bostock spent money on softball uniforms from the GAL account, Mr. Bostock consulted with the people who have oversight on the account and received authorization for that expenditure. (Teske Depo. at 195:12–196:1).

57. Leslie Moore, the assistant director of internal audit, did not consider it an inappropriate use of the GAL funds to take people to lunch and try to recruit them. (Moore Depo. at 25:20–23).

58. There was no restriction in the MOU with respect to Mr. Bostock recruiting or training in Midtown Atlanta. (John Johnson Depo. at 98:16–20).

59. Slay stated that engaging in a recruiting event at a gay bar would not be an improper use of funds. (Slay Depo. at 114:1–5).

60. The audit report did not state that Mr. Bostock engaged in any wrongdoing nor did it suggest he should be disciplined in any manner. (Moore Depo. at 8:12–9:2; 84:24–85:4).

V. Conclusion of the Audit and Discriminatory Termination

61. On June 3, 2013, Teske instructed John Johnson to terminate Mr. Bostock. (Teske Depo. at 137:18–138:2).

62. Teske admitted Mr. Bostock’s sexuality was a “contributing factor” in Teske’s

decision to terminate Mr. Bostock. (Teske Depo. 177:22-178:20.)

63. Teske admitted that he believed that because Mr. Bostock was recruiting in Midtown that he was actually engaging in gay-related activity and not serious CASA related activity. (Teske Depo. 177:22- 178:4).

64. At a meeting with Sabrina Crawford, Chair of Friends of Clayton County CASA, before he fired Mr. Bostock, Teske told Crawford that Mr. Bostock had misused, mishandled, mismanaged, or stolen between \$14,000 and \$17,000 and that he had proof in the form of bank statements. (Teske Depo. at 68:17–69:4; Crawford Depo. at 39:8–41:18).

65. Crawford - who has a background in bookkeeping and accounting - reviewed the bank statements that were allegedly proof of Mr. Bostock misusing or stealing between \$14,000 and \$17,000 and determined they did not reveal any evidence of such alleged misuse and that the expenditures were consistent with the MOU. (Crawford Depo. at 41:19–24; 61:10-62:6)

66. Teske also told Crawford that Mr. Bostock has used some CASA funds to sponsor a softball team in a “gay softball league.” (Teske Depo. at 75:19–76:24).

67. Crawford was aware of Mr. Bostock using funds to sponsor the softball team and thought it was a good idea. (Crawford Depo. at 44:7–15).

68. When Crawford objected to Teske’s decision to terminate Mr. Bostock, Teske

slammed his hand down on her desk and loudly said “But it was at a gay bar.”
(Crawford Depo. at 43:13–23).

69. Teske held a meeting with the entire juvenile court staff to notify them of Mr. Bostock’s termination in which he stated that Mr. Bostock was terminated because he misappropriated funds in sponsoring the gay softball team and that the court would not tolerate that type of behavior. (Shelley Johnson Depo. at 40:16–41:5; Teske Depo. at 103:6–11; John Johnson Depo. at 215:22–217:22).

70. John Johnson found the meeting in which Teske announced Mr. Bostock’s termination and the reasons for it inappropriate because personnel matters are generally kept private. (John Johnson Depo. at 217:5–22).

71. At the meeting during which Johnson carried out the termination, Mr. Bostock told Johnson that he knew what the meeting was about, and Johnson responded, “This is not because you’re gay.” (Bostock Depo. at 13:8–22).

72. In at least one instance, an individual who was to begin the CASA application process stopped doing so after Mr. Bostock was fired due to his support of Mr. Bostock. (Bostock Dep. 207:6-208:14.)

73. Mr. Bostock never saw a copy of the audit report before he was terminated. (Bostock Depo. at 282:7–13).

74. Ms. Moore testified that the only other person she was aware of who was

terminated as a result of an audit was an individual who was found to be stealing money which Mr. Bostock was not. (Moore Dep. 67:24 – 22.)

Respectfully submitted this 25th day of April, 2022.

BUCKLEY BEAL, LLP

By: /s/ Edward D. Buckley
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LR 7.1(D) FONT COMPLIANCE CERTIFICATION

The undersigned counsel certifies that the foregoing was prepared using Times New Roman 14-point font in accordance with Local Rule 5.1 of the United States District Court for the Northern District of Georgia.

This 25th day of April 2022.

By: /s/ Edward D. Buckley
Edward D. Buckley
Georgia Bar No. 092750

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GERALD LYNN BOSTOCK,)	
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Plaintiff,)	
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v.)	CIVIL ACTION
)	NO: 1:16-cv-01460-ELR-WEJ
CLAYTON COUNTY,)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of April, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all counsel of record.

By: */s/ Edward D. Buckley*
Edward D. Buckley
Georgia Bar No. 092750

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**CIVIL ACTION
NO: 1:16-cv-01460-ELR-WEJ**

DECLARATION OF GERALD LYNN BOSTOCK

Pursuant to 28 U.S.C. § 1746, I, Gerald L. Bostock hereby declare as follows:

- 1. All statements contained in this Declaration are true and correct to the best of my knowledge. I am over 18 years of age, am suffering from no mental disability, and am competent to testify on matters contained in this Declaration.
- 2. I am the Plaintiff in this matter and have personal knowledge of the items set forth herein.
- 3. The audit report in this case references two checks I wrote to myself for reimbursement. The auditor, Ms. Moore, did not ask me about these checks. The Friends of Clayton County CASA Board had approved in advance my writing the checks to reimburse me for out of pocket expenses I incurred.

4. Mr. Johnson testified that he sought to ask me about one or more expenditures in the GAL account and that I told it was none of his business. This is not true. I made no such statement to him.

5. The informal reception in Birmingham for the softball team on which I played was approved in advance by FCCC Board Member Guy Alexander. Mr. Alexander had previously intended to host the event in Atlanta but was unable to do so. He suggested having the reception in Birmingham since everyone would be gathered there for a tournament and he approved my doing so.

6. At this event in Birmingham, I secured verbal commitments for three CASA sponsorships. Additionally, at this reception, a team member committed to going through the training process to become a court appointed advocate.

7. Due to the timing of my termination, these verbal agreements were not consummated before I was terminated. Further, the team member who had committed to going through the training process to become a court appointed advocate refused to do so following my termination out of support for me.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25th day of April 2022

DocuSigned by:
Gerald Bostock
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Gerald L. Bostock