

No.: 23-326

8/11/2023

In The
Supreme Court of the United States

Vanessa A. Phillips ,
pro se Petitioner ,

v.
Macon-Bibb County Government ,

and

Macon-Bibb County Tax Commissioners ,
Respondents.

On Petition For Writ Of Certiorari
To The United States Court of Appeals
For the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

Vanessa A. Phillips, *pro se* Petitioner
P. O. Box 7023
Warner Robins, GA 31095
478 - 334 - 9868

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**OFFICE OF THE CLERK
SUPREME COURT, U.S.**

QUESTIONS PRESENTED

- 1.** Whether the At-Will employment statute shelters the employer, Macon-Bibb County Government (MBCG), from the First Amendment's "unprotected speech", when
 - a)** Deceit and untruths are utilized for cause of termination in order to
 - b)** Affect the Petitioner outside of the workplace by guaranteeing her denial of her unemployment insurance benefits since
 - c)** The At-Will employment statute does not specifically prohibit defamation.
- 2.** Whether breach of contract occurred when the Petitioner requested a hearing (within the prescribed time), per the employee handbook, where precise instruction and language stated that a hearing 'shall' be conducted once requested, was not conducted.

PARTIES TO THE PROCEEDINGS

1. Honorable Rosenbaum
2. Honorable Grant
3. Groover, Esq., Duke
4. James Bates Brannan Groover LLP
5. Macon-Bibb County Board of Tax
Assessors
6. Macon-Bibb County, Georgia
7. Phillips, Vanessa, **pro se**, Petitioner
8. Pryor, Honorable Jill
9. Honorable
10. Self, Honorable Tilman E., III
11. Willis, Esq., Kathryn

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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully petitions for a writ of certiorari to review the judgment of the U.S. Court of Appeals for the Eleventh Circuit.

OPINIONS BELOW

The Eleventh Circuit's **Affirm**, No.22-10930, Judgment entered December 30, 2023 of the Court the Middle District of Georgia, Macon Division's court dismissal of her complaint, printed at App. 3a – 8a.

JURISDICTION

The Eleventh Circuit denied a timely petition for rehearing on April 14, 2023. This Court has jurisdiction under 28 U.S.C. § 1254(1).

INTRODUCTION

- 1)** The Petitioner, Vanessa Phillips, is referred to as Petitioner, employee, she, and her.
- 2)** The Respondents, Macon-Bibb County Government and Macon-Bibb County Tax Assessors, are respectfully referred to wholly as MBCG, and/or the Employer.
- 3)** Macon-Bibb County Government Policies and Procedures Manual, approved and adopted, *Dec 3rd, 2013 edition*, respectfully referred to as MBCG P&P and/or employee handbook.
- 4)** The Middle District of Georgia, Macon Division is respectfully referred to as the First Court.
- 5)** The United States Court of Appeals for the Eleventh Circuit is respectfully referred to as Appellate Court.
- 6)** The Supreme Court of the United States is respectfully referred to as the Supreme Court.
- 7)** The Department of Labor will be respectfully referred to as the DOL.

May 18th, 2020, the Petitioner accepted the hourly paid employment offer at Macon-Bibb County Government (MBCG), in the Macon-Bibb County Tax Assessors office as a Residential Assessor I, exhibit "C".

On January 11th - 15th, 2021, Petitioner earned a score of a 90 from the Georgia Department of Revenue for the Tax Assessors office, Course I.

On February 9th, 2021, Petitioner was called to her immediate supervisor's office where two other supervisors awaited her. A "Notice of Proposed Disciplinary Action" was ready and waiting for her signature. Her signature was acknowledgement of the allegations against her and her termination /suspension; not an[y] admission of guilt.

Petitioner was "terminated (suspended with pay for five days pending a discharge investigation)" on 02/09/21, exhibit "A1", then, escorted from the building. The door that is always unlocked - was literally locked behind her as she exited.

While on suspension, Vanessa received the second of the three contracts, requesting that she refrain from visiting the office pending a discharge investigation, exhibit "B".

Petitioner was separated from her employment with Macon-Bibb County Government (MBCG) on February 16th, 2021, Separation Notice, exhibit "C", without the contractual hearing she requested per MBCG P&P manual, **2013 edition**, exhibit "Xs...", by

requesting the [fair] hearing of her termination, three times, in writing to:

1. Human Resources (H.R.), exhibit "Gs", dated February 15th, 2021, first request, via email.
2. Hand delivered letter, second request to the H.R./Compliance Office/r, exhibit "Hs", on February 24th, 2021, and
3. February 24th, 2021 to the Mayor, Mister Lester Miller, exhibit "Ls", via email.

STATEMENT OF THE CASE

The precise wording of Vanessa Phillips' termination/separation (exhibit "A1") is as follows:

1. Group II #9 - Commission of any unethical act prohibited by the MBCG Ethics Ordinance, as amended.
2. Group III #1 - Wanton and willful neglect in performance of assigned duties.
3. Group III #2 - Deliberate misuse, destruction, damage, sabotage or pilferage of Macon-Bibb County property or property of an employee or citizen.
4. Group III #12 - Use or attempted use of political influence or bribery to secure an advantage in any matter.

exhibit A1

MACON-BIBB COUNTY GOVERNMENT
Notice of Proposed Disciplinary Action

Employee Name: Vanessa Phillips

Job Title: Residential Appraiser

Supervisor: Kema Bishop

Hire Date: 05-18-2020

Department: Tax Assessor

Date of Incident: 02-03-2021

Termination (you are suspended with pay for five (5) business days pending a discharge investigation).

DISCIPLINARY ACTION(S) IS BEING TAKEN FOR THE FOLLOWING REASON:
(Include specific details: date(s) of infraction and violation of stated policy, additional documents may be attached with this form:

Group II #9 - Commission of any unethical act prohibited by the MBCG Ethics Ordinance, as amended.

Group III #1 - Wanton and willful neglect in performance of assigned duties.

exhibit A1 continuation

Group III #2 - Deliberate misuse, destruction, damage, sabotage or pilferage of Macon-Bibb County property or property of an employee or citizen.

Group III #12 - Use or attempted use of political influence or bribery to secure an advantage in any matter.

PREVIOUS DISCUSSIONS OR WARNINGS:
(Include dates and explanation of previous discussions and/or discipline): _____

The duties of an appraiser have been taught to Vanessa since the first week of employment. She has been trained with many appraisers as well as her supervisor. None of the actions stated above have been taught as a part of her duties or as a part of the concerns of the Assessment Office. If she does have a part-time job as a law clerk, this has never been made known to our office.

FUTURE EXPECTATIONS FROM EMPLOYEE: (The following corrective action is expected of the employee): Vanessa Phillips is expected to make immediate and sustained improvement.

exhibit A1 continuation

Vanessa Phillips 02-09-2021
Employee name-sig-print date

Your signature does not imply agreement with the disciplinary action, it is simply an acknowledgement this has been discussed with you and have been given a copy of the warning.

EMPLOYEE COMMENTS: There will be a letter to Ms. Duhart .

You have the following rights:

- a. For verbal or written warnings, you have the right to add a written rebuttal to the disciplinary action within five (5) business days of receipt of the disciplinary action. The written rebuttal must be sent to Human Resources to be placed with the disciplinary action.
- b. You may review any written material or statements relating to the reasons for your proposed disciplinary action and submit any statements or affidavits supporting reasons as to why you should not be disciplined.
- c. You may respond orally or in writing to these reasons in H.R. at 4:00 pm on 02-09-2021.

exhibit A2

**Notice of Proposed Disciplinary Action –
Addendum**

GROUP II #9, GROUP III #1 and
GROUP III #12

Vanessa continually insinuated to a taxpayer representative that she was with the Code Enforcement Department. She said that she was taking photos for Code Enforcement and Tax assessors, she stated that she would be sending the photos to another person (in code enforcement), she said she was at the property to take pictures of trash, which was the only photos she took that day (50 photos). She stated that WE aren't fining you today, indicating that she worked for a department that could impose fines for trash. Vanessa stated that the taxpayer would have time to clean up, she showed the taxpayer representative photos of trash on the County tablet when she was asked if she thought the property was dirty. She stated that all WE can do is impose fines, "that's all we can do, impose fines". The tenant stated that some of the debris was his evidence of what's going on and that "she (Vanessa) already knows, "She stated that she worked a part time job as a law clerk which is how she

exhibit A2 continuation

was familiar with a legal case involving the tenant and property owner. She indicated that she had a tenant signed document causing her to be at the property. Throughout this review at this property Vanessa was insinuating that she was with Code Enforcement/ took photos of trash and debris but not one photo of a building (which is what is required of an Appraiser). She answered questions regarding trash, fines, and Code enforcement. She was quoting ethics ordinances, stated she was a law clerk and knew the laws.

The Tax Assessors Department does not take photos of trash or debris, we do not impose or pretend to impose fines of any kind nor do we have anything to do with Code Enforcement or their duties. The only laws that we have to be familiar with and would discuss with a taxpayer are laws regarding assessments.

GROUP III #2

Vanessa took approximately 50 photos of trash and debris at the property. These photos were taken on the County I-pad. If the number of photos that are taken exceed the amount that can be held in the mobile assessor, they are to

exhibit A2 - continuation

be taken on the I-pad then uploaded to the Z drive on the computer. All work done in the field goes through a mobile data system where the information goes into the cloud and then comes to the Managers or Supervisors computer once the work on that parcel is marked complete. These photos were on the tablet the day she went to the property but were deleted. There were no photos uploaded the day of this inspection for this parcel.

exhibit C

**State of Georgia
Department of Labor
SEPARATION NOTICE**

1. Employee's Name: VANESSA PHILLIPS
2. SSN: XXXX
3. Period of Last Employment:
from 05/18/2020 to 02/16/2021.
4. Reason for Separation: Policy Violation
5. Nothing selected.
6. Did this employee earn at least \$7,300.00 in
you employ: YES

Employer's Names Macon-Bibb County
Human Resources
Department

Address 700 Poplar St., 1st Floor
City Macon, State Georgia Zip 31201
Employer's Telephone No. 478-751-2720

Ga. D. O. L. Account Number 123612-04

This is the number assigned to the employer
by Georgia Department of Labor.

exhibit C – continuation

I CERTIFY that the above worker has been separated from work and the information furnished hereon is true and correct. This report has been handed to or mailed to the worker.

exhibit K

GEORGIA DEPARTMENT OF LABOR
CLAIMS EXAMINER'S
DETERMINIZATION

APPEALS TRIBUNAL
148 ANDREW YOUNG INT'L BLVD NE, STE
525
ATLANTA, GA 30303 - 1734
EMAIL : appeals@gdol.ga.gov
FAX : 404-232-3901 OR 404-232-3902

SSN *** - *** - XXXX
BYB 05/30/2021
CWB 05/30/2021
ACCT# 123612-04

CLAIMANT Vanessa Phillips
P O Box 7023
Warner Robins, Ga 31095

EMPLOYER Macon Bibb County
700 Poplar St
Macon, Ga 31202

Section I – Claim Determination
Disqualification begins 05/30/21 and continues
until claimant becomes reemployed, is

exhibit K - continuation

separated and has earned insured wages equal to at least \$3650 (10 times WBA).

Section II – Legal Basis for Determination

Section 34-8-194 (2) (A) of the Employment Security Law says that you cannot be paid unemployment benefits if you were fired from your most recent employer for not following your employer's rules or orders. In addition, you may not be paid unemployment benefits if you were fired for failing to perform the duties for which you were hired, if that failure was within your control. You also cannot be paid benefits if you were suspended for any of these same reasons. The law says that your employer has to show that discharge or suspension was for a reason that would not allow you to be paid unemployment benefits. If you cannot be paid unemployment benefits under this section of the law, you may qualify at a later time. To do this, you must find other work and earn wages covered under unemployment law. The covered wages must be at least ten times the weekly amount of your claim. If you then become unemployed through no fault of your own, you may reapply for unemployment benefits.

exhibit K - continuation

Section III - Reasoning

Your employer fired you because you did not meet the standard of conduct your employer has the right to expect by misrepresenting yourself. If you violate a standard of conduct it is the same as violating an employer rule. Because you failed to perform and conduct yourself in an acceptable way, you were at fault in your separation. Therefore, you cannot be paid unemployment benefits.

Section IV - Account Changeability
NOTICE TO EMPLOYER

Section V - Appeal Rights

NOTE: This determination will become final unless you appeal by 09/07/21. If you wish to file an appeal, submit a request online at dol.georgiagov, in writing by email to appeals@gdol.ga.gov, or fax to 404.2323901 or 404.232.3902. If you file an appeal you must continue to report on your claim as instructed, or you will not be paid if you win your appeal. Refer to the Claimant Handbook for more details.

Georgia Department of Labor 08/19/21 -
08/20/21

exhibit G

(email)

Vanessa Phillips
1127 S. Houston Lake Rd, Apt #705
Warner Robins, GA 31088
478-334-9868
VaPhillips76@gmail.com

REF: Official Appeal of My Termination
[Pending Investigation]

Mrs. Alisha Duhart, Director of Human
Resources
ADuhart@MaconBibb.us
Macon-Bibb County Government Center
700 Poplar St
Macon, GA 31201

DATE: Monday, Feb 15th, 2021

“The taxpayer will misconstrue the truth in their favor” - Deputy Chief Appraiser, Mr. Jody Claiborn.

As of 2:16 p.m. Tuesday, Feb 9th, 2021, I am a former Macon-Bibb County employee with the Tax Assessors Office. My direct Manager,

exhibit G – continuation

Mrs. Kema Bishop, Deputy Chief, Mr. Jody Claiborn, the Director of Human Resources, Ms. Alisha Duhart, and myself were closeted in Mrs. Bishop's office where I was “terminated” *without* due diligence based on hyperbole and half-truths. The over-reach of the violations can only be described as venomous.

In my written statement (incident report) for, and dated Wed, 02/03/2021, I submitted the name and phone number, Mr. Ronnie, 478-538-9304, the witness to the event. Not one of the three aforementioned managers thought it prudent to contact the witness as part of the[ir] investigation. How is it that the Human Resources Director, the Chief Tax Appraiser, the Deputy Chief Tax Appraiser, and an Assistant Chief Tax Appraiser not know that *action* is taken *after* a thorough investigation? This arbitrary disregard of a witness is erroneous. A[ny] court would set aside the ‘decision’ to avoid doing an injustice to the parties, 5 USCA §701.

TheFreeDictionary.com defines the term *arbitrary* as a course of action or a decision made without regard for the facts, not based on reason or judgement but on personal will or

exhibit G – continuation

discretion without regard to evidence, rules or standards. In many instances, the term implies an element of bad faith, and may be used synonymously with tyrannical or repressive, oppressive, suppressive, depressive.

Due diligence is an investigation to substantiate the facts of a matter under consideration before taking action or entering into a transaction.

The MBCG Policies and Procedures 4.01 on Review for Disciplinary Action #2. clearly states *“Review the evidence (documentation, statements of witnesses, etc.) that substantiates the validity of the charged violation to include any mitigating factors”*.

The mitigating factors are:

- (i) **Context.**
- (ii) I did not have notice to prepare for the 'hearing'.
- (iii) I have yet to be afforded the opportunity to listen to the accuser(s)' recording, nor read the transcript if the recording was transcribed, or read her/their written statement.
- (iv) The witness, Mr. Ronnie (478-538-9304), whose information was submitted even before a complaint was made/filed, was never contacted.

exhibit G – continuation

(v) I have not been privy to my direct supervisor's (Mr. Shawn Austin) statement. I reported the incident to him.

Since I was unaware of any violations and a hearing, I was unprepared as prescribed in the MBCG P&P 4.02, the Purpose - *"Efforts should be made by the employee and her manager, with the assistance of Human Resources Department if needed, before a formal procedure is instituted."*

I have been with the Tax Assessors office for about 9 months. Not even an entire week passed before my employment termination was determined due to half-truths and lies. The situation needs to be evaluated in its entirety **within** context. The tax assessors' office first instinct was to terminate my employment without a proper probe.

The wives thought I was with code enforcement regardless of my assertions that I was not. Ultimately, I grew tired of reiterating who I was and was not. Plus, I had made up my mind that their hostility, loudness, and fear that someone from Code Enforcement was at the apartments was suspicious. I was going to make sure Code

exhibit G - continuation

Enforcement was made aware. After notifying my direct superior, Mr. Shawn Austin, I did contact Code Enforcement. I spoke with the person that answered the phone - Ms. Sheila Williams. She said she will make sure someone is made aware of my concerns. I [re]assert that I did not insinuate that I was a representative of Code Enforcement. In fact, she accused me of trying to fool her by withholding that I really was with Code Enforcement even though my business card reads "Tax Assessors", my title reads "Residential Appraiser", the yellow safety jacket that I wore and always wear reads "Assessors", and that I introduced myself as "Hi, I'm Vanessa Phillips with Macon-Bibb Tax Assessors Office".

Do I remember every single word she and/or her wife said, or questions they asked? *"No, of course not"*. Nor do I remember every single word I said. However, I remember how I felt. Any "we" statements I made, was not made with the intention of misrepresenting myself. I don't mind helping out or multitasking but I'm not going to complete a second set of job descriptions without getting paid. I do volunteer; however, I will not work for free.

exhibit G – continuation

When I agreed with her statement that “we” could not fine her without notice, she and I knew that the “we” was Macon-Bibb Code Enforcement. My replies or lack thereof were more out of exhaustion for the entire conversation rather than an[y] insinuation[s]. The only thing I am unsure of is my reply to her question about her property being dirty. I don’t think I would literally say “yes”, but she would have probably seen my opinion in my eyes. Even when she threatened to record me for *snooping* on her property, I had no concern. First, I’m not unattractive, second, I was not doing anything improper. She eventually believed I was who I said I was, and I had no problem with her phone in my face (presumably recording me), asking me the same questions, and talking about the White man. I did take issue to her bowing up at me, her attitude, and her volume but not enough to leave the property knowing that I’d have to deal with her eventually. Again, I found no need to say anything other than “we” unless she asked me a question about “me” since she eventually did understand who I was and wasn’t.

She told me that she and her wife live in ATL. I told her I live in Warner Robins. She asked me

exhibit G – continuation

if there were any Black people in charge in my office. I answered, I said; "no". I even told her about the gunk in her eye. What she was trying to do was stop me from seeing the wires going from building to building. When that didn't work, it was back to being mean. I think they're either stealing electricity from their tenants to fix the closed apt building or from whatever company that gives power in that area or are doing YouTube electrical work out there. I played her game. I saw something. I said something. I do not require, nor do I seek permission or approval to pass information on. Maybe I over-stepped. However, I had no idea that each department of Macon-Bibb County are separate entities unto themselves with moving parts not connected to a whole.

I am attempting to obtain records from 02/03/2021, and 02/06/2021 (911 phone call, body cam footage, CAD report(s), radio traffic...) to corroborate the lady's deceptions. Mr. Joel Callins is working on it. The lady called the police on the witness claiming that I had instructed the witness to pick up the trash with my "authority". The officer(s) and I had absolutely no contact/interaction, so I thought it

exhibit G – continuation

unnecessary to bring it up. She is lying and misrepresenting everyone to her benefit.

I would like to note that if a taxpayer/rep asks to see the photos I've taken of their property - I show them. It's not a secret. Did I take 50 pictures? Or did I take 25 pictures that were doubled? I've had that issue with the iPad before.

The lady told me about a White man coming out there then asked me if *he* could fine her/them. I told her *if* the White man was from Code Enforcement, he could give them warnings and eventually fine them.

Did I over-step? Maybe. I listened to her talk about the White man. I even talked about the White man. When I was asked for the number for Code Enforcement, I called the office and got the number for Code Enforcement, and voluntarily gave her the (new) Director's name, Mr. J.T. Ricketson. I wrote his name and number on the back of another one of my business cards. Now she had two of my cards with my information on it. She asked me if he

exhibit G – continuation

was white too. My reply was extra; "Yes. A white man is gonna clean up Macon". She seems panicked by the White man. Good! I am many things, including a law clerk, a maid, a chef (not a cook), a volunteer, a writer, a journeyman electrician, a concerned citizen, and maybe a person with a little touch of OCD... I'm familiar with the case because she and the witness had just walked the property with me and told me about it - their individual versions. I wished them both "good luck" simultaneously when they had finally stopped talking about the upcoming case.

The witness asked that I take his number. When I asked him "why", he said that the lady and her wife are bad people that are going to cause trouble for me at my job or get me fired because I was out there taking pictures (or something to that nature). Ofcourse I thought that was a huge leap/claim but I responded with; "I didn't do anything wrong. Anyway, I can defend myself". She then asked me If I was a law clerk when she heard me say I was. (I can't remember why I said that, but I did.) Anyway, I took his number since he seemed concerned though I was not.

exhibit G – continuation

I did not say nor indicate that I had a tenant signed document causing me to be at the property! The iPad was the reason I was there. The iPad has the addresses of the parcels I was to visit for that day/week/months/years. Technically, that property should not have been on the iPad, but the *dates* I submitted for my Ad Hoc visits were ignored. I no longer have access to my email or computer for Macon-Bibb. However, since there's an investigation, that information should still be readily accessible.

After going over that day in my head *with* the Addendum, I could see where it seems like I could have insinuated that I worked for Code Enforcement if one was *not* present, privy to only *part(s)* of the conversation, did *not* contact the witness, does *not* understand over modulation in speech, and not having the entire conversation in full *context*. Regardless, that was never my intention. Today, I can objectively admit that I should have left, and refused to ever return to the parcel, even with a supervisor. (It's ironic that my managers thought that I should have left the property when I saw that the taxpayer was unreasonable, yet, these are the same managers

exhibit G – continuation

that have sent us out to work in the rain telling us it's part the job (to risk illness); so why would I permit a degenerate to make me revisit the property?) My momentary lapse in judgment of remaining on the property and going along with her little answer-my-questions-game may have been a blunder, however, it was not unethical, wanton, or an attempted use of political influence or bribery.

The inflammatory and over-exaggeration of the 'infractions' by my manager[s] is unnecessarily venomous.

This APPEAL is NOT a petition for my (re)instatement with the Tax Assessors office. I may have not handled the situation appropriately, however, I am but one person. There are four people:

- (i) Ms. Alisha Duhart, Director of Human Resources,
- (ii) Ms. Andrea Crutchfield, Chief Tax Appraiser,
- (iii) Mr. Jody Claiborn, Deputy Chief Appraiser, &
- (iv) Ms. Kema Bishop, Assistant Chief Tax Appraiser

exhibit G – continuation

that mishandled the situation by not conducting a thorough investigation and *stacking* unwarranted, gross infractions onto my discharge.

Originally, I was stunned and annoyed that four managers decided to terminate/suspend me pending a discharge investigation without due diligence. Then I read the NPDA & the Addendum at home and was incensed from the incendiary violations which are as follows:

- (1) Group II #9 - Commission of any unethical act prohibited by MBCG Ethics Ordinance, as amended.
- (2) Group III #1 - Wanton and willful neglect in performance of assigned duties.
- (3) Group III #2 - Deliberate misuse, destruction, damage, sabotage, or pilferage of Macon-Bibb County property or property of an employee or citizen.
- (4) Group III #12 - Use or attempted use of political influence or bribery to secure an advantage in any manner.

exhibit G – continuation

My REPLY to the fabrications and over-exaggerations on the NPDA and Addendum...

- (1) Group II #9 - I did **not** insinuate to the lady and/or her wife that I was with Code Enforcement and the Tax Assessors office.

As a matter of fact, I concisely repeated that I was **not** with Code Enforcement. My business cards, which I gave to the lady, has my name, title, office, & email address on it. The same business card she utilized to call the office about me. The bright yellow safety vest I always wear and wore that day literally has ASSESSORS ironed on it. My employee I.D. has my title on it.

- (2) Group III #1 - At no point did I tell the lady that her place was dirty. Taking pictures of buildings and trash is not cruel nor violent.
- (3) Group III #12 - On Wed, Feb 3rd, 2021, I was a Macon-Bibb employee. There is nothing I can do on the clock for the betterment of Macon-Bibb that can be classified as misuse, destruction, damage, sabotage, or pilferage. I did not seek out

exhibit G – continuation

parcel. I was there because it was on the iPad. While I was there, I was

(4) accused most bitterly of hiding that I was in fact Code Enforcement so much that I felt it my duty to report their mix of fear and hostility to Code Enforcement. I was **unaware** that each department of Macon-Bibb is completely cut off from one another, and that “see something, say something” is not a part of Macon-Bibb County.

(4) Group III #2 - This ‘violation’ is outrageously flagrant without purpose other than to be inflammatory. This parcel is not the first parcel I had not uploaded pictures for. Please check that entire day, and at least four consecutive ‘work’ days prior **and** after the incident to verify that I do not always take photos of parcels when the parcel has been visited within the last 45 or so days if there are no changes. (However, I’m pretty sure I took at least 2 or 3 pics of the buildings before I decided there is no need to change the building photos I already have.) This request can be easily achieved though I don’t know how to do so myself. I have seen it done.

exhibit G - continuation

Also, the statement of the photos on the iPad for Code Enforcement being deleted is false. I'm not sure why that particular untruth was fabricated, but it is a falsehood. Deleting the photos or leaving them on the iPad has no bearing. The lie is... odd. I had already contacted Code Enforcement with my concerns, at the scene. It was not a secret.

In the end, I am in the situation I am in because I thought all the departments are related. I was wrong, and I apologize. Mr. Shawn Austin, my direct supervisor, and the ALL the senior Residential Appraisers are good trainers. I hope this 'situation' does not reflect badly upon them which usually happens when the buck is passed or when management is deficient. By the way, deficiencies in management can be easily verified. I can point them out if need be. I understood this even before Six Sigma.

Even though Mr. Lester Miller and Mr. J. T. Ricketson were quoted in the Macon Telegraph as being serious about cleaning up MaconBibb, I should have known that the county can't be cleaned up until the County is cleaned up. I was an hourly employee. What I should have done is the minimum to collect my little check every 2

exhibit G – continuation

weeks like everyone else since Macon-Bibb departments are entities unto themselves. Plus, I live in Warner Robins.

Again, this letter is a request for a competent investigation with a remedy for my Macon-Bibb employee record to be cleared from the exaggerations and flagrance of the Notice of Proposed Disciplinary Action (NPDA) violations. I am **not** seeking re-instatement with the Macon-Bibb Tax Assessors Office.

Sorry to be so long-winded but this is also me venting.

This vehicle is my APPEAL. My REMEDY is to clear my employee record without reinstatement of my employment.

Thank you,

Vanessa Phillips
1127 S. Houston Lake Rd, Apt 705
Warner Robins, GA 31088
VaPhillips76@gmail.com
478-334-9868

exhibit H

(hand delivered)

Vanessa Phillips 02/24/2021
mailing address:
P O Box 7023
Warner Robins, GA 31095
478-334-9868
VaPhillips76@gmail.com

REF: Official Grievance/Complaint

Compliance Officer
Macon-Bibb County Attorney's Office
700 Poplar St
Macon, GA 31201

DATE: Wednesday, Feb 24th, 2021

As of 2:16 p.m. Tuesday, Feb 9th, 2021, I am a former Macon-Bibb County employee with the Tax Assessors Office. My direct Manager, Mrs. Kema Bishop, Deputy Chief, Mr. Jody Claiborn, the Director of Human Resources, Ms. Alisha Duhart, and myself were closeted in Mrs. Bishop's office where I was "terminated" without due diligence based on hyperbole, half-truths, and without context nor knowledge of the full conversation. The over-reach of the violations can only be described as spiteful.

exhibit H – continuation

In my written statement (incident report) for, and dated Wed, 02/03/2021, I submitted the name and phone number, Mr. Ronnie, 478-538-9304; the witness to the event. Not one of the three aforementioned managers thought it prudent to contact the witness as part of the[ir] investigation. How is it that the Human Resources Director, the Chief Tax Appraiser, the Deputy Chief Tax Appraiser, and an Assistant Chief Tax Appraiser not know that action is taken after a thorough investigation? This arbitrary disregard of a witness is erroneous. A[ny] court would set aside the 'decision' to avoid doing an injustice to the parties, 5 USCA §701.

TheFreeDictionary.com defines the term arbitrary as a course of action or a decision made without regard for the facts, not based on reason or judgement but on personal will or discretion without regard to evidence, rules or standards. In many instances, the term implies an element of bad faith, and may be used synonymously with tyrannical or repressive, oppressive, suppressive, depressive.

exhibit H - continuation

Due diligence is an investigation to substantiate the facts of a matter under consideration before taking action or entering into a transaction.

The MBCG Policies and Procedures 4.01 on Review for Disciplinary Action #2. clearly states "Review the evidence (documentation, statements of witnesses, etc.) that substantiates the validity of the charged violation to include any mitigating factors".

The mitigating factors are:

- (vi) Context.
- (vii) I did not have notice to prepare for the 'hearing'.
- (viii) I have yet to be afforded the opportunity to listen to the accuser(s)' recording, nor read the transcript if the recording was transcribed, or read her/their written statement.
- (ix) The witness, Mr. Ronnie (478-538-9304), whose information was submitted via my incident report, even before a complaint was made/filed, was never contacted.

Since I was unaware of any violations and a hearing, I was unprepared as prescribed in the

exhibit H – continuation

MBCG P&P 4.02, the Purpose - “Efforts should be made by the employee and her manager, with the assistance of Human Resources Department if needed, before a formal procedure is instituted.”

I [re]assert that I did not insinuate that I was a representative of Code Enforcement. In fact, I was accused of withholding that I really was with Code Enforcement even though my business card reads “Tax Assessors”, my title reads “Residential Appraiser”, the yellow safety jacket that I wore and always wear reads “Assessors”, and that I introduced myself as “Hi, I’m Vanessa Phillips with Macon-Bibb Tax Assessors Office”.

If I saw a dog foaming at the mouth roaming the streets, child being abused, an auto accident, prostitution, or any other questionable or need handling condition - I would call the appropriate agency without external conversation(s). It would never occur to me to seek clearance to call Animal Control, Child Protective Services, Code Enforcement, 911 for an ambulance/fire/police office, the Health Dept, or to literally kick a rapid dog that’s attacking a person... Perhaps I over-stepped by telling her

exhibit H - continuation

that dirty properties can be given warnings and eventually fined when she asked; I did not just volunteer this information. However, was my statement incorrect?

Point blank, the lady that complained on me, with my Tax Assessor business card, is loud and boisterous. It was easier to terminate my employment than to tell her to cease calling the office with the same complaint because the Tax Assessors Office is oppressive. [Oppression can be proven.] The fact that she could and would have taken her complaint higher-up the ladder than the Tax Assessors Office to probably include my manager(s) in her complaint was part of the issue. The other part of the issue... is better disclosed on a different vehicle, at a formal venue.

At-will employment is an employer's ability to dismiss an employee for any reason, and without warning, as long as the reason is not illegal. When the Tax Assessors Office along with H.R. decided to have an investigation without an actual investigation - my termination without a thorough investigation became illegal. Where are the checks and balances? Who is reviews H.R.? Who's

exhibit H – continuation

reviewing the Office of Compliance? I don't expect impartiality from the attorneys of Macon-Bibb County, I am not their employer. However, I expect statistics.

What makes me so different that I cannot be afforded the opportunity of a thorough investigation? How could H.R. decide upon my termination so completely while half-stepping on an investigation where the violations are a vilification of my person?

This Complaint is NOT a petition for my (re)instatement with the Tax Assessors office. I may have not handled the situation appropriately, however, I am but one person. There are four people:

- (v) Ms. Alisha Duhart, Director of Human Resources,
- (vi) Ms. Andrea Crutchfield, Chief Tax Appraiser,
- (vii) Mr. Jody Claiborn, Deputy Chief Appraiser, &
- (viii) Ms. Kema Bishop, Assistant Chief Tax Appraiser

that mishandled the situation by not conducting a complete investigation while stacking unwarranted, gross infractions onto my separation.

exhibit H – continuation

Originally, I was amazed and annoyed that four managers decided to terminate/suspend me pending a discharge investigation without a full investigation. Then I read the NPDA & the Addendum I was vexed. Please see my initial Appeal to my termination/suspension with pay for five days pending a discharge investigation submitted via email to H.R./Ms Alisha Duhart on Monday, February 15th, 2021 so as not to have this vehicle, my Grievance/Complaint, too long. This Grievance is related and is a collaboration to the Appeal.

I am not seeking re-instatement with the Macon-Bibb Tax Assessors Office.

This vehicle is my GRIEVANCE/Complaint.

My REMEDY is:

1. Contact the Witness (info above), in Appeal, and initial incident report.
2. Contact Ms Sheila Williams at Code Enforcement.
3. Clear my Macon-Bibb County employee record of all 'over reaching' violations.
4. Fully state policy violations as stated in Separation Notice on Separation Notice.

exhibit H- continuation

5. Review Appeal submitted via email to H.R./Ms Alisha Duhart on Feb 15th, 2021.
6. Investigate Deputy Chief Tax Assessor, Mr Jody Claiborn to corroborate oppression...
7. Investigate Chief Tax Assessor, Ms Andrea Crutchfield to corroborate oppression...
8. Investigate Director of H.R., Ms Alisha Duhart for unnecessary disclosure(s).
9. Conduct a thorough investigation which includes the police info I have yet to receive.

Respectfully Submitted,

Vanessa Phillips
478-334-9868

40
exhibit L

(email)

DATE: Tuesday, 3/02/2021

Vanessa Phillips
P.O. Box 7023
Warner Robins, GA 31095
478 - 334 - 9868
VaPhillips76@gmail.com

RE: Discrimination AND Repression at Macon-Bibb Tax Assessors Office

Macon-Bibb County Government Center
700 Poplar St
Macon, GA 31201

Dear Mayor Lester Miller,

I know you are a busy man in a place that requires much needed attention - the land of Macon-Bibb. However, I respectfully request that you take the time to look at Macon-Bibb, Tax Assessors' Office, and Human Resources.

My termination was finalized on February 16th, 2021. First, I need to say that I am **not** seeking

exhibit L - continuation

reinstatement with the Tax Assessors' Office. The environment is subtlety toxic. The subtlety is not on purpose; it is a response to the systematic oppression. Attached, in order by date, my Appeal dated Mon, Feb 15th, and my Complaint to the compliance office date Wed, Feb 24th - where I explained why and how my suspension and subsequent termination were not only premature but a full display of incompetence.

How is it that this many people (see bottom Appeal, page 4 of 6), have any type of authority over anyone? Having book sense but no common sense with notions of supremacy is - folly. My termination was agreed upon by 2 directors (one human resources and a chief), an asst director (deputy chief), and a manager (asst deputy chief) **without** a complete investigation. How does something like this happen? Especially with a government job? Especially when the systematic oppression can be validated by their own paperwork?

I'm appealing to you because I believe you care about Macon-Bibb. The Women's Shelter is an outstanding gesture of hope that many people

exhibit L – continuation

appreciate. Since you care about strangers, you care about your employees. Again, I am **not** seeking reinstatement. I'm appealing to you because I want the employees in the Tax Assessors Office to be liberated. I know "liberated" sounds heavy, like an over-exaggeration, however, I can't think of any better word to communicate the necessity of a probe into the Tax Assessors Office. The oppression can be **validated** through the employee reviews. There's:

- (4) Above Satisfactory
- (3) Satisfactory
- (2) Below Satisfactory
- (1) Needs Improvement

Why would any employer keep a(n) employee(s) year after year that cannot rise to the level of Satisfactory? Either the employer does not care if the job is completed or completed properly, and/or the employer is deliberately causing emotional distress and repression.

An employer that withholds a meritorious satisfactory evaluation restrains the employee from growing, which causes humiliation, diminished quality of life, anger, frustration,

exhibit L – continuation

and loss of sleep. For this act of repression to continue year after year, the act is calculated. The employees in the Tax Assessors Office are scared to even submit applications to other Macon-Bibb County Departments for fear of reprisal for attempting to “do better”.

As for me, I want a thorough investigation, within context, and my Macon-Bibb County employee record to be cleared of the malicious policy violation/s. I have no more avenues on this level. I will file an EEOC claim. I do not have enough time with Macon-Bibb to make a stink, however, I want to do my best to safeguard that no one else is mistreated as I was because (1) I contacted Code Enforcement, (2) took pictures, (3) utilized an inclusive pronoun, (4) was slightly surly with a slum lord, (5) am not job scared...

For the sake of Macon-Bibb County, I pray you verify and cure the wrong occurring in the Tax Assessors Office, and any other department. There's absolutely too much going on and not enough happening simultaneously in the Tax Assessors Office. The nonchalance and callousness in the Tax Assessors Office is

exhibit L - continuation

ridiculous. Check the employee reviews going back seven years or so. Assure the employees that there's no way the Chief, Deputy Chief, and HR Director will know what is said nor by whom.

They will not speak to you in a group. To speak with you is equivalent to giving their 'two-week notice', without their hand. You'll have to speak to everyone even if they do not speak with you, including the Assistant Deputy Chiefs.

Please excuse any misspelled words or any grammatical errors; it's very late.

Thank you,

Vanessa Phillips

exhibit X

**4.02, page 79, MBCG Policies and
Procedures approved and Adopted December
31, 2013 edition.**

While employees of MBCG Constitutional officers and independent elected officials are not specifically covered under this Personnel Policy Manual unless such elected official has opted into full coverage for his/her employees under this manual by execution of an Election Form by a Constitutional Officer or Elected Official contained herein, they are covered by all applicable federal and state laws, including those governing equal opportunity and non-discrimination.

Step 3: Request for Hearing

- Time for filing: An employee must file a request for a hearing with the Department of Human Resources within ten (10) working days after receipt of the written decision by the Department Head made pursuant to Step 2 above.
- Contents of request: The request for hearing shall contain a statement describing what is being appealed; the request shall be filed on a form provided by the Department of Human Resources.

exhibit X – continuation

- Hearing Officer: Upon receipt of the employee's choice of strike, the Human Resources Department will within three (3) business days, furnish the MaconBibb County attorney with the list of the remaining panel members. The MaconBibb County attorney or his/her designee, upon receipt of the list, will have five (5) business days to notify the Human Resources Department in writing which panel member, he/she chooses to strike.
- Referral to Hearing Officer: Within five (5) business days after receipt of the Macon-Bibb County attorney's strike from the hearing officer panel of attorneys, the Department of Human Resources will refer the request for hearing to the hearing officer. The hearing officer will determine if the case is covered under the MBCG Employee Problem Solving Procedure and if all procedural requirements have been met, If the request for hearing has been properly filed, the hearing officer will notify the employee of the date, time and place of the hearing. The hearing officer will also notify the Macon-Bibb County attorney of the

exhibit X - continuation

date, time and place of the appeal hearing and the Macon-Bibb County attorney or his/her designee shall represent the department head or Macon-Bibb County, as the case may be. The hearing will be conducted in accordance with the procedures set forth below.

- Waiver: The employee's failure to comply with these procedures including but not limited to the employee's failure to give timely notice, will result in a waiver of the employee's right to pursue a complaint under this procedure.

Step 4: Hearing

Conduct of Hearing: With regard to the conduct of the hearing, the hearing officer shall:

1. Administer oaths and affirmations;
2. Regulate the course of the hearing;
3. Set the time and place for continued hearings and pre-hearing conferences;
4. Fix the time for filing written arguments as deemed appropriate;
5. Adjudicate motions pertaining to preliminary, jurisdictional and ancillary matters as set forth by the parties;

exhibit X - continuation

- 6.** Provide for, where applicable, the taking of testimony by deposition, interrogatories or other written statements;
- 7.** Reprimand or exclude from the hearing any person for any indecorous or improper conduct committed in the presence of the hearing officer;
- 8.** Make informal disposition of any case by stipulation, agreed settlement, consent order or default, if appropriate and not otherwise precluded by law;
- 9.** Require the attendance of witnesses/employees, Employees appearing as witnesses shall be released from their duty without loss of pay and without effect on their service rating. An employee who is designated as a witness by either the department head or by the employee may be disciplined for failure to appear at the hearing. No person shall directly or indirectly use or threaten to use an official authority or other influence which would tend to discourage a person from testifying;
- 10.** Arrange a pre-hearing conference for the purpose of reviewing the matter being appealed and establishing stipulations and agreements to expedite the hearing.

exhibit X - continuation

- Hearing Procedures: In the hearing of a complaint, proceedings shall be informal but orderly. The following procedures shall prevail:
 1. The hearing officer shall read or cause to be read the complaint and specifications as contained in the employee problem solving form.
 2. The stipulations as to any facts not in dispute shall be entered into the record.
 3. Each party shall be given the opportunity to make a brief opening statement identifying the issues and stating what is to be proven.
 4. All witnesses shall testify under oath or affirmation.
 5. Each party may conduct such examination of the witnesses as shall be required for a full and true disclosure of the facts. This includes the right to cross-examine witnesses adverse to any party's position. In addition, the hearing examiner may examine the witnesses.
 6. Official notice may be taken of facts generally recognized by the public. In addition, official notice may be taken of technical facts within any specialized knowledge of the hearing officer. Parties shall be notified either before or during the hearing of the material officially noted, and they shall be afforded an opportunity to contest the material so noticed.

exhibit X - continuation

7. MBCG shall provide at its expense a certified court reporter, who will take down the testimony at the hearing. In the event that the hearing officer requests that the hearing be transcribed, such transcription will be at the expense of Macon-Bibb County. In the event that either of the parties request that the hearing be transcribed, such transcription cost shall be at the expense of the party so requesting the transcript.

8. An employee may represent himself/herself at the hearing or he/she may retain the services of an attorney to represent the employee at the hearing. A member of the Human Resources staff may reasonably assist the employee and/or his/her attorney. In the event that the employee does retain the services of an attorney to represent him/her, the MBCG County Commission will reimburse the employee for said employee's attorney's fees and expenses in an amount not greater than five hundred (\$500.00) dollars, if the hearing officer renders a final decision in favor of the employee.

9. Before closing the hearing, the hearing officer shall allow both parties the opportunity to make brief oral or written closing arguments.

exhibit X - continuation

10. The hearing officer who presided shall within fifteen (15) working days from the close of evidence, issue a written decision with findings of fact and reasons for the hearing officer's recommended decision. Provided, however, for good cause, the hearing officer may extend the time for rendering a decision for an additional fifteen (15) working days. The hearing officer's decision will be final and binding, and a copy shall be immediately transmitted to all parties, the Mayor and County Commission.

11. The hearing shall be open to the public as required by law, provided that the hearing may be closed at the request of the employee if such closures are authorized by law. Likewise, any documentary and other evidence shall be available for public inspection as required by law.

• **Evidentiary Rules:** With respect to all hearings before the hearing officer, the following rules regarding the evidence shall govern:

1. Formal, legal rules of evidence shall not be strictly applied. Evidence may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The hearing officer shall follow

exhibit X - continuation

the Georgia Rules of Evidence regarding
privileges recognized by state law.

2. Irrelevant, immaterial or unduly repetitious evidence may be excluded. Objections to evidentiary offers shall be made and ruled upon by the hearing officer.
3. When a hearing will be expedited and the interest of the parties will not be prejudiced thereby, any part of the evidence may be received in written form, including but not limited to the use of depositions, interrogatories, and affidavits or written statements.
4. The burden of proof shall be on the party requesting the hearing, That party shall have the right to open and conclude the hearing.
5. Documentary evidence may be received in the form of copies. However, upon request and at the discretion of the hearing officer, parties shall
6. be given the opportunity to compare with the original document.
7. The hearing officer's decision should be supported by substantial evidence. Substantial evidence is that degree of relevant evidence that a reasonable mind, considering the record as a whole, might accept as adequate to

exhibit X - continuation

support a conclusion that the matter asserted is true.

- Appointment and Compensation of Hearing Officers An independent, impartial hearing officer shall be selected to hear the case and conduct the hearing set forth herein. The Mayor or County Commission shall provide a list of three (3) attorneys, each of whom shall have been licensed and a member of the State Bar of Georgia for at least ten (10) years. The employee and Macon-Bibb County attorney, or his/her designee, shall each strike one name from the list and the remaining name shall be appointed as the hearing officer.
- Time Requirement Failure of the employee to comply with the time limits specified in this employee problem-solving procedure shall be deemed to be an abandonment of the procedure and the complaint will be dismissed. However, if the supervisors involved fail to answer in a timely fashion any of the procedural steps involved in Steps 1 and 2, the employee, if he or she desires, may proceed to the next procedural step as outlined, provided that such failure to answer within the prescribed time limits shall not amount to an admission by the supervisor in question that an employee's complaint has merit. The time

exhibit X - continuation

limits may be extended in writing by mutual agreement of the parties.

• **Final Written Disposition**

Written and satisfactory dispositions of employee complaints shall be kept in a special file in the Human Resources Department and will not be placed in any employee or supervisor's personnel file.

Reasons for Granting the Petition

The Honorable First and Appellate Courts have both erred by ignoring MBCG P&P employee handbook's specific contractual terms and conditions on when and how to have/hold a hearing. The Petitioner complied and completed her portion of the contract. MBCG breached the[ir] contract.

MBCG made false statements to a third party, the DOL, that produced economic damages to the Petitioner. The Court should grant this petition and review judgments because the At-Will employment statute is not a limitless provision that allows MBCG boundless authority.

If the At-Will employment statute does permit Macon-Bibb County Government to breach contracts, void the right to due process, cancel the right against double jeopardy, negate the right to be free from injury by defamation... this should be clearly disclosed to all employees, just as other known risks of employment similar to disclosing the presence of hazardous chemicals, loud noises, carcinogens, or choking

hazards. The disclosure could be made as part of the employee handbook, or in a separate document that is provided to all employees.

What the MBCG P&P employee handbook does disclose is clear instruction, utilizing detailed terms to both the employee and the employer on how to request a hearing and how and when to conduct said hearing, exhibit "Xs", December 31, 2013 edition, online, pages 79-84, 4.02 - Step 3 and Step 4.

In *Mc Elhannon v. Delta Air Lines, Inc.*, 493 F.3d 1284 (11th Cir. 2007), *McBride v. Southeastern Grocers, LLC*, 694 F. App'x 821 (11th Cir. 2017), *Mackenzie v. City of Rockledge*, 920 F.2d 1554, 1559 (11th Cir. 1991), *Fletcher v. Southwest Airlines Co.*, 295 F.3d 1255 (11th Cir. 2002) and in *Tricia Galbreath v. Hale County, Alabama Commission*, et al., No. 17-13762 (11th Cir. 2018), the court found that the handbook in these cases contained clear and unambiguous terms that created a contractual right to due process before termination.

The Court held that an employer can be liable for breach of contract if it fails to follow the procedures set forth in its employee handbook, in *Rasmussen v. Winn-Dixie Stores, Inc.*, 376 F.3d 1272 (11th Cir. 2004). The handbook created a reasonable expectation that the employer would follow its own procedures, and that the employer's failure to do so was a

breach of contract. An employee handbook can create a unilateral contract that gives the employee a property interest in their employment.

In *Carll v Carbolic Smoke Ball Company* [1892] 1 QB 256, 1892 Dec. 6, 7, the contract law decision by the court, held an advertisement (in a newspaper) containing certain language... is a binding unilateral contract.

“Even a text message is an enforceable contract” says the Court in *Brewfab, LLC v. George Russo*, No. 22-11003 (11th Cir. 2022).

In *Jennings v. Shuman*, 567 F.2d 1213, 1219-20 (3d Cir. 1977) §1983, Jennings states that “[a]n abuse of the process is by definition a denial of procedural due process”.

In *Greene v. McElroy*, 360 U.S. 474, 79 S. Ct. 1400 (1959) “Where governmental action seriously injures an individual, and the reasonableness of the action depends on *fact findings*, the evidence used to prove the government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue.” The Petitioner was denied a hearing, thus she was not afforded an opportunity...

The First and Appellate Courts have agreed that the DOL's denial rests solely on the DOL, even though the singular information

utilized in the DOL's denial came entirely from MBCG, exhibit "K".

The DOL conducted no interview(s) because the DOL is *not* a fact-finding body in unemployment insurance benefit claims no more than a[ny] jury, a[ny] Justice, Judge, arbitrator - in a[ny] administrative, criminal or civil proceeding.

Knowingly submitting false information in order to pass or prohibit a claim is fraud. Fraud can take many forms, but it is always intentional. Justice Iredell in *Case of Fries* (1799) reasoned that;

"men who are at a distance from the source of information must rely almost altogether on the accounts they receive from others. [If those] accounts are false, the best head and the best heart cannot be proof against their influence; nor is it possible to calculate the combined effect of innumerable artifices, either by direct falsehood, or invidious insinuations. ..."

Submitting false information for the purpose to withhold or deny "property" is a

violation of *The False Claims Act*, 31 U.S.C. §§ 3729 - 3733, the reverse claim of 3729(a)(1)(C).

Fact finding is important in the case of documentary evidence, it is even more important where the evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealousy. These protections have been formalized in the requirements of confrontation and cross-examination. They have ancient roots. They find expression in *U.S. Const. Amend. VI*, which provides that in all criminal cases the accused shall enjoy the right "to be confronted with the witnesses against him." The United States Supreme Court has been zealous to protect these rights from erosion. It has spoken out not only in criminal cases, but also in all types of cases where administrative and regulatory actions were under scrutiny. Nor has Congress ignored these fundamental requirements in enacting regulatory legislation."

In *Daugherty v. Ellis*, 142 W. Va. 340, 357-8, 97 S.E. 2nd 33, 42-3 (W. Va. 1956), a civil defendant will be held liable for misfeasance if the defendant owed or breached a duty of care toward the plaintiff. Misfeasance in the office requires an affirmative act or omission that resulted in harm to the plaintiff; intent nor

knowledge is not required. In *Borden v. City of St. Petersburg*, 765 F.2d 1187 (11th Cir. 1985) the court held that a city could be held liable for misfeasance in office for failing to properly investigate a complaint, that the city's failure to investigate was a "deliberate indifference" to the plaintiff's rights, and that it was therefore liable for the plaintiff's injuries.

MBCG **does** have the First Amendment right to make false statements about the Petitioner. However, once those false statements took shape into [unlawful] conduct (submitted defamatory info to the DOL) that negatively interfered with the results of the DOL's ruling (loss of finance) – that "freedom of speech" is no longer protected speech. The At-Will employment statute does not quash the "unprotected speech" of the First Amendment. Defamation is always illegal.

The Petitioner's right against Double Jeopardy was violated when her employment was terminated, and her unemployment insurance benefits were denied from the same severe, false allegations, where she was refused her contractual hearing.

Brown v. Ohio, 432 U.S. 161, 165 (1977), forbids successive prosecution and cumulative punishment... Pp.432 U.S. 166-169. Separate violations need not have the same elements or require the same proof in order to be the same

within the meaning of double jeopardy, at Brown 164.

In *United States v. Turner*, 79 M.J. 401, the Fifth Amendment provides that no person shall be deprived of life, liberty, or property, without due process of law and no person shall be subject for the same offense to be twice put in jeopardy.

The *Goldberg v. Kelly*, 425 U.S. 94 (1976) decision set the parameters for the procedural due process when dealing with the deprivation of a government benefit. The Court held that a person has a property interest in certain government entitlements, which requires notice and a hearing before a government entity denies or takes property away.

The *Goldberg* Court decided that such entitlements (government pensions, unemployment benefits, professional licenses...) are a form of 'new property' that require pre-deprivation procedural Protection and so did away with the traditional distinction between rights and privileges.

Property includes money and other tangible things of value, but also any intangible right considered as a source or element of income or wealth.

The Supreme Court's ruling will have significant implications for employees, unions, and employers. If the Appellate Court's

ruling is upheld, it will mean that employers can deny due process and use defamation to cause injury to [former] employees [outside the workplace]. The At-Will employment statute's conflict and impunity to the "unprotected speech" of the First Amendment could have a chilling effect on employees' willingness to report workplace misconduct.

Conclusion

Please hold the pro se litigant to a less stringent standard on procedure; and grant this Writ of Certiorari based on the merit (evidence/exhibit) though the vehicle is coarse.

Respectfully Submitted in Good Faith,

Vanessa Phillips , **pro se** , Petitioner
P. O. Box 7023
Warner Robins, GA 31095
478-334-9868