

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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DEBORAH KMETZ,

Plaintiff,

v.

GEORGE VOGT, in his individual capacity,  
MICHAEL STEVENS, in his individual and  
official capacities and DIRECTOR OF THE  
STATE HISTORICAL SOCIETY OF  
WISCONSIN, in his official capacity,

Defendants.

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ORDER

03-C-107-C

Defendants George Vogt, Michael Stevens and the current director of the State Historical Society have filed a motion requesting that this court reconsider its determination in the order entered on February 3, 2004, that defendant Stevens was not entitled to qualified immunity on plaintiff's claim that he retaliated against her for engaging in protected speech with a campaign of petty harassment. Defendants' first argument is that plaintiff's complaint cannot be fairly read to allege that defendant Vogt engaged in a campaign of petty harassment. Upon further consideration, I agree that the complaint was not structured to meaningfully link defendant Stevens's acts of giving plaintiff a letter of direction and instituting weekly meetings. Because plaintiff's complaint did not give

defendants fair notice of a claim that defendant Stevens had engaged in a campaign of petty harassment, defendants' motion for reconsideration will be granted.

In the February 3 order, I noted that "plaintiff did not delineate each individual alleged retaliatory claim in a discrete claim but instead joined the acts together" in her complaint. Because the retaliatory acts were listed together, I reasoned that they could be read to allege an ongoing campaign that included the specifically named acts. In reexamining the complaint, it appears that plaintiff did not include the institution of weekly meetings in that list. The only mention of the weekly meetings in the complaint is in a separate paragraph in the factual allegations. Although the undisputed facts governing the motion for summary judgment showed that the letter of direction was issued in June 2001, just about two and a half months before the institution of weekly meetings, the complaint alleged that the letter was issued in June 2002, or about ten months after the weekly meetings began. Although a complaint need provide only a plain and short statement of the claim, Fed. R. Civ. P. 8(a), it must put a defendant on notice of the claim. Even construing the complaint liberally to accommodate the minimal pleading requirement, there is no basis on which to read into the complaint a link between the weekly meetings and the letter of direction.

As noted in the opinion, plaintiff may still use evidence of the institution of weekly meetings or the letter of direction concerning her remarks in The Capital Times as evidence

of defendant Stevens's retaliatory animus.

ORDER

IT IS ORDERED that the motion of defendants George Vogt, Michael Stevens and the current director of the State Historical Society of Wisconsin for reconsideration of the court's determination that plaintiff could pursue a claim that defendant Stevens engaged in a campaign of petty harassment against her in retaliation for the exercise of her First Amendment rights in the order and opinion entered on February 3, 2004, is GRANTED. Plaintiff may not pursue such a claim.

Entered this 11th day of February, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge