

ALBIES, STARK & GUERRIERO
ATTORNEYS AT LAW

Talia Guerriero
talia@albiesstark.com

1 SW Columbia St., #1850
Portland, OR 97204
Phone: 503-308-4771
Fax: 503-427-9292

TORT CLAIM NOTICE SENT PURSUANT TO ORS § 30.275

Via Fax and Email

November 7, 2022

Kathy Short
Multnomah County
Kathryn.a.short@multco.us
Fax: 503-988-3377

Multnomah County Health Department
Administration
619 NW 6th Ave
Portland, Oregon, 97209
Fax: 503-988-3676

RE: Tort Claims Notice on Behalf of LaKeesha Dumas

Ms. Short:

We represent LaKeesha Dumas, current employee of Multnomah County Health Department in her employment claims. This notice, pursuant to ORS § 30.275, places Multnomah County on notice that LaKeesha Dumas intends to pursue legal rights, including claims for discrimination, harassment, failure to accommodate, whistleblower retaliation, retaliation for complaining about and opposing mismanagement, gross waste of funds or abuse of authority and other claims for money damages. These claims include, but are not limited to, claims made pursuant to ORS § 659A.030; ORS § 659A.199; ORS § 659A.203; ORS § 659A.230; and 42 USC § 1983.

Ms. Dumas has been working as an Office of Consumer Engagement Coordinator in the Mental Health & Addiction Services Division of the Multnomah County Health Department. Ms. Dumas received positive feedback about her job performance until she engaged in the protected activity below.

In or around January of 2021, Multnomah County paid Ms. Dumas to work on the Measure 110 Oversight and Accountability Committee, which is a position that Ms. Dumas received through an appointment process. Ballot Measure 110, the Drug Addiction Treatment and Recovery Act, required the formation of a grant program to fund Addiction Recovery Centers and an Oversight and Accountability Council to determine how the grant funds will be distributed. The Council serves an important function in overseeing the implementation of the Act. Ms. Dumas's management was aware that this was a four-year, sometimes nearly full-time commitment and Ms. Dumas took her work and commitment to the public interest very seriously.

During Ms. Dumas's time on the Council, Multnomah County separately put in an application to receive funds. Following her ethical and legal obligations as she understood them, Ms. Dumas abstained from trying to influence the outcome of and from voting on the application. On or around May 17, 2022, Multnomah County's application was denied for reasons unrelated to Ms. Dumas.

LaKeesha Dumas
Tort Claims Notice
Page 2

However, Ms. Dumas's Supervisor, Lynn Smith-Stott, attributed fault to Ms. Dumas. Within days of the application's denial – on May 19, 2022 – Ms. Smith-Stott, met with Ms. Dumas and was angry and hostile. Ms. Smith-Stott blamed Ms. Dumas for not getting the application approved. When Ms. Dumas told her that there was nothing she could have done (due to her legal and ethical obligations), Ms. Smith-Stott told Ms. Dumas there was more that she could have done by influencing other people to vote in favor of the application. Ms. Dumas did not believe that would be ethical or legal. Ms. Smith-Stott told Ms. Dumas that she could no longer support her and that Ms. Dumas's higher-ups and community were disappointed in her. Ms. Dumas left the conversation crying and feeling extremely overwhelmed.

Ms. Smith-Stott sent Ms. Dumas a follow up email confirming again that the denial of the application was at least partially within her "control" and then raised a number of other performance concerns that Ms. Smith-Stott did not discuss with Ms. Dumas in their meeting, which was retaliatory and triggered Ms. Dumas's mental health conditions. Prior to the denial of Multnomah County's application and the meeting with Ms. Smith-Stott, Ms. Dumas had not received this type of negative feedback about her work performance.

After that horrific experience, Ms. Dumas experienced a severe deterioration of her mental health conditions and had to take time off work to cope and to manage her pain from a physical condition likely exacerbated by the stress. Upon trying to return to work, she tried to engage in an interactive process with Multnomah County to develop reasonable accommodations that would assist her in being able to work with Ms. Smith-Stott, including getting a mediator involved who would hopefully be able to address the ongoing hostility, hyper-scrutiny, and retaliation she was experiencing.

Ms. Smith-Stott indicated that Ms. Dumas would have to withdraw from the M110 committee completely, which was retaliatory given that it was Ms. Dumas's original assignment, the County knew it was a four-year assignment, Ms. Dumas's value to the committee, and the importance of the committee to her and the public interest. It does not make sense that the County would not just scale back Ms. Dumas's time on the project rather than removing her completely from a four-year commitment in which she was very involved and was in line with her job description.

Ms. Dumas complained about her concerns and the retaliation to Human Resources' Daniel Garcia, who failed to address them. Ms. Dumas repeatedly asked for a mediator and reasonable accommodations. Ms. Dumas provided medical certifications on or around September 1, 2022. Instead of addressing Dumas's accommodation requests, her complaint of retaliation, or providing mediation, the County cancelled Ms. Dumas's accommodations meeting and scheduled a meeting to go over what they called a "pre-disciplinary letter of expectations" without considering any discussion about accommodations to assist Ms. Dumas in meeting the job expectations or considering how to address the complaint of retaliation.

On or around September 27, 2022, Mr. Garcia, Ms. Smith-Stott, and Julie Dodge (Interim Deputy Director) met with Ms. Dumas to go over a "pre-disciplinary letter of expectations." The letter of expectations ("LOE") states: "The following are examples and instances related to your lack of communication and responsiveness to me as your supervisor, inability to manage and prioritize work, meeting commitments and being where you say you will be, all which demonstrates the difficulty you are having in managing both your assigned job duties and the M110 Committee work."

LaKeesha Dumas
Tort Claims Notice
Page 3

Upon information and belief, although the County often claims LOEs are not disciplinary, they are often used against employees in a disciplinary way. Ms. Dumas's Union representative questioned why the LOE meeting was taking place prior to the accommodations meeting or the mediation (which had been pending a long time). The Union representative stated that the County's approach felt like it was just trying to set up Ms. Dumas instead of work with her. The Union representative also highlighted that Ms. Dumas's job description outlines the expectations needed for any mediation or ADA process, that the conversations all needed to work together, and that it did not make sense for this meeting to come before the mediation or ADA process.

Mr. Garcia claimed that the ADA interactive process means that it is "employee-driven" and that it was Ms. Dumas's responsibility to carry the process forward, and that it was unusual but the accommodations department would fill out Ms. Dumas's paperwork for her. Ms. Dodge – an important participant in the meeting delivering the LOE – did not even know anything substantive about Ms. Dumas's requested accommodations or how they might fit into LOE.

The LOE also outlines "concerns" about Ms. Dumas's scheduling and communication that Ms. Smith-Stott explicitly admitted during the meeting is not how the department had been doing things and that Ms. Smith-Stott had never before expected Ms. Dumas to use a calendar in a way that she could track Ms. Dumas's time. Nonetheless, the LOE was written as though Ms. Dumas failed to do something. Ms. Smith-Stott also admitted during the meeting that she did not have concerns about her relationship or communication with Ms. Dumas before May 2022, which is when Ms. Dumas engaged in protected activity related to the Multnomah County M110 grant.

On September 28, 2022, Mr. Garcia emailed Ms. Dumas: "I am reaching out to you right now to let you know that I did not forget about your claims of racism in regards to Lynn." But Ms. Dumas had not complained of racism, just retaliation several weeks prior to this email. Mr. Garcia had done nothing in response to Ms. Dumas's retaliation complaints before the pre-disciplinary LOE meeting. After the LOE meeting, Mr. Garcia told Ms. Dumas she would have to go through some other formal process to actually complain, creating unnecessary barriers to getting her issues addressed while starting a disciplinary process in the meantime.

These interactions have given rise to additional stress in the workplace and negative effects on Ms. Dumas's mental health, forcing her out on another leave in or around late September 2022. The ongoing hostility, retaliation, and gaslighting is unbearable and causing great stress on Ms. Dumas's mental and physical health but the County continues to fail to properly investigate her concerns, restore her to her original job duties on the M110 Council, provide a mediation, or engage in a truly interactive process.

If you would like to discuss these claims with me, please contact me by the close of business day on **November 15, 2022.**

Very truly yours,

ALBIES, STARK & GUERRIERO


Talia Guerriero