

CIVIL COVER SHEET

County in which action arose: Kent

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Thomas J. Saladino

(b) County of Residence of First Listed Plaintiff Kent (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

BoylanLaw, P.C. by Karie H. Boylan (P55468) 410 W. University, Suite 201 Rochester, Michigan 48307

(248) 416-2609

DEFENDANTS

City of Wyoming, James Carmody, Curtis Holt.

County of Residence of First Listed Defendant Kent (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 main columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes sub-sections like PERSONAL INJURY, PERSONAL PROPERTY, HABEAS CORPUS, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. 1983. Brief description of cause: Plaintiff was fired in retaliation for engaging in protected activity and in violation of his civil rights.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 500,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

August 11, 2016

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes

No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes

No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes :

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1 **UNITED STATES DISTRICT COURT**  
2 **FOR THE WESTERN DISTRICT OF MICHIGAN**

3 **THOMAS J. SALADINO**

4 Plaintiff

5  
6 v.

7 **CITY OF WYOMING,**  
8 **a municipal corporation, and**  
9 **JAMES CARMODY, in his**  
10 **individual and official capacities,**  
11 **CURTIS HOLT, in his**  
12 **individual and official capacities,**

13 Defendants.

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14  
15 Karie H. Boylan (P55468)  
16 BoylanLaw, P.C.  
17 Attorney for Plaintiff  
18 410 W. University, Suite 201  
19 Rochester, Michigan 48307  
20 Phone: 855-9BOYLAN  
21 Fax: 855-3BOYLAN  
22 E-Mail: [karie@boylanlaw.net](mailto:karie@boylanlaw.net)

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23 **COMPLAINT AND JURY DEMAND**

24 NOW COMES Plaintiff Thomas J. Saladino, by and through his Attorneys,  
25 BoylanLaw, P.C. by Karie Boylan and for his Complaint against the Defendants,  
26 jointly and severally, state as follows:  
27  
28

**COMMON ALLEGATIONS**

1  
2 1. Plaintiff Thomas J. Saladino is a resident of Kent County, Michigan. For  
3  
4 the past 23 years, until August 10, 2016, he was a Firefighter for the City of Wyoming.  
5 On August 10, 2016, Defendants terminated Plaintiff's employment in violation of  
6  
7 the First and Fourteenth Amendments to the United States Constitution.

8 2. The City of Wyoming is a Michigan municipal corporation located in  
9  
10 Kent County, Michigan.

11 3. James Carmody is the City of Wyoming Public Safety Director. Upon  
12  
13 information and belief, he is a resident of Kent County, Michigan.

14 4. Curtis Holt is the City Manager for the City of Wyoming. Upon  
15  
16 information and belief, he is a resident of Kent County, Michigan.

17 5. This is a civil action brought pursuant to 42 U.S.C. § 1983 seeking  
18  
19 money damages against the Defendants for depriving Plaintiff of his rights guaranteed  
20  
21 by the First and Fourteenth Amendments to the United States Constitution.

22 6. Jurisdiction in this court is invoked pursuant to 28 U.S.C. § 1331, §1343  
23  
24 and § 1443. Venue lies in Michigan's Western District pursuant to 28 U.S.C. § 1391.

25 7. At all times relevant to this cause of action, Defendants were acting  
26  
27 under color of law.

28 8. Defendants Carmody and Holt are being sued in their individual and  
official capacities.



1 14. Defendants approved of Plaintiff working for both Wyoming and  
2 Jamestown until they became aware of his involvement in passing House Bill 4624,  
3 MCL 423.215a, which was signed into law on October 15, 2014.

5 15. MCL 423.215a has been referred to as the “Two-Hatter protection law”.  
6 Its origin lies in opposition to a municipal policy announced in 2010 or 2011.  
7

8 16. In approximately 2010 or 2011, the City of Grand Rapids announced its  
9 intent to prohibit its career firefighters from serving as volunteer or part-time  
10 Firefighters for any other municipality during off-duty hours.  
11

12 17. Firefighters employed by one municipality volunteering, or working part-  
13 time for a different municipality during off-duty hours is a national practice that  
14 allows smaller municipalities with limited resources to provide adequate fire  
15 protection services to its citizens. Firefighters that work both full-time and part-time  
16 positions (either part-time paid or part-time on call) are referred to as “Two-Hatters”.  
17  
18

19 18. In response to Grand Rapids’ announcement, Allendale Fire Chief Mike  
20 Keefe approached Michigan Representative Joe Haveman to discuss the possibility of  
21 enacting legislation to prohibit municipal policies that barred “Two-Hatter” practices.  
22

23 19. For the next three years, Mike Keefe, John Clark (Fire Chief Delta  
24 Township), State Representatives Haveman (Holland), Roger Victory (Hudsonville)  
25 and Amanda Price (Grand Haven), Plaintiff, and others worked tirelessly to pass  
26 legislation aimed to protect “Two-Hatter” Firefighters.  
27  
28

1           20. It was common knowledge that Plaintiff, while off duty, was helping  
2 pass the “Two-Hatter” protection law. Plaintiff met regularly with Fire Chiefs Keefe  
3 and Clark, he contacted other municipalities and obtained information and statistics  
4 used during legislative hearings, scoured the internet for similar laws in other states  
5 attended hearings, discussed it openly with other representatives of smaller  
6 municipalities who benefited from “Two-Hatter” Firefighters, and more.

7  
8  
9           21. It was common knowledge that Defendants Carmody and Holt opposed  
10 “Two-Hatter” protection laws.

11  
12           22. On October 15, 2014, MCL 423.215a became effective, it states:

13           An employee of a public fire department may volunteer for or  
14 seek and accept part-time or paid on-call employment with another fire  
15 department if that employment does not conflict with his or her  
16 performance of the original employment as determined by the original  
17 employer. This section does not create a right for a full-time employee of  
18 a public fire department to accept full-time employment with another  
19 fire department. A local unit of government shall not adopt or apply an  
20 ordinance, rule, or policy in conflict with the right granted an employee  
21 under this section. Collective bargaining between a public employer and  
22 a bargaining representative of its employees shall not include the subject  
23 of a prohibition on an employee volunteering for or obtaining paid on-  
24 call employment with another fire department.

25           23. On January 1, 2015, Defendants amended the Wyoming Department of  
26 Public Safety General Order Number 200.S.2 related to Secondary Employment to  
27 make the general nature of firefighting and EMS employment with Defendant City  
28 “inherently in conflict” with any and all part-time positions elsewhere, thus allowing  
Defendant Wyoming to “impose restrictions on outside employment”.

1           24. On January 28, 2016, for the first time in the history of Plaintiff's "Two-  
2 Hatter" status, Defendant Carmody denied Plaintiff's request for secondary  
3 employment based on the following "concerns":  
4

- 5           a. Plaintiff was a part-time "salaried employee of the Township",
- 6           b. Plaintiff was Fire Chief, thus, responsible for the budget, and
- 7           c. "Confusion" regarding when employment starts and ends.

8           25. Defendant Carmody stated: "Given these many variables, I believe that  
9 it would be prudent to deny your request. However, if you chose to continue on as  
10 only a paid-on-call firefighter, we would give that request serious consideration".  
11

12           26. The reasons given by Defendant Carmody for denying Plaintiff's request  
13 for secondary employment on January 28, 2016, are a sham and pretext.  
14

15           27. Also, Defendant Carmody's insistence that Plaintiff continue as a paid-  
16 on-call firefighter violates MCL 423.15a. By statute, Plaintiff can be a (a) Part-time or  
17 paid-on-call, (b) employee – in any capacity.  
18

19           28. On February 15, 2016, Plaintiff resigned his position as Jamestown Fire  
20 Chief, his duties were transferred to Deputy Chief Duane Miedema and Plaintiff  
21 assumed the title "Firefighter".  
22

23           29. In July of 2016, Defendants accused Plaintiff of violating Defendants'  
24 policy of prohibiting him from acting as Chief of the Jamestown Township Fire  
25 Department because he was assisting Chief Duane Miedema with administrative tasks  
26 and related duties. A sham Internal Affairs Investigation was opened.  
27  
28

1           30. On August 10, 2016, wrongfully and in violation of Plaintiff's  
2 Constitutional Rights, Defendants terminated Plaintiff's employment with Defendant  
3 City of Wyoming. The reasons given were all sham and pretext.  
4

5                           **COUNT I - FIRST AMENDMENT RETALIATION**

6           31. Plaintiff incorporates the preceding paragraphs by reference as though  
7 fully restated herein.  
8

9           32. At all relevant times, Plaintiff was a public employee.  
10

11           33. In the years leading up to the passage of MCL 423.215a, Plaintiff  
12 engaged in substantial activities designed to assist the bill in becoming law.  
13

14           34. The issue of full-time Firefighters for larger municipalities providing  
15 part-time or paid-on-call Firefighter services to smaller municipalities while off duty is  
16 a matter of public concern.  
17

18           35. Plaintiff's various activities (i.e., lobbying, providing information and  
19 statistics to bill sponsors and persons called to testify before the legislature, attending  
20 legislative hearings, etc.), while off duty, in support of HB 4624, is activity protected  
21 by the First Amendment to the United States Constitution.  
22

23           36. Plaintiff's exercise of free speech and activities were substantial and  
24 motivating factors in Defendant Carmody's January 28, 2016, denial of Plaintiff's  
25 request for secondary employment (which had previously always been approved).  
26 Defendants' proffered explanation for doing so is a sham and pretext.  
27  
28

1 37. Plaintiff's exercise of free speech and activities were substantial and  
2 motivating factors in Defendants' insistence Plaintiff resign his position as Jamestown  
3 Township Fire Chief and restrict his secondary employment status to "paid-on-call".  
4 Defendants' proffered explanation for doing so is a sham and pretext.  
5

6 38. Plaintiff's exercise of free speech and activities were substantial and  
7 motivating factors in Defendants' decision to terminate Plaintiff's employment with  
8 Defendant Wyoming on August 10, 2016. Defendants' proffered explanation for  
9 doing so is a sham and pretext.  
10  
11

12 39. The contours of Plaintiff's First Amendment rights in the context of his  
13 exercise of free speech and activities were clearly established at all relevant times and  
14 the individual Defendants are not entitled to the defense of Qualified Immunity.  
15

16 40. As a direct and proximate cause of Defendants' unconstitutional  
17 conduct, Plaintiff has suffered economic loss, severe emotional distress, been forced  
18 to incur costs and attorney fees, statutory interest, and more.  
19

20 WHEREFORE, Plaintiff requests a compensatory and punitive damages in  
21 excess of \$500,000.00 plus interest, costs and attorney fees.  
22

23 **COUNT II – 42 U.S.C. § 1983**

24 41. Plaintiff incorporates the preceding paragraphs by reference as though  
25 fully restated herein.  
26

27 42. Defendants are all "persons" within the meaning of 42 U.S.C. § 1983.  
28

1 43. At all relevant times, Defendants were acting under color of law.

2 44. Defendants' Order # 200.S.2 is an unconstitutional policy.

3  
4 45. Defendants Order # 200.S.2 was the moving force behind the  
5 constitutional deprivations alleged in this Complaint.

6 46. At all relevant times, Plaintiff was a public employee for Defendant  
7 Wyoming (full-time) and Jamestown Township (part-time).

8 47. Under the Fourteenth Amendment of the United States Constitution,  
9 Plaintiff had a constitutionally protected interest in continued employment with both  
10 municipalities – before and after MCL 423.215a became effective.

11 48. MCL 423.215a reaffirmed that interest and created greater protections.

12 49. Defendants' Order # 200.S.2, effective January 1, 2015, regarding  
13 "Secondary Employment" violates MCL 423.215a and impermissibly interferes with  
14 Plaintiff's right to continued employment with both municipalities.

15 50. Defendant Carmody's January 28, 2016, denial of Plaintiff's request for  
16 secondary employment violated rights guaranteed to Plaintiff under the Fourteenth  
17 Amendment. Defendants' proffered explanation for doing so is a sham and pretext.

18 51. Defendants' insistence Plaintiff resign his position as Jamestown  
19 Township Fire Chief and restrict his secondary employment status to "paid-on-call"  
20 violated rights guaranteed to Plaintiff under the Fourteenth Amendment.  
21 Defendants' proffered explanation for doing so is a sham and pretext.

1 52. Defendants' decision to terminate Plaintiff's employment with  
2 Defendant Wyoming on August 10, 2016, violated rights guaranteed to Plaintiff under  
3 the Fourteenth Amendment. Defendants' proffered explanation for doing so is a  
4 sham and pretext.  
5

6 53. The contours of Plaintiff's Fourteenth Amendment rights in the context  
7 of his continued, simultaneous employment with Defendant Wyoming and  
8 Jamestown Township Fire Departments were clearly established at all relevant times  
9 and the individual Defendants are not entitled to the defense of Qualified Immunity.  
10  
11

12 54. As a direct and proximate cause of Defendants' unconstitutional  
13 conduct, Plaintiff has suffered economic loss, severe emotional distress, has been  
14 forced to incur costs and attorney fees, statutory interest, and more.  
15

16 WHEREFORE, Plaintiff requests a compensatory and punitive damages in  
17 excess of \$500,000.00 plus interest, costs and attorney fees.  
18

19 **COUNT III – WHISTLEBLOWER (Federal & State law)**

20 55. Plaintiff incorporates the preceding paragraphs by reference as though  
21 fully restated herein.  
22

23 56. Plaintiff provided Defendants with a copy of MCL 423.215a.  
24

25 57. Plaintiff reported, or was about to report, to authorities that Defendants  
26 were violating MCL 423.215a.  
27  
28

1 58. Defendants terminated Plaintiff because he reported, or was about to  
2 report, their unconstitutional conduct and violation of MCL 423.215a.

3  
4 59. As a direct and proximate cause of Defendants' terminating Plaintiff,  
5 Plaintiff has suffered economic loss, severe emotional distress, has been forced to  
6 incur costs and attorney fees, statutory interest, and more.

7  
8 WHEREFORE, Plaintiff requests a compensatory and punitive damages in  
9 excess of \$500,000.00 plus interest, costs and attorney fees.

10  
11 Respectfully submitted,

12 Karie H. Boylan

13 Karie Holder Boylan—P55468

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20  
21 Dated: August 11, 2016

