

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

BRENDA BOHANAN,

Plaintiff,

vs.

DOUGLAS COUNTY COMMISSIONER
KELLY G. ROBINSON,
in his individual and official capacities,

Defendant.

JURY TRIAL DEMANDED

CIVIL ACTION NO.:

VERIFIED COMPLAINT
FOR EQUITABLE RELIEF AND DAMAGES

Plaintiff Brenda Bohanan (“Plaintiff Bohanan” or “Plaintiff”) brings this action against Defendant Douglas County Commissioner Kelly G. Robinson (“Defendant Robinson” or “Defendant”) under 42 U.S.C. § 1983 and the First and Fourteenth Amendments of the United States Constitution for equitable relief and damages arising from Defendant having blocked Plaintiff from accessing, commenting on, or “liking” posts on Defendant’s social media Facebook page. Defendant Robinson blocked Plaintiff Bohanan because she posted comments in an

online political discussion group that were critical of Defendant's responses to his constituents' concerns. When Plaintiff subsequently attempted to visit Defendant's Facebook page, she found that she was blocked. Plaintiff remained blocked, even after Defendant entered into a Settlement Agreement and Release of All Claims ("the Settlement Agreement") with Plaintiff wherein Defendant agreed to unblock and restore Plaintiff's access to his Facebook Page. In deliberate and material breach of the terms of the Settlement Agreement, Defendant never unblocked Plaintiff but instead shut down his Facebook page and migrated its content to a different URL on Facebook from which Plaintiff is also blocked. Therefore, in addition to Plaintiff Bohanan's constitutional claims, she also brings this action against Defendant Robinson for breach of contract and litigation expenses pursuant to O.C.G.A. § 13-6-11.

PARTIES

1. Plaintiff Brenda Bohanan is a resident of Douglas County, Georgia. Plaintiff is a concerned Georgia citizen and is politically active in her community. Plaintiff engages in public political speech via social media, including Facebook.
2. At all times relevant herein, Defendant Kelly G. Robinson was Douglas County Commissioner for District 2, acting under color of state law. He is sued in both his individual and official capacities for equitable relief and damages.

JURISDICTION AND VENUE

3. This action arises under the First and Fourteenth Amendments to the U.S. Constitution and 42 U.S.C. § 1983. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343.
4. This Court has supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367.
5. This Court has jurisdiction to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202 and 42 U.S.C. § 1983.
6. Venue in the Northern District of Georgia, Atlanta Division, is proper under 28 U.S.C. § 1391(b) because Douglas County is located within this district and division and is where the events giving rise to Plaintiff's claims occurred.

FACTS GIVING RISE TO PLAINTIFF'S CLAIMS

7. Plaintiff Brenda Bohanan is a resident of Douglas County, Georgia. Plaintiff is a concerned and active citizen who has voiced criticism of Defendant Robinson in his capacity as a Douglas County Commissioner.
8. Plaintiff Bohanan has a constitutional right and desire to have access to the designated or limited public forum created by Defendant Robinson for citizens on his interactive Facebook page.
9. Plaintiff Bohanan has a constitutional right and desire to receive Defendant Robinson's speech and the speech of other constituents and citizens who post

comments on Defendant’s Facebook page relating to matters of public concern, including relating to Defendant in his capacity as a Douglas County Commissioner.

10. Plaintiff Bohanan has a constitutional right and desire to use the interactive features of Defendant’s Facebook page to engage in protected speech within this designated or limited public forum – i.e., to express her own beliefs and viewpoints relating to matters of public concern, including relating to Defendant Robinson in his capacity as a Douglas County Commissioner.

Defendant’s Facebook Presence

11. Defendant Robinson maintains a Facebook page located at <https://www.facebook.com/commissionerkellyrobinsonofficial> (“Defendant’s Official Page”) which is a designated or limited public forum from which Plaintiff is not blocked.
12. Sometime before June 21, 2015, Defendant Robinson separately created the Facebook page that until on or about May 28, 2020 was located at <https://www.facebook.com/commissionerkelly.robinson> (“Facebook Page” or “the Page”), and which by the first quarter of 2020 had over 4900 associated “friends.” See Exhibit A (Screenshots from Facebook Page Located at “commissionerkelly.robinson”).

13. Interacting with constituents and the public on his Facebook Page, Defendant clearly identified himself as a Douglas County Commissioner, including by the fact that the Facebook Page displayed his name at the top of the page as “Commissioner Kelly Robinson” and by the fact that the URL for the Facebook Page included the word “commissioner”

(i.e., <https://www.facebook.com/commissionerkelly.robinson>). *See* Exhibit A.
14. Defendant posted on the Facebook Page about his work, opinions and activities as Douglas County Commissioner. *See, e.g.*, Exhibit A.¹
15. Constituents and members of the public used the interactive features of Defendant’s Facebook Page to express their opinions and viewpoints to Defendant in his capacity as Douglas County Commissioner. *See, e.g.*, Exhibit A.
16. Defendant’s Facebook Page therefore constituted a designated or limited public forum.

¹ Exhibit A contains examples, but by no means a complete collection, of Defendant’s posts on “commissionerkelly.robinson” that related to his activities as Douglas County Commissioner. For a larger sampling of official-activity-related posts that appeared on “commissionerkelly.robinson” but were then migrated to Defendant’s New Facebook Page located at “kellyrobinsonsr,” see Exhibit F which contains screenshots from the New Facebook page “kellyrobinsonsr” as it appeared on May 28, 2020, approximately one day after it had been created and the Facebook page located at “commissionerkelly.robinson” had been shut down.

17. Indeed, in the now-breached Settlement Agreement with Plaintiff, Defendant acknowledged that the comments section of his Facebook Page was a designated or limited public forum. *See* Exhibit B (Settlement Agreement) at ¶ 1(a)(ii)(1).

Plaintiff Blocked from Defendant's Facebook Page

18. Plaintiff Bohanan is an active member of the “Douglasville & Douglas County for Civic Action” Facebook Group (“the Facebook Group”).

19. The Facebook Group is an online forum where members of the public discuss political issues and other matters of public concern relevant to the Douglas County and Douglasville communities.

20. On or about June 21, 2015, Plaintiff, Defendant Robinson, and other participants in the Facebook Group engaged in an online discussion (“the Discussion”) started by the Facebook Group’s administrator Brian Miller.

21. Specifically, on or about June 21, 2015, Mr. Miller posted a group message expressing concern about Douglas County’s heightened property taxes and summarizing some “highlights” from Defendant Robinson’s “Mid Year State of the District” town hall meeting that had been held sometime during approximately the past week. *See* Exhibit C (June 21, 2015 Conversation Thread).

22. Facebook Group members participating in the Discussion likewise expressed concern about the county property tax rate, and voiced disapproval of what had transpired at the town hall meeting, including criticizing Defendant Robinson's spending priorities in his role as a Douglas County Commissioner. *See Exhibit C.*
23. Plaintiff Bohanan posted a message in the Discussion asking if the town hall meeting had been videotaped and stating, "Thanks for the recap btw. UGH!" *See Exhibit C.*
24. Defendant Robinson responded more than once during the Discussion, explaining and defending his opinions and actions. *See Exhibit C.*
25. Defendant Robinson's responses during the Discussion included several golfing analogies. *See Exhibit C.*
26. Plaintiff Bohanan then commented, "I can't figure out if Mr. Robinson is dismissive or just clueless. I am certain that the people asking questions are very serious. Taxpayers are being hit from every single direction on all levels and we've just about had it with flippant condescending elected officials. I can't speak for everyone but serious answers to serious questions would be MUCH appreciated." *See Exhibit C.*

27. Another Facebook Group member named Bill Smith replied to Plaintiff Bohanan, “Yes Brenda, he should take a mulligan² oh please” (ellipses in the original), to which Plaintiff Bohanan answered, “He’d do well to take it, Bill!” *See* Exhibit C.
28. Defendant Robinson replied stating, among other things, “As opposed to the mulligan, simply delete my comments and block my user name.” *See* Exhibit C.
29. The foregoing comment by Defendant Robinson illustrates that he believes censoring speech is the appropriate mechanism by which to address opinions or viewpoints expressed in a public online forum that one does not like or disagrees with.
30. In response to Defendant Robinson’s reply, Plaintiff Bohanan commented, “Figures,” accompanied by a frustrated face emoji. *See* Exhibit C.
31. After the foregoing Discussion, when Plaintiff Bohanan attempted to access Defendant Robinson’s Facebook page, located at <https://www.facebook.com/commissionerkelly.robinson>, she found that she was blocked.

²The Merriam-Webster Dictionary defines “mulligan” as “a free shot sometimes given a golfer in informal play when the previous shot was poorly played.” *See* <https://www.merriam-webster.com/dictionary/mulligan> (last visited June 22, 2020).

*Defendant's Material Breach of the Settlement Agreement
and the Continuing Violation of Plaintiff's Constitutional Rights*

32. By early 2020, Plaintiff Bohanan was still blocked from Defendant's Facebook Page. *See* Exhibit D (Screenshot of Brenda Bohanan's Blocked Access to "commissionerkelly.robinson").
33. Around this time, Plaintiff first became aware of the growing body of law establishing that it is unconstitutional for a government official to block or censor a member of the public from accessing or interacting with a social media account that the government official uses to communicate with the public about their official role and activities based on the government official's disagreement with or dislike of the member of the public's expressed viewpoint.
34. On or about February 21, 2020, Plaintiff Bohanan sent Defendant Robinson an e-mail pointing out the unconstitutionality of his having blocked her from his Facebook Page and requesting that he unblock her.
35. Upon information and belief, Defendant Robinson received Plaintiff's e-mail.
36. Defendant Robinson did not respond to Plaintiff's email.
37. On or about March 31, 2020, counsel for Plaintiff wrote to Defendant Robinson also pointing out the unconstitutionality of his having blocked Plaintiff from Defendant's Facebook Page and demanding that he unblock her.

38. In response to Plaintiff's demand letter, Defendant Robinson and his employer Douglas County retained counsel.
39. By no later than May 25, 2020, Plaintiff Bohanan, Defendant Robinson and Douglas County entered into a Settlement Agreement and Release of All Claims ("the Settlement Agreement") to resolve the matter of Defendant having blocked Plaintiff from his Facebook Page. *See* Exhibit B (Settlement Agreement).
40. Plaintiff, Defendant and Douglas County were each represented by counsel in negotiating the Settlement Agreement. *See* Exhibit B.
41. The Settlement Agreement was drafted by Defendant's counsel and none of the relevant terms were altered by Plaintiff in finalizing the agreement.
42. The Settlement Agreement specifies in the first "Whereas" clause that the Facebook Page from which Plaintiff is blocked is located at "commissionerkelly.robinson." *See* Exhibit B.
43. The Settlement Agreement states in paragraph 1(a)(ii)(1) that the parties agree that the comments sections of this Facebook Page constitute either a limited public forum or designated public forum. *See* Exhibit B.
44. The Settlement Agreement provides that in consideration for Plaintiff's waiver and release of all claims against Defendant and Douglas County, Defendant agrees to unblock and restore access to blocked users as to Defendant's

Facebook Page located at “commissionerkelly.robinson,” which would include Plaintiff. *See* Exhibit B at ¶¶ 1(a), 1(a)(ii) & 2(a).

45. The Settlement Agreement further provides that in consideration for Plaintiff’s waiver and release of all claims against Defendant and Douglas County, Defendant agrees that any user interacting with Defendant’s Facebook Page in the comments section would not have comments deleted or be banned from commenting or viewing publicly posted content based on his or her use of protected speech. *See* Exhibit B at ¶ 1(a)(ii)(1).³
46. The Settlement Agreement containing the foregoing terms of offer, acceptance, and consideration was mutually and voluntarily entered into by Plaintiff, Defendant and Douglas County. *See* Exhibit B.
47. The Settlement Agreement was fully executed by all parties and their respective counsel by no later than May 25, 2020. *See* Exhibit B.
48. Counsel for Defendant was the last signatory to execute the agreement, doing so sometime between May 20, 2020 and May 25, 2020.

³The Settlement Agreement further provides that in consideration for Plaintiff’s waiver and release of all claims against Defendant and Douglas County, Defendant Robinson and Douglas County will pay Seven Hundred and Fifty Dollars (\$750.00) in general damages to Plaintiff Bohanan, with an additional Seventeen Hundred and Fifty Dollars (\$1,750.00) paid in attorneys’ fees, for a gross sum of Twenty-Five Hundred Dollars (\$2,500). *See* Exhibit B. These payments have been made by Douglas County.

49. Upon signing, Defendant's counsel was in possession of the fully executed Settlement Agreement, triggering the 24-hour window for unblocking and restoring Plaintiff's and other blocked users' access to Defendant's Facebook Page. *See* Exhibit B at ¶ 1(a)(ii).
50. By May 27, 2020, which was beyond the 24-hour window for unblocking and restoring Plaintiff's access to Defendant's Facebook Page, Plaintiff still remained blocked.
51. When Plaintiff's counsel communicated to Defendant's counsel that Plaintiff was still blocked from Defendant's Facebook Page located at "commissionerkelly.robinson," Defendant's counsel replied on May 27, 2020, that this was Defendant's personal page.
52. Defendant Robinson never unblocked Plaintiff from the Facebook Page located at "commissionerkelly.com" as required by the terms of the Settlement Agreement.
53. Instead, by no later than May 28, 2020, Defendant's Facebook Page located at "commissionerkelly.robinson" had been shut down and its content migrated or the URL changed to <https://www.facebook.com/kellyrobinsonsr> ("Defendant's New Facebook Page" or "the New Facebook Page"). *See* Exhibit E (Screenshot showing "commissionerkelly.robinson" no longer exists) & Exhibit F (Screenshots of New Facebook Page as of May 28, 2020).

54. Plaintiff was and continues to be blocked from Defendant's New Facebook Page. *See* Exhibit G (Screenshot of Brenda Bohanan's Blocked Access to "kellyrobinsonsr").
55. The New Facebook Page has the same picture of Defendant at the top of the page as did the now-defunct Facebook Page that was the subject of the Settlement Agreement, although the title of "Commissioner" has been removed from Defendant's name. *Compare* Exhibit A *with* Exhibit F.
56. As of May 28, 2020, the New Facebook Page had much of the same, if not exactly the same, content as the Facebook Page that was the subject of the Settlement Agreement, including posts and content directed to Defendant's constituents relating, without limitation, to Defendant's activities and opinions as Douglas County Commissioner. *See* Exhibit F.
57. The New Facebook Page also allows viewers to comment on Defendant's posts and other viewers' comments, and to "like" Defendant's posts, thus creating the same limited or designated public forum as existed on the now-defunct Facebook Page that was the subject of the Settlement Agreement. *See* Exhibit F.
58. On June 1, 2020, in a further attempt to resolve the matter pre-litigation, Plaintiff's counsel wrote to Defendant's counsel pointing out that Defendant's shutting down the Facebook Page that was the subject of the Settlement

Agreement, migrating its content to the New Facebook Page, and still continuing to block Plaintiff constituted both a deliberate attempt to avoid compliance with the terms of the Settlement Agreement and a continuing violation of Plaintiff's First Amendment rights.

59. Defendant's counsel responded on June 3, 2020 that Defendant was in the process of deleting from the New Facebook Page all of Defendant's posts that were not personal.
60. As of June 15, 2020, and continuing as of the date of the filing of this Verified Complaint, the New Facebook Page, though culled of some of its prior content relating to Defendant Robinson's official position, still contains numerous posts relating to Douglas County politics, projects, and functions that Defendant Robinson has attended in his capacity as a Douglas County Commissioner, including posts associated with the hashtags #DouglasCounty and #CommissionerKellyRobinson. *See* Exhibit H (Screenshots from Facebook Page located at "kellyrobinsonsr" as of June 15, 2020 and continuing as of June 22, 2020).
61. Additionally, the New Facebook Page's comments section still operates as a designated or limited public forum where members of the public can express their views and opinions to and about Defendant Robinson in his capacity as

Douglas County Commissioner. *See, e.g.*, Exhibit H (comments posted by constituents in response to Defendant's December 9, 2017 post).

62. As a result of being blocked from the New Facebook Page, Plaintiff Bohanan continues to be deprived of the ability to view posts and communications that relate to Defendant in his role as an elected government official.
63. As a result of being blocked from the New Facebook Page, Plaintiff Bohanan continues to be deprived of the ability to participate in the New Facebook Page's interactive features that are available to other members of the public who have not been blocked, such as posting comments about or "liking" Defendant's posts.
64. As a result of being blocked from the New Facebook Page, Plaintiff Bohanan continues to suffer loss of her First Amendment rights of speech and distress associated with that loss.
65. Without the redress of this Court, Plaintiff is likely to suffer further and additional violation of her First Amendment rights because there is nothing preventing Defendant from continuing to post content to the New Facebook Page that relates to his role and activities as Douglas County Commissioner and as to which Plaintiff will not have access.
66. Without the redress of this Court, Plaintiff is likely to suffer further and additional violation of her First Amendment rights because Defendant

Robinson and other members of the public with access to the New Facebook Page's comments section are free to engage in future expression and debate relating to Defendant's role and activities as an elected official as to which Plaintiff will not have access and will not be able to participate.

67. While Defendant is free to create a new Facebook page on which he only posts personal content unrelated to his activities as a Douglas County Commissioner, Defendant has refused to do so, instead persisting in blocking Plaintiff from a Facebook Page that functions as a designated or limited public forum in breach of the Settlement Agreement and in violation of Plaintiff's First Amendment rights.
68. Defendant Robinson's deliberate and material breach of the Settlement Agreement by not unblocking and restoring access to Plaintiff and other blocked users to Defendant's Facebook Page and by continuing to violate Plaintiff's First Amendment rights with respect to Defendant's New Facebook Page constitute actions taken by Defendant in bad faith.
69. These actions by Defendant have caused Plaintiff unnecessary trouble and expense including, without limitation, requiring Plaintiff to make additional pre-litigation efforts to obtain Defendant's compliance with the terms of the Settlement Agreement and necessitating that Plaintiff bring the instant action to

obtain the equitable relief that Defendant had previously agreed in the Settlement Agreement to provide.

CLAIMS FOR RELIEF

Count I

***Retaliation for Exercise of First Amendment Free Expression under 42
U.S.C. § 1983***

(Against Defendant Robinson in his individual and official capacities)

70. Count I incorporates by reference all of the factual allegations set forth above.
71. Plaintiff Bohanan engaged in constitutionally protected speech on or about June 21, 2015 when she criticized Defendant Robinson's conduct in his role as Douglas County Commissioner.
72. Defendant thereafter retaliated against Plaintiff by denying her the ability to access and to speak publicly on Defendant's Facebook Page located at "commissionerkelly.robinson."
73. Defendant is continuing to retaliate against Plaintiff by denying her the ability to access and to speak publicly on Defendant's New Facebook Page located at "kellyrobinsonsr."
74. Defendant's conduct toward Plaintiff would deter a person of ordinary firmness in Plaintiff's position from exercising their First Amendment right to criticize Defendant's conduct as an elected government official.
75. Defendant's blocking Plaintiff from Defendant's Facebook Page that until on or about May 28, 2020 was located at "commissionerkelly.robinson" prevented

Plaintiff from exercising her First Amendment rights, constituted a prior restraint on Plaintiff's speech and deprived Plaintiff of the ability to engage in First Amendment protected activity.

76. Defendant's blocking Plaintiff from Defendant's New Facebook Page located at "kellyrobinsonsr" currently prevents Plaintiff from exercising her First Amendment rights, constitutes a prior restraint on Plaintiff's speech, and is depriving Plaintiff of the ability to engage in First Amendment protected activity.
77. The denial of Plaintiff's constitutional rights is irreparable injury *per se*.
78. Plaintiff has experienced emotional, reputational and other injuries as a consequence of being denied her First Amendment rights.

Count II

***Violation of Plaintiff's First and Fourteenth Amendment Right to Free Speech
under 42 U.S.C. § 1983***

(Against Defendant Robinson in his individual and official capacities)

79. Count II incorporates by reference all of the factual allegations set forth above.
80. Online speech on a Facebook page or any other social media platform that constitutes a designated or limited public forum by a government official is subject to the same First Amendment protections as any other form of speech.
81. The interactive comments sections of Defendant's Facebook Page that until on or about May 28, 2020 was located at "commissionerkelly.robinson" constituted a designated or limited public forum.

82. Defendant Robinson's blocking Plaintiff Bohanan from this Facebook Page violated Plaintiff's right to freedom of speech because it imposed viewpoint-based restrictions on Plaintiff's participation in a designated or limited public forum.
83. The interactive comments sections of Defendant's New Facebook Page located at "kellyrobinsonsr" constitutes a designated or limited public forum.
84. Defendant Robinson's blocking Plaintiff Bohanan from the New Facebook Page violates Plaintiff's First Amendment right to freedom of speech because it imposes viewpoint-based restrictions on Plaintiff's participation in a designated or limited public forum.
85. Defendant's lack of standards for blocking members of the public from his Facebook Page that was located at "commissionerkelly.robinson" and now from his New Facebook Page located at "kellyrobinsonsr" constitutes unbridled discretion by a government official in regulating speech by members of the public in violation of the First and Fourteenth Amendments.
86. This unbridled discretion also constitutes content and viewpoint restrictions on speech in violation of the First Amendment.
87. By previously blocking Plaintiff from Defendant's Facebook Page that was located at "commissionerkelly.robinson" and by currently blocking Plaintiff from Defendant's New Facebook Page located at "kellyrobinsonsr," Defendant

has directly and implicitly chilled Plaintiff's free expression, as well as that of all citizens who wish to express viewpoints Defendant may not like or may disagree with.

88. By blocking Plaintiff from Defendant's Facebook Page that was located at "commissionerkelly.robinson" and by currently blocking Plaintiff from Defendant's New Facebook Page located at "kellyrobinsonsr," Defendant has created a prior restraint on Plaintiff's free expression, as well as that of other citizens who wish to express viewpoints the Defendant may not like or may disagree with.
89. Defendant's actions violated and continue to violate a clearly established constitutional right of which any reasonable government official should have known -- i.e., the right of members of the public to speak freely on topics relevant to the government in a government-established forum, including an online social-media-based forum.
90. Plaintiff's First Amendment rights were violated each time she was prevented from viewing, commenting on, or otherwise interacting in any way on the Defendant's Facebook Page that was located at "commissionerkelly.robinson."
91. Plaintiff's First Amendment rights are violated each time she is prevented from viewing, commenting on, or otherwise interacting in any way on the Defendant's New Facebook Page located at "kellyrobinsonsr."

92. The denial of constitutional rights is irreparable injury *per se*.
93. Plaintiff has experienced emotional, reputational, and other injuries as a consequence of being denied her First Amendment and Fourteenth Amendment rights.

Count III

***Declaratory and Injunctive Relief under 28 U.S.C. §§ 2201 and 2202
and 42 U.S.C. § 1983***

(Against Defendant Robinson in his individual and official capacities)

94. Count III incorporates by reference all of the factual allegations set forth above.
95. An actual controversy exists between Plaintiff Bohanan and Defendant Robinson concerning Plaintiff's rights under the United States Constitution.
96. Plaintiff alleges that Defendant's actions violate the First and Fourteenth Amendments to the United States Constitution.
97. Plaintiff is entitled to declaratory relief regarding her blocked access to Defendant's Facebook Page that until on or about May 28, 2020 was located at "commissionerkelly.robinson."
98. Plaintiff is entitled to declaratory and injunctive relief to provide her access to Defendant's New Facebook Page located at "kellyrobinsonsr."
99. Plaintiff seeks a declaration that it is unconstitutional and a violation of freedom of speech under the First and Fourteenth Amendments of the United States

Constitution for Defendant Robinson to block any member of the public based on their viewpoint from accessing, commenting on, or “liking” any Facebook or social media page which Defendant Robinson uses to interact with the public in his capacity as a Douglas County Commissioner.

100. Plaintiff seeks injunctive relief requiring Defendant Robinson to: (1) cease his unlawful practice of blocking Plaintiff and other members of the public from Defendant’s interactive social media Facebook pages based on viewpoint discrimination in violation of the First and Fourteenth Amendments of the United States Constitution; (2) unblock and provide access to Plaintiff and other blocked members of the public to his Facebook page located at <https://www.facebook.com/kellyrobinsonsr>, which Defendant uses to interact with, among others, members of the public regarding his activities or opinions as a government official; and (3) refrain from blocking Plaintiff or other commentators -- or deleting their comments -- based on viewpoint-based or standard-less criteria from Defendant’s Facebook page located at <https://www.facebook.com/kellyrobinsonsr> and from any further or future Facebook pages that Defendant uses to interact with the public regarding his activities or opinions as a government official.

Count IV

***Breach of Settlement Agreement & Litigation Expenses
under O.C.G.A. § 13-6-11***

(Against Defendant Robinson in his individual and official capacities)

101. Count IV incorporates by reference all of the factual allegations set forth above.
102. Plaintiff and Defendant entered into a Settlement Agreement that was fully executed by all parties and their respective counsel no later than on or about May 25, 2020.
103. Pursuant to the terms of the Settlement Agreement, Defendant Robinson was required to unblock and restore access to blocked users, including Plaintiff, to Defendant's Facebook Page located at "commissionerkelly.robinson."
104. Plaintiff performed all material conditions, covenants and promises required to be performed on her part in accordance with the terms and conditions of the Settlement Agreement.
105. Defendant Robinson deliberately and materially breached the Settlement Agreement by never unblocking Plaintiff from the Facebook Page located at "commissionerkelly.robinson" and instead shutting down that Facebook Page and migrating much or all of its content to the New Facebook Page located at "kellyrobinsonsr" from which Plaintiff is also blocked, in continuing violation of Plaintiff's First and Fourteenth Amendment rights.

106. Defendant Robinson's deliberate and material breach of the Settlement Agreement constitutes action taken by Defendant in bad faith that has caused Plaintiff unnecessary trouble and expense.
107. The unnecessary trouble and expense includes, without limitation, Plaintiff's having to make additional pre-litigation efforts to obtain Defendant's compliance with the terms of the Settlement Agreement and having to bring the instant action to obtain the equitable relief that Defendant had previously committed in the Settlement Agreement to provide.
108. As a direct result of Defendant's breach of the Settlement Agreement, Plaintiff has incurred litigation damages in excess of \$5,000 for the attorney time spent trying to obtain Defendant's compliance with the Settlement Agreement and bringing this lawsuit, along with filing fees.

REQUEST FOR RELIEF

WHEREFORE, on the basis of the foregoing, Plaintiff respectfully requests that this Court:

- a) Assume jurisdiction over this action;
- b) Hold a trial by jury on all issues so triable;
- c) Declare Defendant's actions to be in bad faith and a material breach of the Settlement Agreement that caused Plaintiff unnecessary inconvenience and expense;

- d) Declare unconstitutional Defendant's viewpoint-based exclusion and censorship of Plaintiff from Defendant's Facebook Page located at "commissionerkelly.robinson" for the time period of on or about June 21, 2015 until Defendant shut down the Facebook Page on or about May 28, 2020;
- e) Declare unconstitutional and enjoin Defendant's viewpoint-based exclusion and censorship of Plaintiff from Defendant's New Facebook Page located at "kellyrobinsonsr";
- f) Enjoin Defendant's current unconstitutional and standard-less practice of blocking Plaintiff and other members of the public based on their viewpoint from any current or future Facebook Page that Defendant uses to interact with the public regarding his activities or opinions as a government official and therefore as a state actor;
- g) Enter an injunction requiring Defendant to provide Plaintiff and other members of the public who he has blocked because of their viewpoint with full access to Defendant's New Facebook Page, including its interactive features such as posting comments and "liking" Defendant's posts;
- h) Award general and special compensatory damages to Plaintiff in an amount determined by the enlightened conscience of fair and impartial jurors;
- i) Award punitive damages against Defendant Robinson in his individual capacity;

- j) Award reasonable attorney's fees, expenses, and costs of litigation pursuant to 42 U.S.C. § 1988, Ga. Code Ann., § 13-6-11, and other applicable law; and
- k) Award such other and further relief as this Court deems just and proper.

Respectfully submitted this 22nd day of June, 2020.

/s/ Clare Norins
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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

BRENDA BOHANAN,

Plaintiff,

vs.

DOUGLAS COUNTY COMMISSIONER
KELLY G. ROBINSON,
in his individual and official capacities,

Defendant.

JURY TRIAL DEMANDED

CIVIL ACTION NO.:

VERIFICATION OF PLAINTIFF BRENDA BOHANAN

I, Brenda Bohanan, am named as the Plaintiff in the above-captioned matter and have read and know the contents of the Verified Complaint. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the facts and matters set forth therein are true and correct.

/s/ Brenda Bohanan

Brenda Bohanan