

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

BARBARA CRISS,	:	
	:	
<i>Plaintiff</i>	:	Civil Action No.
	:	
v.	:	
	:	
NORTH CENTRAL DISTRICT	:	CIVIL JURY TRIAL DEMANDED
AIDS COALITION; REBECCA	:	
REEDER; AND LOUANN	:	
MASDEN	:	
	:	Filed via ECF
<i>Defendants</i>	:	

COMPLAINT

1. Barbara Criss, a 63-year old woman, brings this civil action against the North Central District AIDS Coalition (“NCDAC”) and their executive director and then-administrative assistant, because NCDAC fired her after 17 years of loyal and excellent service as their fiscal administrator, after illegally accessing her Facebook account and reading her private Facebook messages.

PARTIES

2. At all times relevant to this Complaint, the Plaintiff, Barbara Criss, (“Ms. Criss”) was employed by the North Central District AIDS Coalition as their Fiscal Administrator. While employed at NCDAC, Ms. Criss resided in Lock Haven, PA. As a result of her termination, Ms. Criss was propelled into a financial

crisis that forced her to sell her home and move in with her sister in Dover, PA for several months. Plaintiff now lives in Harrisburg, PA.

3. Defendant North Central District AIDS Coalition, (“The Coalition”) is a nonprofit corporation incorporated in the Commonwealth of Pennsylvania with an address of 7930 Nittany Valley Drive, Suite B, Mill Hall, Clinton County, Pennsylvania. The Coalition’s stated mission is to “plan for and coordinate the delivery of HIV/AIDS care, prevention, and education in the communities of North Central Pennsylvania.”

4. Defendant Rebecca Reeder was at all relevant times the Coalition’s Administrative Assistant. It is believed and therefore averred that Reeder no longer works for the Coalition.

5. Defendant Louann Masden was at all relevant times the Coalition’s Executive Director, and Ms. Criss’ and Ms. Reeder’s supervisor.

JURISDICTION AND VENUE

6. This action arises under the Electronic Communications Privacy Act (“ECPA”), 18 U.S.C. § 2701, et. seq., together with supplemental state law claims under 18 Pa. C.S.A. § 5741, et. seq. The court has jurisdiction of this matter under 28 U.S.C. § 1331 and 28 U.S.C § 1332 as well as pendent jurisdiction over the state law claims.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because the events giving rise to this claim occurred in Clinton County, Pennsylvania, which is located within this judicial district.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

8. NCDAC is one of a handful of statewide AIDS program organizations, each assigned a region of the state and working under contract to the Pennsylvania Department of Health (“DOH”), that act as “fiscal agents” between DOH and subcontractor care. NCDAC is the fiscal agent for two subcontracting agencies providing direct care to clients: AIDS Resource Alliance serving Lycoming, Snyder, Union, Clinton, Centre and Potter Counties; and Caring Communities for AIDS, serving Bradford, Columbia, Montour, Northumberland, Sullivan, and Tioga Counties.

9. In November 1999, the Coalition hired Ms. Criss as its Fiscal Administrator to provide budget administration, allocation of funds, tax preparation and payroll services for the two direct service subcontractors.

10. By early 2015, NCDAC had a three-person staff, including Ms. Criss, Executive Director Louann Masden, and Administrative Assistant Rebecca Reeder. The three women shared an office suite, and each had her own office and her own work computer.

11. On information and belief, Masden had primary responsibility for all program, subcontract and fiscal aspects of the Coalition, including program monitoring and compliance. Madsen had supervisory responsibility over then Fiscal Administrator Criss and then Administrative Assistant Reeder.

12. On information and belief, Reeder's responsibilities included assisting the Executive Director and Fiscal Administrator with clerical and administrative duties. Reeder was responsible for incoming and outgoing mail, processing outpatient medical and dental reimbursement payments for clients, updating the client database system, setting up board of director and committee meetings, which included taking minutes and distributing client confidentiality forms.

13. From 1999 to 2016, Ms. Criss had an exemplary employment record. For example, in an April 14, 2014, letter informing Ms. Criss of a salary increase, Ms. Masden noted “During this year you have exhibited a stellar work ethic and taken on additional fiscal responsibilities.” In a September 8, 2014, performance review of Ms. Criss, Ms. Masden noted “[Y]ou continue to do an outstanding job. You effectively adapt to change, work well under pressure while maintaining a positive attitude, [and have] exceptional ability to provide detail which is important to meet [Department of Health] deadlines and ever-changing demands.”

14. On the evening of Wednesday, July 13, 2016, ahead of a planned vacation to run from July 14 to July 18, 2016, Ms. Criss returned to work to log off of her work computer. As confirmed by Facebook log records, Ms. Criss logged out of her Facebook account on her work computer at 8:27 p.m. Ms. Criss then left for a five-day vacation, not scheduled to return to her office until Tuesday, July 19.

15. Between Wednesday, July 13 and Tuesday, July 19, Facebook's logs indicate that devices connected to at least eleven unique Internet Protocol (IP) addresses attempted to gain access to Criss' Facebook account through use of her credentials including her username and private password. Seven of those attempts were made by Criss herself, accessing her Facebook account through her work computer when she was at the office on July 13 at 8:27 p.m., and through her cell phone on July 14 at 7:30 a.m., 9:07 p.m., 10:06 p.m., 10:13 p.m., 10:25 p.m. and 10:28 p.m. as she packed at home and then travelled throughout New York, Connecticut and Massachusetts.

16. The Facebook logs also reveal that five attempts were conducted from devices using IP addresses in or near Jersey Shore, PA; Avis, PA; and Elmira, PA. On information and belief, Defendant Reeder lived in Avis, Pennsylvania at that time and the Coalition board co-chair Brian Greenough lived in Canton, PA, near Elmira, PA, at that time.

17. During the Thursday, July 14, 2016, workday, Ms. Criss was out of the office on vacation, NCDAC Executive Director Louann Masden was attending a meeting in Harrisburg, and NCDAC Administrative Assistant Rebecca Reeder was alone in the NCDAC office suite. At 10:03 a.m., while Ms. Criss was on the road to New England for vacation, it is believed and therefore averred that Ms. Reeder logged on to Ms. Criss' Facebook account from Ms. Criss' workplace desktop computer without authorization or permission and then terminated the session six minutes later, at 10:09 a.m.

18. It is believed and therefore averred that Ms. Reeder then logged into Ms. Criss' Facebook account from another desktop computer located in the NCDAC office suite, and further that she logged onto and off of Ms. Criss' Facebook account repeatedly from a computer located in the NCDAC office suite at 11:08 a.m., 11:13 a.m., 12:17 p.m., 3:03 p.m. and 3:05 p.m.

19. About three hours later, still on Thursday, July 14, around 6 p.m., Facebook alerted Ms. Criss via alert message that at approximately 6:00 p.m. an attempt to access her Facebook account was made from an unrecognized device located near Avis, PA. On information and belief, Ms. Reeder lived in Avis, Pennsylvania at that time. The alert urged her to change her password. In response

to the alert message received on her phone around 6 p.m., Ms. Criss immediately logged in and changed her Facebook password.

20. About three hours after that, at approximately 9:00 p.m., Facebook sent Ms. Criss another alert notifying her that someone near Elmira, PA, was attempting to access her Facebook page, and again urged Ms. Criss to change her password. On information and belief, a NCDAC board co-chair lived in Canton, PA at that time, which is near Elmira. Ms. Criss immediately logged in and changed her password a second time at 9:07 p.m., and then a third time at 10:28 p.m.

21. Ms. Criss kept her Facebook account private and did not share her password with anyone. Ms. Criss did not authorize Ms. Reeder, Ms. Masden, any board member, or anyone else to access her private Facebook information including, but not limited to, her messaging.

22. On Tuesday, July 19, Ms. Criss returned to the NCDAC office from her vacation at about 8:15 a.m. Defendant Masden met Ms. Criss in the lobby, escorted her into her office where Karen Zinobile, NCDAC board co-chair, was already seated. Masden informed Ms. Criss that Ms. Criss was “terminated effective immediately” because “things had come to light.” Masden accompanied

her to collect her personal belongings from her office and escorted her out of the building.

23. As a result of Reeder's and Masden's actions, Ms. Criss lost her job of 17 years, and lost her health insurance and other benefits.

COUNT ONE

(Violation of 18 U.S.C. 2701, et.seq. and Pa.C.S.A. 5741 et. seq.)

24. The foregoing paragraphs are incorporated herein by reference.

25. It is believed and therefore averred that while at work, and in an effort to monitor Ms. Criss' communications, Ms. Reeder accessed Ms. Criss' private Facebook (an electronic communication service) Messenger messages that were in electronic storage and that were not public.

26. It is further believed that Ms. Reeder and others disseminated Ms. Criss' private information to a Coalition board member, and perhaps others.

27. It is also believed that Ms. Masden ratified Ms. Reeder's conduct by using this private information as a basis upon which to terminate Ms. Criss.

28. As a result of Defendants' conduct described above, Defendants violated the provisions of 18 U.S.C. 2701, et. seq., by accessing without authorization and/or improperly monitoring and disclosing the electronic communications being stored on Ms. Criss' Facebook account, and thereby

obtained access to a wire or electronic communication while it was in electronic storage.

COUNT TWO

(Invasion of Privacy)

29. The foregoing paragraphs are incorporated herein by reference.

30. Based upon Defendants' actions as outlined above, Defendants violated Ms. Criss' right to privacy.

31. Defendant Reeder, in the course of her employment duties, intentionally and without Ms. Criss' knowledge infringed upon her reasonable expectations of seclusion, solitude and/or private affairs by accessing her private Facebook messages without authorization.

32. Defendants' actions constituted an impermissible intrusion upon Ms. Criss' seclusion, solitude and/or private affairs. Defendants' invasion would be highly offensive to a reasonable person.

34. Ms. Criss was damaged by such unauthorized actions, including being subjected to termination.

WHEREFORE, Plaintiff Barbara Criss, demands judgment against defendants, jointly, severally, and individually, for the following:

A. For compensatory damages;

- B. For statutory damages pursuant to 18 U.S.C. 2707;
- C. For punitive damages;
- D. For reasonable attorney fees;
- E. For an order requiring Defendants to remove or expunge any adverse notes regarding the Facebook matter from Plaintiff's permanent employment file; and
- F. For such other and further relief as the court may deem just and equitable.

February 13, 2018

Respectfully Submitted,

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