

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JOHN DOE #1 and others similarly situated )

SALIM JAVED )

5524 Georgia Avenue )

Silver Spring, MD 20910 )

ANNETTE WELLS )

and other AFGE members similarly situated )

8630 Beekman Place, )

Alexandria, VA 22309 )

PAUL VAUGHAN )

8630 Beekman Place, )

Alexandria, VA 22309 )

Civ. No. 20-1558

WAQAS KALYAR )

9521 Georgia Avenue )

Silver Spring, MD 20910 )

FAHIM JAVED )

5524 Hempstead Way, B350 )

Springfield, VA 22151 )

JOCELYNN JOHNSON )

807 Tewkesbury Place, N.W. )

Washington, D. C. 20012 )

VALYRIA LEWIS )

273 High Street )

Berlin, NH 03570 )

MECCA SCOTT )

2855 Blue Sky Circle )

Erie, CO 80516 )

Plaintiffs )

v. )

AMERICAN FEDERATION OF GOVERNMENT )

EMPLOYEES ("AFGE") )

80 F Street, N. W. )

Washington, D. C. 20001 )

JEFFERY DAVID COX, SR., in his official and )  
personal capacity )  
1227 Beagle Run )  
Salisbury, NC 28146 )

EVERETT KELLEY, in his official and personal )  
capacity )  
2000 Friar Tuck Lane )  
Oxford, AL 36203 )

ERIC BUNN, in his official and personal capacity )  
13804 Pine Needle Ct. )  
Upper Marlboro, Maryland 20774 )

VINCENT CASTELLANO, in his official and )  
personal capacity )  
40 Locker Street, )  
Bayville, NJ 08721 )

PHIL GLOVER, in his official and personal )  
capacity )  
80 F Street, N. W. )  
Washington, D. C. 20001 )

DANNY DOYLE, in his official and personal )  
capacity )  
80 F Street, N. W. )  
Washington, D. C. 20001 )

ARNOLD SCOTT, in his official and personal )  
capacity )  
293 Red Oak Lane )  
Carmel, IN 46033 )

CHERYL ELIANO, in her official and personal )  
capacity )  
4908 Chad Drive )  
Killen, TX 76542. )

GERALD SWANKE, in his official and personal )  
capacity )  
464 E. Thurman Mill Street )  
Garden City, ID 83714 )

GEORGE MCCUBBIN, in his official and personal )  
capacity )

|  |   |
|--|---|
| 80 F Street, N. W.                         | ) |
| Washington, D. C. 20001                    | ) |
|  | ) |
| JOSEPH FLYNN, in his official and personal | ) |
| capacity                                   | ) |
| 6900 Bugledrum Way                         | ) |
| Columbia, MD 21045                         | ) |
|  | ) |
| DAVID BORER, in his official and           | ) |
| personal capacity                          | ) |
| 80 F Street, N. W.                         | ) |
| Washington, D. C. 20001                    | ) |
|  | ) |
| GONY GOLDBERG, in her official and         | ) |
| personal capacity.                         | ) |
| 80 F Street, N.W.                          | ) |
| Washington, D. C. 20001                    | ) |
|  | ) |
| BRIAN DEWYNGAERT, in his official and      | ) |
| personal capacity                          | ) |
| 80 F Street, N. W.                         | ) |
| Washington, D. C. 20001                    | ) |
| and  | ) |
|  | ) |
| JOHN and JANE DOES AFGE Officers,          | ) |
| Employees and Agents                       | ) |
| Defendants.                                | ) |
|  | ) |

**VERIFIED EX PARTE MOTION FILED BY AFGE MEMBER  
ANNETTE WELLS FOR LEAVE TO FILE AMENDED COMPLAINT  
AND SECOND AMENDED COMPLAINT CONTAINING CLAIMS FILED  
AGAINST NAMED DEFENDANTS UNDER SECTION 501 OF THE  
LABOR MANAGEMENT REPORTING AND DISCLOSURE ACT 1959**

Section 501 of the LMRDA provides, among other things, that prior to bringing suit under this statute leave of the court must be obtained upon verified application and for good cause shown. Sec. 501(b) LMRDA, 29 U.S.C. § 501(b).

American Federation of Government Employees (AFGE) member in good standing, Plaintiff Annette Wells, files this *ex parte* motion for leave to commence a suit for money damages, punitive damages, injunctive and declaratory relief, against the named Defendants and

AFGE officials; specifically, former National President J. David Cox, National President Everett Kelley, National Secretary Treasurer Eric Bunn, National Vice Presidents Vincent Castellano, Phil Glover, Danny Doyle, Arnold Scott, Cheryl Eliano, Gerald Swanke, George McCubbin, Joseph Flynn, General Counsel David Borer, Deputy General Counsel Gony Goldberg and Chief of Staff Brian DeWyngaert as authorized by Section 501 of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) as part of this litigation.

Section 501 (a) of the LMRDA defines the fiduciary duty of officers, agents and other representatives of labor organizations, requiring each person to hold union money or property for the sole benefit of the union and its members. 29 U.S.C. § 501(a) (2004). In the event that the union fails to seek appropriate relief against a person alleged to have violated this fiduciary duty, Section 501(b) permits any individual member of the union to sue that person for the benefit of the organization. 29 U.S.C. § 501(b); *Yager v. Carey*, 910 F.Supp. 704, 726 (D.D.C.1995).

Before an action may be brought pursuant to Section 501(b), a plaintiff must: (1) demonstrate that he has requested that the union or its governing officers bring legal action, recover damages, secure an accounting, or obtain other appropriate relief; (2) that upon request, the union refused or failed to do so within a reasonable time; and (3) obtain leave of the court to bring an action with a showing of good cause. 29 U.S.C. § 501(b); *see also O'Connor v. Freyman*, Civ. A. No. 85-0566, 1985 WL 121 at \*1 (D.D.C. May 31, 1985).

To file an action under [Section 501] the plaintiff must first request action by the union and be refused..." *Bocchiere v. Biller*, Civ. A. No. 87-1804, 1988 WL 163032 at \*2 (D.D.C. April 29, 1988), *vacated on other grounds*, 1990 WL 67713 (D.C.Cir. May 16, 1990). "[T]he provision of the statute requiring [a] demand to sue is mandatory and ... its requirements cannot be met by anything short of an actual request. An allegation of the futility of such a request will



not suffice.” *O'Connor v. Freyman*, 1985 WL 121 at \*2; *see also Flaherty v. Warehousemen, Garage & Serv. Station Employees' Local Union No. 334*, 574 F.2d 484, 487 (9th Cir.1978) (same); *Yager v. Carey*, 910 F. Supp. at 727 (“some form of request that the union or a governing member of the union bring the action is a requirement that cannot be waived as futile.”).

AFGE member and Plaintiff Annette Wells seeks leave to file LMRDA Section 501 claims against the named defendants on behalf of AFGE, herself and other AFGE members as part of the attached amended complaint in Case 20-1558, John Doe #1 et al. v. AFGE et al., the second amended complaint, if any, and any further amendments for the following reasons.

In or about February 2020, AFGE member Annette Wells’ adult son, Plaintiff John Doe #1, Cox’s limousine driver, filed a complaint with AFGE that from approximately 2009 through 2019, Cox sexually assaulted, sexually harassed and racially discriminated against him. On February 13, 2020, AFGE members Annette Wells, Judith Weinberg and Stephanie Graf filed Article 13 and Article 23 internal disciplinary charges against Cox for, among other things, unlawfully using AFGE-provided limousine services to sexually assault, sexually harass and racially discriminate against Ms. Wells’ adult son, Plaintiff John Doe #1, and to frequent strip clubs, bars and procure male prostitutes. In the charges Wells, Weinberg and Graf demanded that:

1. The AFGE General Counsel and AFGE Chief of Staff recuse themselves from investigating or advising the National Executive Council regarding the February 13, 2020 Article 13 and Article 23 charges filed by Wells, Weinberg and Graf against Cox. Wells, Weinberg and Graf made this request based on a Working Ideal investigative report that concluded that AFGE General Counsel David Borer and AFGE Deputy Chief of Staff Corey Bythrow did not report an April 2017 sexual harassment charge filed against Cox by Brett Copeland;
2. The AFGE National Executive Council hire an independent attorney (excluding all attorneys currently employed by AFGE’s General Counsel’s Office and excluding

- any outside counsel retained by AFGE currently or in the past) to investigate the Article 13 and Article 23 charges filed against Cox on February 13, 2020;
3. The AFGE National Executive Council hire an independent forensic accounting firm to examine all of Cox's CCS Limousine limousine service invoices to ascertain the value of the union-paid car services that Cox appropriated for his personal use;
  4. The AFGE file suit against Cox to recover all of his misappropriated CCS Limo expenditures used to frequent strip clubs and bars and to procure male prostitutes;
  5. The AFGE National Executive Council hire an independent forensic accounting firm to examine all payments made by AFGE to J. David Cox (including salaries, bonus, additional payments, accumulated annual and sick leave) from October 1, 2019 to the present;
  6. The AFGE National Executive Council disclose and report to AFGE members the independent forensic accounting of all AFGE members' dues monies paid to Cox from October 1, 2019 through the February 2020 National Executive Council meeting (including the February 28, 2020 Separation Agreement later signed by National Secretary Treasurer Everett Kelley and Jeffery David Cox., Sr.);
  7. The AFGE National Executive Council stop all payments to Cox effective February 13, 2020;
  8. The AFGE National Executive Council not use AFGE members' dues monies to pay Cox's legal fees related to Cox's defense of any and all sexual harassment and racial discrimination litigation involving Cox from the date of his hiring as an AFGE official to the present; and
  9. The AFGE National Executive Council remove Cox as a member of AFGE and as a member of any AFGE local or AFGE Council. (*Exh. 1: Wells, Weinberg and Graf Charges, dated February 13, 2020*)

To date, the AFGE National Executive Council has not taken any of the aforementioned actions requested by AFGE members Wells, Weinberg and Graf in their February 13, 2020 charges.

On February 28, 2020, Defendant Everett Kelley publicly stated that "the AFGE National Executive Council made a commitment to being transparent with our members and our employees on any development related to the serious allegations of misconduct that have been



made against J. David Cox.” (*Exh. 2: AFGE National Secretary Treasurer Everett Kelley’s Letter Announcing Cox’s Resignation, dated February 28, 2020*).

On the same date, February 28, 2020, that Defendant Everett Kelley made the announcement that the NEC would be “transparent” regarding its response to Cox’s misconduct, Defendant Everett Kelley signed a secret separation agreement, upon information and belief, paying Cox cash and allowing Cox to resign in lieu of being removed from office for sexual abuse and harassment.

Despite assuring AFGE members and the public that the NEC would be transparent, to date, Defendant Kelley and the other named Defendants have not disclosed to AFGE members and the public that Defendant Kelley signed the secret separation agreement with Cox. To date, the National Executive Council has not released Cox’s secret separation agreement to AFGE members. To date, the National Executive Council has not released Cox’s secret separation agreement to the public.

In their February 13, 2020, charges filed against Cox, Wells, Weinberg and Graf charged that while he was the AFGE National President and an elected officer, Cox sexually assaulted, sexually harassed and racially discriminated against Wells’ son, Plaintiff John Doe #1. Defendant AFGE’s EEO policy states that whenever an elected national officer (and member of the AFGE National Executive Council) is charged with discrimination, Defendants shall retain a neutral firm to conduct an independent investigation of the charges.

Defendant Cox was an elected national officer for all times relevant to these proceedings. Therefore, the AFGE EEO policy required Defendant AFGE to retain a neutral firm to conduct an independent investigation of the February 2020 Wells, Weinberg and Graf racial discrimination and sexual harassment charges filed against Cox. To date, the AFGE National

Executive Council has not retained a neutral, outside firm to conduct an independent investigation of the internal charges filed against Cox by Wells, Weinberg and Graf that while he was the AFGE National President and an elected officer, Cox sexually assaulted, sexually harassed and racially discriminated against Wells' son, Plaintiff John Doe #1. Therefore, AFGE member Annette Wells files this ex parte motion for leave to file the LMRDA Section 501 claims contained in the amended complaint filed in Case 20-1558 (and any amendments thereto).

"It is important to note that the demand required by Section 501(b) is not necessarily one to pursue legal action; rather, and this jurisdictional prerequisite may be satisfied by a demand for an accounting or "other appropriate relief." *See* 29 U.S.C. § 501 ("when ... the labor organization or its governing board or officers refuse or fail to sue or recover damages or *secure an accounting or other appropriate relief within a reasonable time* after being requested to do so by any member of the labor organization, such member may sue ... or secure an accounting or other appropriate relief for the benefit of the labor organization.") (emphasis added). The ... demand requirement may be satisfied by a request for "other appropriate relief." *Saunders v. Hankerson*, 312 F. Supp. 2d 46, (D.D.C. 2004)

Seven months have passed since February 13, 2020, when AFGE members Wells, Weinberg and Graf asked the AFGE National Executive Council to:

1. Direct the AFGE General Counsel and AFGE Chief of Staff to recuse themselves from investigating or advising the National Executive Council regarding the February 13, 2020 Article 13 and Article 23 charges filed by Wells, Weinberg and Graf against Cox based on a Working Ideal investigative report that concluded that AFGE General Counsel David Borer and AFGE Deputy Chief of Staff Corey Bythrow did not report an April 2017 sexual harassment charge filed against Cox by Brett Copeland;
2. Hire an independent attorney (excluding all attorneys currently employed by AFGE's General Counsel's Office and excluding any outside counsel retained by AFGE currently or in the past) to investigate the Article 13 and Article 23 charges filed against Cox on February 13, 2020;
3. Hire an independent forensic accounting firm to examine all of Cox's CCS Limousine limousine service invoices to ascertain the value of the union-paid car services that Cox appropriated for his personal use;
4. File suit against former AFGE National President J. David Cox to recover all of his misappropriated CCS Limo expenditures used to frequent strip clubs and bars and to procure male prostitutes;



5. Hire an independent forensic accounting firm to examine all payments made by AFGE to J. David Cox (including salaries, bonus, additional payments, accumulated annual and sick leave) from October 1, 2019 to the present;
6. Disclose and report to AFGE members the independent forensic accounting of all AFGE members' dues monies paid to Cox from October 1, 2019, through the February 2020 National Executive Council meeting (including the February 28, 2020 Separation Agreement later signed by National Secretary Treasurer Everett Kelley and Jeffery David Cox., Sr.);
7. Stop all payments to Cox effective February 13, 2020;
8. Not use AFGE members' dues monies to pay Cox's legal fees related to Cox's defense of any and all sexual harassment and racial discrimination litigation involving Cox from the date of his hiring as an AFGE official to the present; and
9. Take all other actions as requested by AFGE members Wells, Weinberg and Graf in their February 13, 2020, charges filed against J. David Cox.

During these past seven months, the NEC members and the other named Defendants have failed to take any of the above-requested actions.

Seven months have passed since AFGE members Wells, Weinberg and Graf asked the NEC to direct Defendant General Counsel David Borer and his staff, to recuse themselves from advising the NEC regarding the February 13, 2020 charges filed against Cox. Yet, to date, Defendant General Counsel Borer and his staff continue to advise the NEC regarding the Wells/Weinberg and Graf charges.

In *Trine Council v. Biller*, the United States District Court for the District of Columbia found that a letter to a national union president stating "[w]e of the Providence (Rhode Island) local protest the purchase of a new building until after the National Convention (and) until we know exactly how much it will cost and what our dues will be" was sufficient to satisfy the jurisdictional prerequisites of Section 501(b). *Trine Council v. Biller*, Civ. A. No. 82-1232, 1982

WL 2038 at \*2 (D.D.C. May 26, 1982). *Saunders v. Hankerson*, 312 F. Supp. 2d 46, 62 (D.D.C. 2004).

AFGE member and Plaintiff Annette Wells has met the jurisdictional requirements of Section 501(b) because the February 13, 2020 charges filed by Plaintiff Wells satisfy the demand element of Section 501(b)'s jurisdictional prerequisite as to the individually named Defendants, including the named Defendant NEC members, the General Counsel and his staff, and the AFGE Chief of Staff. *Saunders v. Hankerson*, 312 F. Supp. 2d 46, 60–61 (D.D.C. 2004).

Sec. 501(b) LMRDA, 29 U.S.C. § 501(b). Subchapter VI of the LMRDA is entitled "Safeguards for Labor Organizations." Section 501(a) of that subchapter imposes a fiduciary relationship upon officers and agents of labor organizations with respect to the unions and labor associations they serve. LMRDA section 501(a), bears the title "Duties of officers; exculpatory provisions and resolutions void," and provides as follows:

"(a) The officers, agents, shop stewards, and other representatives of a labor organization occupy positions of trust in relation to such organization and its members as a group. It is, therefore, the duty of each such person, taking into account the special problems and functions of a labor organization, to hold its money and property solely for the benefit of the organization and its members and to manage, invest, and expend the same in accordance with its constitution and bylaws and any resolutions of the governing bodies adopted thereunder, to refrain from dealing with such organization as an adverse party or in behalf of an adverse party in any matter connected with his duties and from holding or acquiring any pecuniary or personal interest which conflicts with the interests of such organization, and to account to the organization for any profit received by him in whatever capacity in connection with transactions conducted by him or under his direction on behalf of the organization. A general exculpatory provision in the constitution and bylaws of such a labor organization or a general exculpatory resolution of a governing body purporting to relieve any such person of liability for breach of the duties declared by this section shall be void as against public policy." *Id.* § 501(a).

The second section 501(b) of Subchapter VI of the LMRDA is an enforcement provision which authorizes suit in federal court by a member of a labor organization against any officers of his



labor organization, or union, who breach the fiduciary obligations established by Sec. 501(a).

Section 501(b) reads, in pertinent part:

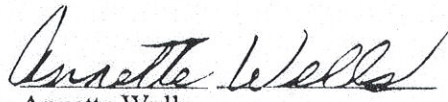
“(b) When any officer, agent, shop steward, or representative of any labor organization is alleged to have violated the duties declared in subsection (a) of this section and the labor organization or its governing board or officers refuse or fail to sue or recover damages or secure an accounting or other appropriate relief within a reasonable time after being requested to do so by any member of the labor organization, such member may sue such officer, agent, shop steward, or representative in any district court of the United States or in any State court of competent jurisdiction to recover damages or secure an accounting or other appropriate relief for the benefit of the labor organization. No such proceeding shall be brought except upon leave of the court obtained upon verified application and for good cause shown, which application may be made ex parte . . .”

Section 501(b) of the LMRDA confers a federal cause of action upon members of labor organizations to sue officers, attorneys and agents of their organizations for breach of fiduciary obligations. Section 501 of the LMRDA provides, among other things, that prior to bringing suit under this statute leave of the court must be obtained upon verified application and for good cause shown.

AFGE member Annette Wells hereby files this verified ex parte motion and the accompanying amended complaint filed with this Court on June 26, 2020, and asks this Honorable Court to find that she has established good cause to grant the motion to proceed with the amended complaint (as amended) against Defendants under the LMRDA.

In support of this motion, the undersigned AFGE member in good standing, Annette Wells, declares under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 18th day of September 2020, by:

  
Annette Wells  
8630 Beekman Place,  
Alexandria, VA 22309



/s/ Marlene (Kemi) Morten  
Marlene Morten, D.C. Bar 272575  
3825 South Capitol Street, S. W.  
Washington, D. C. 20032  
202-379-4806/[kemimorten@gmail.com](mailto:kemimorten@gmail.com)

/s/ Donna Clancy  
Donna Clancy  
The Clancy Law Firm, P.C.  
Application to be filed for Admission *pro hac vice*  
40 Wall Street, 61<sup>st</sup> Floor  
New York, NY 10005  
(212) 747-1744  
[dhc@dhclancylaw.com](mailto:dhc@dhclancylaw.com)

*Counsel for Plaintiff Annette Wells, Helen Erslev and Plaintiff  
Jocelynn Johnson*

September 18, 2020

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JOHN DOE #1, et al. )  
 )  
 Plaintiffs )  
 )  
 )  
 )  
 v. )  
 )  
 AMERICAN FEDERATION OF GOVERNMENT )  
 EMPLOYEES ("AFGE") )  
 Defendants )  
 \_\_\_\_\_ )

**PROPOSED ORDER**

The ex parte motion filed by American Federation of Government Employees (AFGE) member in good standing Annette Wells for leave to commence a suit for money damages, punitive damages, injunctive and declaratory relief, against the named Defendants and AFGE officials; specifically, former National President J. David Cox, National President Everett Kelley, National Secretary Treasurer Eric Bunn, National Vice Presidents Vincent Castellano, Phil Glover, Danny Doyle, Arnold Scott, Cheryl Eliano, Gerald Swanke, George McCubbin, Joseph Flynn, General Counsel David Borer, Deputy General Counsel Gony Goldberg and Chief of Staff Brian DeWyngaert as authorized by Section 501 of the Labor- Management Reporting and Disclosure Act of 1959 (LMRDA) is hereby GRANTED.

\_\_\_\_\_  
JUDGE

DATED: \_\_\_\_\_

# **EXHIBIT**

**1**



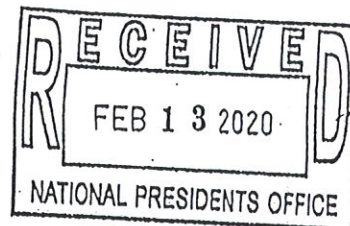
ARTICLE XIII AND XXIII CHARGES OF ANNETTE WELLS  
AFGE, LOCAL 12 (DEPT OF LABOR, WASHINGTON DC)  
AGAINST AFGE NATIONAL PRESIDENT J. DAVID COX

Statement of Facts of Annette Wells

I took an oath of membership when I became a member of AFGE, Local 12. In part of the oath, it states that I will protect the interests and the good name of the Federation at all times and I will aid my fellow union member whenever I can do so, without injury to myself or those dependent upon me.

As a fellow member, AFGE National President Cox has violated the oath of union membership. He has caused shame, injury, embarrassment, as well as physical and mental anguish and hardship to both me and to my family. National President Cox has further violated the oath of his union office, and the law, because he promised, and he pledged his honor to the Federation.

National President Cox has not been honorable, nor kept his promise. He has injured and defamed the integrity of the union, myself as a member and my family. I believe that what happened to my son at the hands of J. David Cox is a disgrace. I am a long-time union dues paying member of the AFGE, Local 12, at the DOL/OSHA. I have suffered along with my son, his family and my husband. My son recently told me that he was being sexually abused by J. David Cox, the President of my union, AFGE. I have



since then become extremely upset, angry and physically ill to think that I have been paying my AFGE union membership dues all of these years to that monster—J. David Cox, while he was hurting my son. My son also told me that J. David Cox often bragged that he “had more money than God”. Little did I know at the time that Cox was referring to my AFGE dues and the dues of thousands of other AFGE members. My son’s abuse at the hands of Cox was not a one-time thing. My son reluctantly admitted to me and to my husband that Cox had sexually abused him for years about a year or two after he started working for the Capitol Chauffeur Service, (CCS) Limo company. He told me that Cox also made racist remarks to him that were very insulting.

My son and I are very close. When he started complaining that one of his customers was harassing him and was also threatening to terminate AFGE’s contract with his Limo company, he told me over and over again that he felt pressured from his company to continue to drive Cox whenever Cox specifically demanded his services. Since he was continually reminded that AFGE was their largest account, he did not believe he had any choice but to do as he was told because he had a wife and six (6) children to provide for.

As his mother, I had no choice but to stand by and watch my son’s health deteriorate both mentally and physically as this racial discrimination and sexual and



mental abuse by AFGE President J. David Cox continued. My husband and I suffered severe emotional stress that affected us individually and our marriage. We are currently in therapy.

**Request For Independent Counsel**

I read in an October 2019 Bloomberg article that former AFGE Communications Director Brett Copeland filed an April 2017 sexual harassment complaint against President J. David Cox with AFGE General Counsel David Borer and AFGE Deputy Chief of Staff Corey Bythrow. I understand that Mr. Borer and Mr. Bythrow did not report Mr. Copeland's sexual harassment complaint, and Mr. Copeland resigned shortly thereafter. For this reason, I ask that the NEC issue a resolution during its February 2020 NEC meeting directing these AFGE executives, AFGE General Counsel David Borer and Mr. Corey Bythrow to recuse themselves from investigating or advising the NEC regarding this Article 23 Charge against President Cox. I further request that the NEC hire independent counsel (excluding attorneys employed in the AFGE General Counsel's office and any outside law firms that are currently representing AFGE) to investigate and advise the NEC regarding these Article 23 and Article 13 charges against President Cox.



**ARTICLE XIII AND ARTICLE XXIII CHARGES:**

We, the undersigned AFGE members, charge Jeffrey David Cox, Sr., with union violations of his oath of office and his oath of union membership, specifically violating: AFGE, National Constitution, Article 23, section 2, sections 2 (c), (d), (e), (f), (g), (h) & (k); Article 13, section 7, 7(a), & (b), and section 9; to include his conduct unbecoming a union member.

As part of these charges, we request that the NEC secure an independent, outside accounting of all monies and charges paid by President J. David Cox for private car services from 2009 to the present and that the NEC find Mr. Cox guilty of a gross violation of his duties, the AFGE National Constitution, and AFGE policies and practices by using AFGE resources (the AFGE-paid contract with Capitol Chauffeur Services (CCS)) to sexually abuse the son of AFGE member Annette Wells, using racial slurs toward him and ordering him, a CCS driver, to accompany Cox to bars and strip clubs using AFGE resources for J. David Cox's personal use.

In October 2019, President J. David Cox took administrative leave pending an investigation into numerous claims that he sexually harassed, sexually abused and discriminated against numerous individuals.

Moreover, the AFGE National Executive Council is currently investigating extremely serious charges filed by four AFGE Emeritus Officers Jim Davis, Jane Nygaard, [Former AFGE President] John Gage and Kitty Peddicord that President Cox unlawfully used AFGE staff members to work on his 2018 re-election campaign in violation of the AFGE National Constitution and Department of Labor regulation. Among other things, these the four AFGE Emeritus Officers charged Mr. Cox with violating the Constitution by "committing any act of fraud, embezzlement, mismanagement, or appropriating to one's own use any money, property, or thing of value belonging to the Federation or any affiliate." (See: Attachment 1: November 16, 2019 Article XIII and Article XXIII Charges Filed by AFGE Emeritus Officers Davis, Nygaard, Gage and Peddicord)

We ask that if President Cox is currently being paid his regular salary as AFGE President, administrative pay, or being allowed to use annual leave or sick leave during his leave of absence, that the NEC shall order an independent accounting of all payments made to Mr. Cox since October 1, 2019, (including the accumulation of annual and sick leave by Mr. Cox since October 1, 2019) and that the NEC shall disclose and report to members the independent accounting of AFGE members' monies paid to Mr. Cox during the February 2020 NEC meeting.

We request that the NEC issue a resolution ordering AFGE to immediately stop all remuneration, to Mr. Cox and stop all accrual of annual and sick leave for Mr. Cox and that the NEC order Mr. Cox to immediately repay all remuneration of any kind (including the accumulation of annual and sick leave) paid to him since he took administrative leave through the date of the NEC order.

We ask the NEC to announce that it has stopped all such payments to Mr. Cox during the February 2020 NEC meeting.

We request that the NEC ensure that AFGE members' dues are not used to pay for Mr. Cox's legal costs incurred in any current or future racial discrimination and sexual harassment complaints or any other lawsuits filed against AFGE or against Mr. Cox involving President Cox's alleged racially discriminatory or sexually harassing misconduct.

We request that the NEC issue a resolution removing Mr. Cox from office effective immediately due to his outrageous, disrespectful and unlawful sexually predatory and racially discriminatory misconduct. We ask that the NEC issue that resolution removing Mr. Cox as AFGE President no later than the last date of the February 2020 NEC meeting.



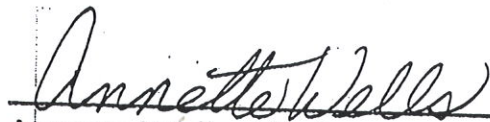
We request that NEC issue a resolution removing Mr. Cox as a member of AFGE National and as a member of any of AFGE's locals, Councils or affiliates due to his outrageous and disrespectful misconduct. We ask that the NEC issue that resolution removing Mr. Cox as an AFGE member no later than the last date of the February 2020 NEC meeting.

If the AFGE NEC refuses to secure an accounting from President Cox of the AFGE members' monies that he spent hiring CCS drivers to take him to bars and strip clubs at AFGE members' expense; refuses to find Mr. Cox guilty for grossly violating his duties by engaging in sexual harassment, sexual abuse and racial discrimination; refuses to require Mr. Cox to repay any and all remuneration paid by AFGE members for his salary and benefits since his October 2019 decision to take a leave of absence; refuses to order Mr. Cox to pay his own legal fees and to repay any and all legal fees paid by AFGE to represent him to date; and refuses to remove Mr. Cox as President and as an AFGE member by the last date of the NEC February 2020 meeting, we will exercise our rights as AFGE members, to do so by filing a lawsuit on behalf of ourselves and other AFGE members in federal court pursuant to LMRDA 501(b). That section states:

**"(b) VIOLATION OF DUTIES; ACTION BY MEMBER AFTER REFUSAL OR FAILURE BY LABOR ORGANIZATION TO COMMENCE PROCEEDINGS; JURISDICTION; LEAVE OF COURT; COUNSEL FEES AND EXPENSES**

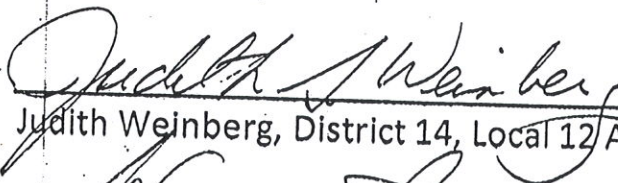
"When any officer, agent, shop steward, or representative of any labor organization is alleged to have violated the duties declared in subsection (a) and the labor organization or its governing board or officers refuse or fail to sue or recover damages or secure an accounting or other appropriate relief within a reasonable time after being requested to do so **by any member of the labor organization**, such member may sue such officer, agent, shop steward, or representative in any district court of the United States or in any State court of competent jurisdiction to recover damages or secure an accounting or other appropriate relief for the benefit of the labor organization. No such proceeding shall be brought except upon leave of the court obtained upon verified application and for good cause shown, which application may be made ex parte. The trial judge may allot a reasonable part of the recovery in any action under this subsection to pay the fees of counsel prosecuting the suit at the instance of the member of the labor organization and to compensate such member for any expenses necessarily paid or incurred by him in connection with the litigation."

SIGNED:



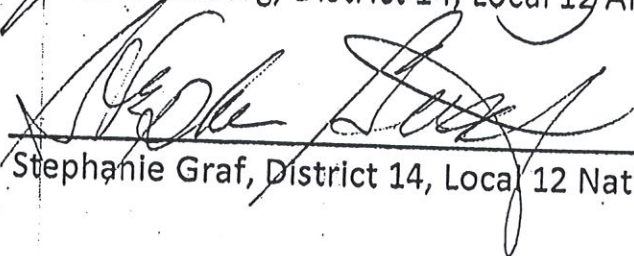
2-10-2020

Annette Wells, Mother and District 14, Local 12 AFGE Member



2-10-2020

Judith Weinberg, District 14, Local 12 AFGE Member



2-12-20

Stephanie Graf, District 14, Local 12 National Women's Advisory Coordinator

# **EXHIBIT**

**2**





AFGE,

As I said in earlier messages to AFGE employees and members, the National Executive Council made a commitment to being transparent with our members and our employees on any development related to the serious allegations of misconduct that have been made against J. David Cox. Today, we have an important update for you.

Today, February 28, 2020, J. David Cox Sr. resigned as AFGE National President effective at the close of business. In accepting his resignation, AFGE concluded the processing of the November 2019 internal charges and former president Cox has forfeited his right to hold or run for any AFGE elected office in perpetuity. This resignation does not affect the investigation being conducted by Working IDEAL, nor does it alter AFGE's commitment to process the February 2020 or future charges filed against Cox pursuant to the AFGE Constitution.

Per the AFGE Constitution, the National Secretary-Treasurer assumes the office of AFGE National President on the occasion of the National President's resignation.

Thanks to the incredible solidarity of our members, your spirit, your determination, and your focus, the important work AFGE performs every day on behalf of the 700,000 federal and D.C. government employees we represent has continued uninterrupted as we have gone through this difficult period as a union. As I assume the role of National President, I am certain that our great union will continue leading the fight against attacks on our members' pay, benefits, retirement, and rights on the job.

Even while we do that, we know that there is still work that we can do to improve our culture here at AFGE and make sure our own actions as a union align with our values. We remain fully committed to continuing to pursue those changes, like our recently introduced Code of Conduct for all AFGE events. We will continue to keep you updated as we pursue and implement further changes.

Thank you for the patience and understanding you have shown throughout this process, and I look forward to serving AFGE as your National President.

In Solidarity,

<https://mail.aol.com/webmail-std/en-us/PrintMessage>

5/4/2020

An Important Update

Everett B. Kelley  
National Secretary-Treasurer, AFGE

For the latest AFGE news and information, follow us on:



Sent via [ActionNetwork.org](https://www.actionnetwork.org). To update your email address, change your name or address, or to stop receiving emails from AFGE Main E-activist Group, please [click here](#).