

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division**

ROBERT L. PASCO,)	
)	
<i>Plaintiff,</i>)	
)	Civil Action No.: 5:11CV87
v.)	
)	
HANK ZIMMERMAN, et als.)	
)	
<i>Defendant.</i>)	

MOTION TO DISMISS

Defendant Shenandoah County Library (“Library”), by counsel, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, hereby moves that the Court dismiss with prejudice the Complaint in its entirety as against it for failure to state a claim upon which relief can be granted and lack of subject matter jurisdiction, and states in support as follows:

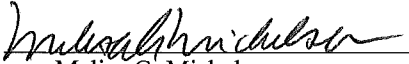
1. The plaintiff fails to state an actionable claim under 42 U.S.C. §§ 1983 and 1988 against Defendant Library, as he has not cited a policy or custom of Defendant Library that caused his alleged unconstitutional injury.
2. As the plaintiff has failed to state a claim for relief against Defendant Library pursuant to 42 U.S.C. §§ 1983 and 1988, or any other violation of a federal right protected by the United States Constitution, this Court is without subject matter jurisdiction as to the remaining claims alleged against Defendant Library.
3. The plaintiff fails to state sufficient facts showing liability on part of Defendant Library for the alleged state tort claims committed by Defendant Moore.
4. The plaintiff fails to state a claim for wrongful discharge in violation of public policy.
5. There are no compelling reasons or circumstances that would justify this Court’s retention of the state law claims raised against Defendant Library. As such, all of these claims should be dismissed.

6. Defendant Library has set forth the basis for the dismissal in the attached Brief in Support.

WHEREFORE, Defendant Library, by counsel, respectfully requests that based on all of the reasons set forth in the attached Memorandum in Support of the Motion to Dismiss, and for the reasons to be argued at the hearing of this matter, the Court grant Defendant Library's Motion to Dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismiss this matter with prejudice in its entirety as against it, and for any further relief deemed necessary and proper.

SHENANDOAH COUNTY LIBRARY
By Counsel

LITTEN & SIPE L.L.P.

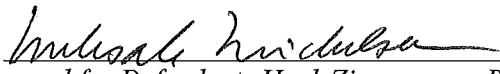
By: 
Melisa G. Michelsen
J. Jay Litten

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*Counsel for Defendants Hank Zimmerman, Board of Trustees of
the Shenandoah County Library, and Shenandoah County Library.*

CERTIFICATE

I certify that on the 22nd day of December, 2011, I electronically filed the foregoing Motion to Dismiss with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to Timothy E. Cupp, Esq., Cupp & Cupp, P.C., 1951-D Evelyn Byrd Avenue, P.O. Box 589, Harrisonburg, Virginia 22803, Cupplaw@comcast.net, Counsel for Plaintiff; and to Julia B. Judkins, Esq., Bancroft, McGavin, Horvath, & Judkins, P.C., 3920 University Drive, Fairfax, Virginia 22030, Jjudkins@bmhlaw.com, Counsel for Defendant James Dallas Moore.


Counsel for Defendants Hank Zimmerman, Board
of Trustees of the Shenandoah County Library,
and Shenandoah County Library.