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DP-EM-DP-130808-11099
BEFORE THE BUREAU OF LABOR AND INDUSTRIES
CIVIL RIGHTS DIVISION

Complaint of Unlawful Employment Practice(s)

COMPLAINING PARTY:

Kristy Galvan
12260 SW Hancock Court
Tigard, OR 97223

Date: August 6, 2013

Case No.:

DOB: provided on request

SSN: provided on request

ATTORNEY:

Charese A. Rohny
1515 SW Fifth Ave., Ste. 1010
Portland, Oregon 97201
503.449.2291
charese@rohnylaw.com

RESPONDENT:

Portland Police Bureau
1111 SW 2nd Avenue
Portland, OR 97204

CONTACTS:

Snow Buchanan, City of Portland, Bureau
of Human Resources

An agency of:

City of Portland
1220 SW 5th Avenue
Portland, OR 97204

No. of employees: 1000+

42 U.S.C. § 2000e-2 (Title VII – Discrimination and Harassment Based on Gender);
ORS 659A.030(1)(b) (Discrimination and Harassment Based on Gender);

ORS 659A.030(1)(f) (Retaliation for Opposing Unlawful Employment Practices);
ORS 659A.199 (Retaliation for Whistleblowing);
ORS 659A.203(1)(b)(A) (Retaliation by Public Employer);

42 USC § 12110 et seq. (ADA – Discrimination Based on Real or Perceived Disability);
ORS 659A.112 (Discrimination Based on Real or Perceived Disability);
ORS 659A.046 (Failure to Reemploy in Other Available and Suitable Work)

I, Kristy Galvan, being first duly sworn, depose and say as follows:

1. On or around October 24, 1997, I was hired by the City of Portland as a Community Police Officer with the Portland Police Bureau (“Bureau”). After various testing and assessments, I was promoted to Police Sergeant on April 5, 2007, and then similarly promoted to Police Lieutenant September 29, 2011.
2. From January 2009 through February 2010, I worked in the Internal Affairs (“IA”) Division as an Acting Lieutenant and Sergeant. In that role, I was a periphery participant in the IA investigation of Capt. Mark Kruger’s placement of plaques

memorializing and honoring five Nazi soldiers onto a tree at Rocky Butte Park between 1999 and 2001, as well as other allegations, and privy to many of the private details surrounding these allegations.

3. From February 2010 through September 2011, I worked in office of Bureau Chief Mike Reese as Assistant to the Services Branch Director. In this role, I formally presented the findings by IA against Capt. Kruger to Assistant Chief Larry O'Dea and worked closely with the writer, Capt. Dave Famous, to make some structural changes within the findings to facilitate better understanding of the recommendations. I initialed this document following this formal presentation.
4. On or around July 8, 2010, the finding I presented concerning Capt. Kruger's honoring of Nazi soldiers in Rocky Butte Park was sustained as true, and Capt. Kruger was disciplined for this action. Following the conclusion of the IA investigation, the City of Portland chose to continue Capt. Kruger's employment with the Portland Police Bureau.

DISCRIMINATION BASED ON GENDER

5. On or around September 29, 2011, following my involvement in and/or knowledge of in the IA investigation, presentation of IA findings, and subsequent disciplinary action against Capt. Kruger, I was assigned to work as his subordinate. I was immediately subjected to harassment and discrimination that other similarly-situated male officers were not subjected to. This harassment and discrimination included but was not limited to:
 - a. Capt. Kruger stated to me upon my arrival that "[my] promotion was a disservice" to the Bureau;
 - b. In evaluating my performance, Capt. Kruger told me I needed to be more like a male character on a military-themed television show, "Band of Brothers." I attempted to explain to Capt. Kruger that men and women communicate differently; and
 - c. Capt. Kruger repeatedly yelled at and berated me, including while holding his hand in my face and asking me if I was "manic depressive." He did not subject male staff to such treatment.

RETALIATION BASED ON WHISTLEBLOWING ACTIVITY

6. On or around May 17, 2012, following many months of harassment, I reported Capt. Kruger's behaviors to Director Mike Kuykendall that I believed created legitimate concerns for the Portland Police Bureau. I reported his actions as I believed in good faith that they involved matters of public concern and violated specific Bureau policies and federal and state laws.
7. Between May 17, 2012, and June 29, 2012, I shared my many concerns about Capt. Kruger's actions with Kuykendall via an in-person meeting and text messages. Those communications included but are not limited to the following:

- a. On May 17, 2012, I texted Kuykendall, stating, "I have mulled this over for months about talking to [you]. I think I just need some advice on how to deal with a bully [. . .]."
 - b. On May 20, 2012, I sent a photo to Kuykendall of my ransacked desk. Photos of my children had been ripped off the wall, photos of my husband had been moved several feet away and placed face down, papers had been shuffled through, and my COPY stamp had been dismantled. I told Kuykendall that I was at a loss for what was going on and requested a meeting. We met for lunch the following day.
 - c. The next day, on May 21, 2012, I stated to Kuykendall that I felt I was being subjected to a hostile work environment, retaliated against for my involvement in the IA investigation, and discriminated against because of my gender. I conveyed to Kuykendall my belief that Capt. Kruger was aware of the harassing and retaliatory actions against me by both himself and others acting on his behalf, but was failing to take any action to address it.
 - d. On May 21, 2012, Kuykendall sent me a text message that disregarded my belief regarding whether Capt. Kruger's conduct was unlawful or in violation of Bureau policies. Nevertheless, Kuykendall followed up with "I am concerned you are not in a situation where you can thrive and reach your full potential as a lieutenant, I know you asked me for just advice, but I have an idea to discuss with you so call when you have a couple minutes to discuss."
 - e. On May 31, 2012, I stated to Kuykendall that Capt. Kruger's harassment was making me physically ill; I had ulcers and kidney stones and I was coming to work in pain.
 - f. Kuykendall stated to me that there may be a chance for a transfer, but stated clearly that the Chief makes the transfer decisions. I requested updates on the possibility of transferring.
8. On or around July 5, 2012, I was transferred from East Precinct under Capt. Kruger to North Precinct under Cmdr. Leloff. Upon my arrival, Cmdr. Leloff made it clear he was friends with Capt. Kruger and would affirm any and all criticism he heard from Capt. Kruger. Cmdr. Leloff continued the pattern of retaliatory and gender-based harassment and discrimination. He assigned shifts in a discriminatory fashion, allowing similarly-situated male lieutenants to have every other Friday off but not me.
 9. On or around July 16, 2012, I formally made a complaint against Capt. Kruger with the City of Portland's Bureau of Human Resources detailing the retaliatory harassment and discrimination I was subjected to based on my gender and involvement in the IA investigation against Capt. Kruger.
 10. On or around October 12, 2012, I was ordered to produce the text messages exchanged between myself and Kuykendall by Lt. Charles Fender of Professional Standards Division in connection with the IA investigation against Capt. Kruger. I was told by Lt. Chris Davis, the acting investigator, that these text messages would be kept confidential and that if I failed to produce them, I could be terminated.

11. Sometime in between October 2012 and January 2013, IA released these confidential messages to the Portland Police Commanding Officers Association ("PPCOA"), the union representing the 51 lieutenants, captains, and commanders of the Bureau such as Capt. Kruger and Cmdr. Leloff. These messages were then shared with Capt. Kruger and/or his counsel.
12. On or around January 14, 2013, in a retaliatory act by Capt. Kruger, he caused a tort claim notice to be sent to the City alleging legal harm based on the private text messages exchanged between myself and Kuykendall.
 - a. These messages were sent privately and included previously known information that was in the press over the years, as well as information published in the IA investigatory files.
 - b. The messages referred to Capt. Kruger's behavior related to the sustained-as-true allegation regarding his honoring Nazi soldiers.
 - c. The messages reflected the shared concern of both myself and Kuykendall regarding Capt. Kruger's potential prejudices and the impropriety of his being in a position of public trust.

REFUSAL TO REMPLOY FOLLOWING AN ON-THE-JOB INJURY

13. On or around July 23, 2012, I suffered an on-the-job injury to my shoulder. I reported this on-the-job injury that same day and was determined eligible for disability benefits through the Fire and Police Disability and Retirement Fund.
14. On or around August 8, 2012, I was released to light duty with the restriction that I not wear a vest.
 - a. Cmdr. Leloff repeatedly denied my right to return to work to a position that did not require a vest for the next eight months. Cmdr. Leloff stated that a light duty position was not an option and that I was only to contact him when I was released to full duty.
 - b. I was also denied other employment duties. For instance, all command staff are required to attend mandatory training; I was denied the opportunity to satisfy this requirement. When I signed up for some of the training, the Bureau refused to allow me to attend. Without completing the required number of training hours, the Department of Public Safety Standards and Training has the authority to revoke my police certification.
15. Throughout the winter and spring of 2013, four separate medical examinations by a Dr. Ragsdale, a doctor referred to me by the Bureau of Fire and Police Disability and Retirement, reaffirmed my release to return to work on light duty.
 - a. Cmdr. Leloff continued to refuse my requests to return to work on light duty pursuant to these releases.

- b. Sometime on or around February 25, 2013, and April 1, 2013, Dr. Ragsdale reported to me that Bureau members had contacted him to urge him to modify my release to full duty.

CONTINUED DISCRIMINATION, RETALIATION, AND REFUSAL TO REEMPLOY

16. On or around May 8, 2013, I was demoted to Sergeant. Following this demotion, I was offered a light-duty desk job at the Telephone Report Unit in the Justice Center, a building where Capt. Kruger and Cmdr. Leloff frequented on a weekly basis. Shortly thereafter, Capt. Kruger was transferred to the Drugs and Vice Division, which is located inside the Justice Center.
17. On or around May 17, 2013, in a retaliatory move, Capt. Kruger publicly posted on his door at the East Precinct a notice from the City's Bureau of Human Resources finding that my private complaint against him had been found not substantiated. He had identified me as the complainant by writing my name in large capital letters in red marker. His office door was located near the main entrance of the precinct and the posted letter, and even more so my name, could be viewed by the public. The letter itself directed Capt. Kruger "not to engage in any activity that could be perceived as retaliation against the complainant."
18. On or around May 19, 2013, I reported Capt. Kruger's retaliatory act to members of the Chief's Office, the City's Bureau of Human Resources, and IA. I received no response from anyone in the Chief's Office; an IA investigation was opened 10 days later.
19. On or around June 28, 2013, I received a written reprimand from Chief Reese for the text messages exchanged between myself and Kuykendall sharing our concerns about Capt. Kruger. The Chief's Office obtained these text messages from IA, which had previously ordered me to produce the messages or face possible termination.
20. I was subjected to retaliation for my participation in the internal affairs investigation against Capt. Kruger, discrimination and a hostile work environment based upon my gender, retaliation for reporting what I believed in good faith were acts of discrimination, harassment, and/or retaliation, retaliation for reporting what I believed in good faith were unlawful acts by my supervisor, and retaliation for asserting my rights following an on-the-job injury in response to the Bureau's refusal to reinstate me to a position with my modified restrictions.

Complainant has been injured in the following ways due to Respondent's actions:

As a result of the actions of respondent alleged herein, complainant has suffered severe emotional distress, humiliation, loss of reputation, lost future wages and benefits of employment and other economic damages. In addition, it has been necessary for complainant to retain an attorney, and respondent should be ordered to pay reasonable attorney fees. Respondent should be enjoined from future violations.

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I swear or affirm that I read the above complaint and that it is true to the best of my knowledge, information and belief.

(Complainant) Signature Katy Cahoon

SUBSCRIBED AND SWORN to before me this 6th day of August, 2013.

June R. Glisson
Notary Public for Oregon

