

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

JENNIFER MURPHY,
VALERIE HICKOK,

Plaintiffs,

Index No. _____

v.

VERIFIED COMPLAINT

TOWN OF TONAWANDA POLICE DEPARTMENT, *and*
BRETT RIDER *individually,*

Defendants.

Plaintiff, Jennifer Murphy and Valerie Hickok, by and through their attorneys, Lindy Korn, Esq. and Catherine McCulle, Esq., hereby complains of the Defendants, upon information and belief, as follows.

NATURE OF THE CLAIMS

Plaintiffs seek the appropriate remedies and damages for discriminatory treatment based upon sexual harassment, sex discrimination, hostile work environment, and retaliation in violation of New York Executive Law §296 as well as breach of contract, negligence, and constructive discharge.

JURISDICTION & VENUE

1. This Court has jurisdiction over this action pursuant to New York Civil Practice Law and New York Executive Law, Article 15, §296.

2. Venue is proper in this Court based upon the Plaintiffs' residency within the County of Erie, Defendant is located in the County of Erie, and a substantial part of the acts or omissions giving rise to the Plaintiffs' claims occurred in the County of Erie.

PARTIES

3. At all times referenced in the complaint, Plaintiff Jennifer Murphy ("Plaintiff Murphy"), is a resident of the State of New York, County of Erie.
4. At all times referenced in the complaint, Plaintiff Valerie Hickok ("Plaintiff Hickok"), is a resident of the State of New York, County of Erie.
5. At all times referenced in the complaint, Defendant Town of Tonawanda Police Department ("Defendant") is a corporation located at 2919 Delaware Ave., Tonawanda, NY 14217.
6. At all times referenced in the complaint, Defendant Brett Rider ("Defendant Rider") was an individual employed by Defendant and worked at 1835 Sheridan Dr., Tonawanda, NY 14223.
7. At all times referenced in the complaint, Defendant Rider was one of the Plaintiffs' supervisors.

MATERIAL FACTS

Plaintiff Valerie Hickok:

8. Plaintiff Hickok was hired by Defendant Town of Tonawanda in March 1990 as a Public Safety Dispatcher.
9. Plaintiff Hickok performed her job duties successfully. Plaintiff Hickok was never disciplined by Defendants except for one incident in 2002 where she received a "blue slip," which is intended to be non-disciplinary in nature.
10. Throughout Plaintiff Hickok's employment with Defendant, she was subjected to repeated harassment by Acting Dispatch Supervisor Brett Rider, former Acting Supervisor Randall Rider, and others. Nothing was ever done by Defendant to protect Plaintiff Hickok from this behavior.

11. Plaintiff Hickok has repeatedly been told “fuck you” and been called vulgar, degrading names in front of her co-workers by Defendant Rider and Randall Rider. These names included “fucking slut,” “asswipe,” and “cunt.” Other co-workers were also called degrading names and slurs based on race or sexual orientation.
12. Plaintiff Hickok, along with co-worker Jennifer Murphy, complained to Defendant about Defendant Rider’s sexually inappropriate behavior for years. Defendant took no action to alleviate Defendant Rider’s harassment.
13. Plaintiff Hickok complained to Defendant about Randy Rider’s harassment as early as March of 1994.
14. Defendant Rider would make these comments to the entire room. Every single employee and supervisor knew of Defendant Rider’s behavior, witnessed it, and did nothing to stop it. This went on for over two decades.
15. Around February 2004 Randall Rider refused to give Plaintiff Hickok information regarding a domestic call that officers were being sent to. This hindered Plaintiff Hickok’s ability to do her job and put the officers’ safety at risk.
16. Defendant Rider regularly objectified and demeaned women.
17. Randall Rider used to comment “how big your ass looks in the polyester uniforms” to Plaintiff Hickok and Joanne Roussie.
18. Defendant Rider would always greet certain women employees with: “Hello tits.”
19. Around August 2007 paramedic Cinelli walked into the room and Defendant Rider greeted him with: “Hello, breath of a thousand blowjobs.”
20. In 2007 Plaintiff Hickok complained to Joanne Roussie about Defendant Rider’s sexual harassment and inappropriate behavior. Ms. Roussie was a supervisor in dispatch. Ms. Roussie

accompanied Plaintiff Hickok to Captain Klipfel's office so that Plaintiff could make a complaint. Captain Klipfel told Plaintiff they could not do anything unless Plaintiff filled out a formal complaint. Plaintiff did not do so as she feared retaliation if she spoke up.

21. A day or two after Plaintiff Hickok left Captain Klipfel's office after she tried to complain, a co-worker, Mike Powers, was in the lunchroom alone with Plaintiff Hickok. He told her: "snitches get stitches." This was in response to Plaintiff Hickok complaining about Brett Rider's sexual harassment. Plaintiff Hickok was extremely fearful and intimidated after this comment.
22. On March 27, 2008 Defendant Rider greeted a male either in person or on the phone with: "Hi shit-packer."
23. Around 2014-2015 Defendant Rider told Dispatcher Jennifer Murphy that she could not trust Plaintiff Hickok and that Plaintiff Hickok was a "n***** in a haystack."
24. Plaintiff Hickok was subjected to a conversation where Defendant Rider was talking about butt plugs and was telling everyone in the dispatch room that his friend had a butt plug that was made to look like an image of Jesus.
25. Plaintiff Hickok was extremely offended by this comment.
26. None of these individuals, or anyone else at Defendant for that matter, took any action to prevent or protect Plaintiff Hickok from Defendant Rider's and other employee's repeated harassment, despite Plaintiff Hickok's and other female employees' repeated complaints.
27. Numerous members of Defendant Rider's family worked in dispatch. He was the union president as well as the union representative for dispatch. There were 18 full-time dispatchers, 3 of which were Riders.
28. Defendant Rider made it impossible for Plaintiff Hickok to get work done due to his inappropriate behavior.

29. Randall Rider refused to give Plaintiff Hickok information in regard to a call officers were being sent to. He would also encourage other employees not to talk to her.
30. Defendant Rider ruined Plaintiff Hickok's career in that she would have remained working for Defendant for approximately five more years, until she could receive her full retirement, had she not been subjected to the above treatment.
31. Plaintiff Hickok was constructively discharged in March 2017 as a result of the intolerable working conditions perpetuated by both Defendants, Defendant Rider's discriminatory, harassing behavior, and Defendant's discrimination and lack of action regarding her complaints. Defendants ignored Plaintiff Hickok's complaints and were aware of the intolerable working conditions, yet did nothing to remedy them.
32. Plaintiff Hickok continues to suffer damages to this day due to her untimely early retirement and reduced pension because of her constructive discharge.
33. Defendant Rider's behavior was vile and abhorrent and it is shocking that Defendant permitted this to occur for such a long period of time.
34. Between the behavior of Randall Rider and his son, Defendant Rider, Defendant was well aware of the discriminatory behavior and hostile work environment created yet did nothing to rectify it or prevent it.
35. Defendant permitted Defendant Rider's reign of terror for his approximately 18 years of employment. Countless women were affected by Defendants' callous indifference and lack of remedial measures. Despite countless complaints from numerous employees, Defendant did not terminate Defendant Rider until approximately September 2020.
36. As a result of the discrimination, Plaintiff Hickok has suffered with depression, anxiety, and insomnia.

37. As a result of the discrimination, Plaintiff Hickok continues to suffer a harm in the form of a reduced pension as a result of her constructive discharge. This harm is ongoing and occurs with each paycheck.

Plaintiff Jennifer Murphy:

38. Plaintiff Murphy was hired by Defendant Town of Tonawanda in August 2008 as a part-time Public Safety Dispatcher. She was elevated to full-time on January 1, 2009.

39. Plaintiff Murphy performed her job duties successfully. Plaintiff Murphy was never disciplined by Defendants.

40. When Plaintiff Murphy was elevated to full time in 2009 Defendant Rider told her “Deidre [Manzella] should have gotten it.”

41. Ms. Manzella was Defendant Rider’s girlfriend at the time.

42. Ms. Manzella was responsible for training Plaintiff Murphy when she was hired in 2008 at the Kenmore Police Department.

43. Ms. Manzella was hired by Defendant in 2010.

44. Plaintiff Murphy had a bad feeling about Defendant Rider from the first day she met him.

45. From the day Plaintiff Murphy was hired she was sexually harassed by Supervisor Brett Rider. This sexual harassment was constant. Defendant Rider worked as a supervisor in the dispatch department.

46. Defendant Rider’s behavior in the dispatch room was constantly inappropriate. He would comment on each woman’s appearance, describing whether or not they were good looking enough for him or not.

47. Defendant Rider would regularly comment on Plaintiff Murphy's physical appearance, making statements while Plaintiff Murphy was eating such as "I have something that you would want to put in your mouth" and other comments to that effect.
48. Defendant Rider made vulgar, inappropriate sexual comments to Plaintiff Murphy. In one instance around 2009 when Plaintiff Murphy was being trained by him, Defendant Rider called another officer into the dispatch room, made Plaintiff Murphy stand up, and said to this other officer: "Look at the new girl. You can see her nipples through her sweater."
49. Plaintiff Murphy was not issued a uniform by Defendant at this point.
50. Plaintiff Murphy was groomed by Defendant Rider since the beginning of her employment with Defendant. On one occasion around 2009 Plaintiff Murphy was blamed and chastised by Supervisor Jim Kerr for allegedly erring during a first aid call. This error was committed by another male dispatcher. Plaintiff Murphy asked Defendant Rider if this behavior was common or acceptable. Defendant Rider told Plaintiff Murphy that no one in dispatch liked her and were trying to force her out. Defendant Rider suggested Plaintiff Murphy meet him after work to discuss it. He told Plaintiff Murphy she "should not trust anyone but him." Plaintiff Murphy listened to him because he was the union president and believed he had her best interests in mind.
51. Around February or March 2009, Defendant Rider's sexual harassment became physical.
52. Plaintiff Murphy was going on ride-alongs with various employees of Defendant. On one occasion around February or March 2009 Plaintiff Murphy went with Defendant Rider on a ride-along to Sheridan Park Fire Hall.
53. There were no other individuals present when the two arrived. Defendant Rider had a key to get into the fire hall. This was the first occurrence where he sexually assaulted Plaintiff Murphy, touching her inappropriately. Defendant Rider groped Plaintiff Murphy, grabbing her breasts and

her butt. Plaintiff Murphy told him to stop but Defendant Rider laughed it off, telling her: "You're a big girl."

54. Beginning in 2009 and continuing throughout her employment with Defendant, Defendant Rider would sexually harass Plaintiff Murphy and ask Plaintiff Murphy for sexual favors. When she would refuse, he would make vulgar comments such as "come on, just the tip" referring to just placing the tip of his penis in Plaintiff Murphy's vagina. He would ask her to pet his "one-eyed snake. When Plaintiff Murphy would refuse, Defendant Rider would reply: "I know you had a kid, what's the big deal?" Plaintiff Murphy would constantly say "no" but Defendant Rider would not stop.

55. Defendant Rider raped Plaintiff Murphy for the first time around September 2009.

56. Around 2010-2011 Defendant Rider would repeatedly ask to come over to Plaintiff Murphy's house, have drinks with her, and watch "skinimax" with her, referring to viewing pornography with her. Plaintiff Murphy always refused.

57. At this point, Plaintiff Murphy knew Defendant Rider was stalking her. He would show up at her house. He would show up at restaurants she was at with her neighbor. He would show up at Tim Horton's when she was there, at Delaware Park, and the credit union she did business at. He would text her when she was home asking to come over.

58. Defendant Rider regularly would ask Plaintiff Murphy about whose cars were in her driveway. Defendant Rider would interrogate Plaintiff Murphy's then-boyfriend, asking him why his car was at Plaintiff Murphy's house at certain times.

59. Around 2011 Defendant Rider told Plaintiff Murphy to come to Dooley's to go over union related matters. The bar was filled with Defendant Rider's friends, many of whom were local firefighters. He grabbed Plaintiff Murphy's hand and dragged her around the bar. He would not let her go

despite Plaintiff Murphy repeatedly asked him to stop. Defendant Rider kissed her on the cheek numerous times in front of the entire bar. This behavior greatly embarrassed Plaintiff Murphy and was not consensual.

60. Around 2011 Defendant Rider had pictures on his phone of a woman who worked in dispatch masturbating and showed the entire dispatch department.
61. Plaintiff Murphy, along with co-worker Valerie Hickok, complained to Defendant about Defendant Rider's sexually inappropriate behavior for years. Defendant took no action to alleviate Defendant Rider's harassment.
62. In 2011 Plaintiff Murphy complained to Joanne Roussie about Defendant Rider's sexual harassment. Ms. Roussie was a supervisor in dispatch. Ms. Roussie told Plaintiff that she was going to inform Captain Klipfel of Plaintiff's complaint.
63. Plaintiff Murphy complained to Captain Waring via email on December 31, 2012 but he never responded or otherwise acknowledge her complaint.
64. Plaintiff Murphy complained to Supervisor Roussie again via email on December 31, 2012 and January 2, 2013 because she had received no response from anyone.
65. Defendant took no action in response to Plaintiff Murphy's complaints.
66. Around 2014 to 2017 Defendant Rider made vulgar inappropriate remarks about Plaintiff Murphy's teenage daughter. He would constantly talk about her breast size. "With a body like that she could get any guy, why is she dating him?" and "how inappropriate it is to waste good tits" when he referred to Plaintiff Murphy's daughter getting a breast reduction.
67. After one of these instances, Defendant Rider found out Plaintiff Murphy's daughter was dating a black man. Defendant Rider made racist inappropriate comments about this.

68. Defendant Rider would send Plaintiff Murphy pornography beginning in 2010 when he sent her nude photographs of a co-worker, and continuing until 2017. This would include either pictures of his erect penis and videos of hardcore porn, such as videos where women were getting fisted. He would text these images and videos to Plaintiff Murphy. Defendant Rider had videos of pornography he would show to the room on the work computer. He would have Plaintiff Murphy come over to his cubicle to look at something on his screen. It would start out being an innocent image or video and then switch to pornography.
69. Defendant Rider regularly viewed pornography on the Defendant's work computers.
70. If Defendant Rider was in a bad mood or mad at someone he worked with, he would refuse to take calls, refuse to do prisoner checks, put his feet up on the desk and nap, or even leave the building.
71. Defendant Rider would constantly go into the kitchen and drop his pants, pretending to tuck his shirt in in an attempt to get female employees to look at his penis. This happened throughout Plaintiff Murphy's employment.
72. Defendant Rider groped Plaintiff Murphy on numerous occasions. He would grab her breasts and butt. This behavior occurred almost daily during the walk from briefing to the dispatch room. He would grab Plaintiff Murphy's butt if she was walking in front of him. These near-daily sexual assaults occurred beginning around 2009 and continuing until 2017.
73. Defendant Rider repeatedly rub his penis and make inappropriate sexual comments, such as "I'm at like thirty percent right now" referring to his erection hardness. He would try to get Plaintiff Murphy to look at his penis. This would occur the entire time Plaintiff Murphy worked for Defendant.
74. Defendant Rider shoved his groin into Plaintiff Murphy's face. Defendant Rider would even do this while Plaintiff Murphy was taking an emergency 911 call.

75. When Plaintiff Murphy would tell Defendant Rider to stop, he would make a big deal out of it and act as though he was the victim. He would state: "I wasn't doing anything" or "I was joking." Plaintiff Murphy would remind him that he had a girlfriend and he would reply: "Yeah, so?" Defendant Rider was aggressive toward Plaintiff Murphy and would not take "no" for an answer.
76. Plaintiff Murphy felt as though she had to acquiesce to Defendant Rider's sexual demands because he was her supervisor and union rep.
77. Additionally, Defendant Rider's entire family worked in dispatch and he was the union president as well. There were 18 full time dispatchers, 3 of which were Riders.
78. Everyone in dispatch witnessed this behavior - the groping, the pornographic videos and images, the inappropriate sexual conduct, the bad behavior. No one made any effort to stop it.
79. Defendant Rider regularly objectified and demeaned women.
80. On one occasion, a large woman came into the dispatch office to make a complaint. Defendant Rider stood up and laughed at her, saying you would "need to roll her in flour to find the wet spot." Randall Rider used to make these same comments throughout the 1990s.
81. Defendant Rider would constantly refer to women's genitals as "meat flaps."
82. Defendant Rider would make these comments to the entire room. Every single employee and supervisor knew of Defendant Rider's behavior, witnessed it, and did nothing to stop it. This went on for over a decade.
83. Defendant Rider would occasionally tamper with other co-workers' food, particularly those he had some problem with. He'd laugh about it and say things like "ballsagna" referring to him rubbing his genitals on co-workers' lunches such as lasagna. This occurred throughout his employment.
84. There was a female paramedic who Defendant Rider would constantly mock, referring to her as a "muff muncher" and that she was in a bad mood because she "just had her dick removed."

85. Defendant Rider would always try to guess Plaintiff Murphy's bra and panty colors. This occurred throughout Plaintiff Murphy's employment with Defendant.
86. On one occasion around 2014 Defendant Rider took Plaintiff Murphy to Churchville, his other job. This was a business that built fire trucks custom order for fire departments. Defendant Rider sexually assaulted Plaintiff Murphy, groping her and pulling her pants down. He tried to rape Plaintiff Murphy, but was unable to maintain an erection.
87. Around 2014 Defendant Rider made a comment that "it's so hot right now I'm getting bat wings" referring to his testicles sticking to his legs from the heat due to the air conditioner being broken.
88. Defendant Rider would come to work even when he was not scheduled to work and just hang out.
89. Around 2014-2015 Defendant Rider told Plaintiff Murphy he and Andy Vandemere were going to "Eiffel tower" Plaintiff Murphy and clap over her back as they ejaculated onto Plaintiff Murphy.
90. Defendant Rider would continually tell Plaintiff Murphy that he and Mr. Vandemere were going to do this to her, stating that Mr. Vandemere would have to get behind her so he would not injure her neck with the weight of his "vag-omic" referring to Mr. Vandemere's weight.
91. Defendant Rider would often mock employees or others who were heavier. He stated an individual looked like a water balloon with a belt on.
92. Defendant Rider would always make obscene hand gestures to simulate masturbation and then as though he was ejaculating toward Plaintiff Murphy. He would do this constantly, and say "skeet skeet" referring to masturbation.
93. Defendant Rider would refer to Plaintiff Murphy as "muff master flex" and refer to her "muff" frequently. This greatly embarrassed and humiliated Plaintiff Murphy. This happened often during 2015-2016.

94. Around 2014-2015 Defendant Rider told Plaintiff Murphy she could not trust co-worker Valerie Hickok and that she was a “n***** in a haystack.”
95. Defendant Rider also commented loud enough for Plaintiff Murphy to hear: “snitches get stitches.” This was in response to Ms. Hickok complaining about Brett Rider’s sexual harassment.
96. Defendant Rider found out Plaintiff Murphy’s mother had a prosthetic eye. He told Plaintiff Murphy repeatedly that he was going to “fuck her in her eyehole” referring to Plaintiff Murphy’s mother’s missing eye. He would also send Plaintiff Murphy videos of a woman from a third world country who was missing an eye just to torment her.
97. Defendant Rider would push up on Plaintiff Murphy or try to get her to touch his penis, describing it as “It’s like a button on a fur coat” so it would not hurt Plaintiff Murphy.
98. He would say “I’m Irish so you can take it” referring to his penis being small.
99. Defendant Rider would tell Plaintiff Murphy he wanted to “finger pluck her butthole.”
100. Defendant Rider stripped down to his boxer shorts in front of Plaintiff Murphy in 2016. Plaintiff Murphy’s supervisor Linda Chase witnessed this incident and laughed about it.
101. Around 2016 Defendant Rider dumped the entire contents of the shredder into Plaintiff Murphy’s locker. He did this as punishment for her standing up for herself and not acquiescing to his sexual demands. Prior to this, around 2010, Plaintiff Murphy found a condom on her car when she was the only female working at the time. She tried to report it but the Lieutenant said that “anyone could have done it” and brushed off her concerns.
102. Around 2017 Ms. Manzella was Plaintiff Murphy’s supervisor. Ms. Manzella wrote disparaging remarks on Plaintiff Murphy’s review because, according to Ms. Manzella, Plaintiff Murphy “could not get along with Brett [Rider].” Plaintiff Murphy refused to sign this review.

Plaintiff Murphy was then forced to sign this review by Captain Waring. Plaintiff Murphy indicated that penalizing her and not Defendant Rider was further harassment.

103. 2016-2017 Defendant Rider would say that women should be required to disclose to their employers if they planned to get pregnant because it wasn't right.

104. On one occasion around 2017 Plaintiff Murphy was discussing how she supported the Black Lives Matter movement. Defendant Rider overheard and came up to her and said Colin Kaepernick was a "fucking n*****." Defendant Rider said sexism and racism does not exist anymore. The next day there was a sign put up on lockers that said protesters should stand on train tracks. Plaintiff Murphy took this as a threat to those who would stand up for their civil rights.

105. Plaintiff Murphy would tell Defendant Rider to stop and that these comments offended her but he would just laugh.

106. Any time there was a female officer Defendant Rider would say the patrols would "run a train on her" meaning that each male officer would take turns having sexual intercourse with the female officer. After female patrol officer Kelly Wright got divorced around 2017 Defendant Rider said it was so the patrol officers could run a train on her.

107. Around 2017 when Plaintiff Murphy was on midnights, Defendant Rider began bringing a teenage girl into dispatch with him. It was extremely inappropriate that this young teenager was at the police station in the middle of the night. He would take her out for cigarette breaks.

108. One night Defendant Rider showed up to work two hours late and intoxicated. Defendant permitted him to work the police radio drunk.

109. Plaintiff Murphy again complained about Defendant Rider's sexual harassment in 2017 to then-Assistant Police Chief Stauffiger. Plaintiff Murphy was working midnights with Defendant Rider at this time. Plaintiff Murphy detailed some of Defendant Rider's behavior, including the

inappropriate touching, the stalking, the pornographic content, showing up at her house unwelcomed and unannounced, and inappropriate sexual comments about Plaintiff Murphy's underage daughter. Stauffiger just shook his head and said he was sorry and assured Plaintiff Murphy he would look into it. Nothing ever came of these complaints. Nothing was done to dissuade or stop Defendant Rider from sexual harassment. Defendant Rider was required to take a one-on-one eight hour course in sexual harassment, but he never did and Defendant never followed through on this requirement.

110. Plaintiff Murphy found out that after this complaint, Defendant Rider began harassing other women as well. Defendant permitted Defendant Rider to take three newly-hired women in his personal vehicle for training despite Plaintiff Murphy's complaints of sexual harassment against Defendant Rider.

111. Defendant Rider would repeatedly discuss women's grooming habits to the entire room. He would ask each female employee: "What do you have going on down there?" He would ask about other women who were not working. Defendant Rider would reply his "preference is bald, but he wouldn't mind a landing strip."

112. Defendant Rider made a vulgar comment about another woman, speculating on her grooming habits, saying: "she probably looks like she had Buckwheat in a leglock."

113. Around 2018 Defendant Rider would repeatedly email a video of individuals with Down Syndrome performing a play and put in the subject line the name of a maintenance worker who he thought one of the individuals in the play resembled and repeatedly laugh about it.

114. Around 2019 Defendant Rider announced to the room that a co-worker's girlfriend did not groom herself and that when the co-worker had sex with her for the first time he had to "use a weedwhacker to find it."

115. Defendant Rider would never call women by their names. He would make up a derogatory name to call them, such as calling Trish “trash” or Westermeyer “westermule.” He would call Plaintiff Murphy “muff master flex.”
116. Around 2020, Defendant Rider would sing to Plaintiff Murphy to the tune of the Folger’s coffee commercial: “the best part of waking up is Cliff Parks in your muff.”
117. By 2020 Defendant Rider had moved on to sexually harassing and assaulting other women, but the comments remained constant. He would discuss women’s “meat flaps” and that he wanted to try “standing 69.”
118. In 2020 Defendant Rider would routinely mock a maintenance employee with a disability, complaining it was a waste of town resources that he could only clean “in one circle.”
119. Plaintiff Murphy ultimately complained about Defendant Rider’s sexual harassment to every single supervisor she had, including Scot Czubaj, Linda Chase, Joanne Roussie, Jim Stauffiger, and Captain Waring.
120. None of these individuals, or anyone else at Defendant for that matter, took any action to prevent Defendant Rider’s sexual harassment or protect Plaintiff Murphy from this behavior despite her repeated complaints.
121. Defendant Rider made it impossible for Plaintiff Murphy to get work done unless she acquiesced to his inappropriate sexual conduct and sexual harassment.
122. Defendant Rider ruined Plaintiff Murphy’s career.
123. Defendant permitted Defendant Rider’s reign of terror for his approximately 18 years of employment. Countless women were affected by Defendants’ callous indifference and lack of remedial measures. Despite countless complaints from numerous employees, Defendant did not

terminate Defendant Rider until after he had been arrested and charged with multiple counts of rape of his co-workers, among other crimes.

124. Plaintiff Murphy faced continued retaliation throughout the fall of 2020 due to her complaints of discrimination and sexual harassment. She was ostracized by supervisors and colleagues and bullied by Defendant Rider's girlfriend, Supervisor Diedre Manzella.
125. Plaintiff complained to Director of Labor Relations Eileen Fleming about retaliation on September 21, 2020.
126. On September 28, 2020 Plaintiff met with Captain Haug to complain about retaliation, particularly from Supervisor Manzella. Captain Haug said there was nothing he could do because seven or eight people had already complained to him about a hostile work environment. This was approximately half the staff.
127. On October 2, 2020 Plaintiff Murphy arrived for the day shift and neither Leanne Reuman nor Ms. Manzella would acknowledge or speak to her. That morning, Ms. Reuman left without passing on important work information to Plaintiff Murphy. Later that day Plaintiff Murphy complained to Linda Chase that most of the midnight shift was refusing to speak to her.
128. On October 20, 2020 at shift change Ms. Manzella was again dismissive of Plaintiff Murphy. Plaintiff Murphy said "good morning" to her specifically and she turned her back without saying a word.
129. On November 2, 2020 Plaintiff Murphy was relieving Ms. Manzella at shift change and Ms. Manzella bumped into Plaintiff Murphy with her bag.
130. Supervisor Manzella continued her hostile retaliatory treatment toward Plaintiff and other victims throughout the fall of 2020.

131. On November 3, 2020 Plaintiff Murphy complained to Captain Haug via email about retaliation she had been suffering. He met with Plaintiff Murphy on November 4, 2020 to go over the contents of her email complaint. Defendants took no action in response to Plaintiff Murphy's complaints.
132. On November 4, 2020 Plaintiff Murphy had a two hour meeting with the Town's attorney and Director of Labor Relations Eileen Fleming to complain about discrimination and continuing retaliation.
133. Plaintiff Murphy complained to Captain Haug on November 10, 2020 that she did not feel safe at work due to the retaliation and hostile work environment.
134. On November 14, 2020 Plaintiff Murphy suffered a panic attack over the continued retaliation and hostile environment at work.
135. Plaintiff Murphy complained to Director of Labor Relations Eileen Fleming by email about retaliation, a hostile work environment, and feeling unsafe at work on numerous occasions, including on November 7 and November 10, 2020, January 15, 2021, and February 24, 2021. Fleming ignored her complaints and took no action to alleviate the discriminatory, harassing behavior complained of.
136. Around November 20-22, 2020, Plaintiff Murphy suffered two more instances of retaliation. First, she was denied access to the dispatch room and was the only day shift employee made to stand outside the room for 15 minutes. The second instance of retaliation and harassment that occurred that weekend was the stack of KenTon Bee newspapers with Defendant Rider's mugshot on the front page displayed on the table Plaintiff was made to wait at. Being singled out and having to look at her abuser's face once again was extremely triggering. Plaintiff Murphy went to complain to the lieutenants on duty. Lieutenant Pat Day was condescending and

dismissive, repeatedly stating to Plaintiff Murphy: "It's just a newspaper." Plaintiff Murphy left, sobbing and feeling physically ill.

137. Plaintiff Murphy was constructively discharged on March 1, 2021 as a result of the intolerable working conditions perpetuated by Defendants as well as continued retaliation by Defendant and co-workers for her complaints of discrimination and sexual harassment. Defendants ignored Plaintiff Murphy's complaints and were aware of the intolerable working conditions yet did nothing to remedy them.

138. On June 10, 2021 Plaintiff Murphy became aware that Defendant Rider was attempting to have her murdered.

139. To date, Defendant has not paid Plaintiff three weeks of owed vacation time or her longevity check.

140. As a result of the discrimination, Plaintiff Murphy has suffered with severe nightmares and has been diagnosed with post-traumatic stress disorder (PTSD), anxiety, insomnia, and has suffered from exacerbated depression. The PTSD, anxiety, and insomnia were all a direct result of Defendants' illegal behavior.

FIRST CAUSE OF ACTION

Sexual Harassment of Plaintiff Murphy in Violation of New York State Human Rights Law (Executive Law, Article 15), § 296(1) Against Defendants.

141. Plaintiff Murphy repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.

142. Sexual harassment based upon a hostile work environment exists under Executive Law § 296 (1) when "the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the terms or conditions of employment" (*Vitale v. Rosina Food Prods.*, 283 AD2d 141, 143 [2001], quoting *Harris v Forklift Systems, Inc.*, 510 US

17, 21 [1993]. *Eastport Associates, Inc. v. New York State Div. of Human Rights*, 71 A.D.3d 890, 891, 897 N.Y.S.2d 177 (2010).

143. Defendants created a hostile work environment for Plaintiff Murphy based upon sexual harassment by subjecting her to sexual assault by Defendant Rider repeatedly.

144. Defendants forced Plaintiff Murphy to endure a workplace that was permeated with discriminatory intimidation, ridicule, and insult. This discriminatory intimidation, ridicule, and insult was severe.

145. This discriminatory intimidation, ridicule, and insult was severe in the form of repeated sexual assaults and sexually inappropriate conversations and statements by Defendant Rider.

146. Based on the foregoing, Plaintiff Murphy has stated a cause of action for sexual harassment against Defendants.

SECOND CAUSE OF ACTION

Tort of Sexual Assault as to Plaintiff Murphy in Violation of NY CPLR § 213-c against Defendants.

147. Plaintiff Murphy repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.

148. Plaintiff Murphy was repeatedly sexually harassed, sexually assaulted, and raped by Defendant Rider on the occasions mentioned above.

149. The most recent rape occurred in 2018.

150. This occurred both at Defendant and elsewhere, including Plaintiff Murphy's home.

151. Plaintiff Murphy did not consent to engaging in sexual intercourse with Defendant Rider.

152. Plaintiff Murphy was irreparably harmed by Defendant Rider's rape and sexual assault of her and has suffered, and continues to suffer, monetary and emotional harm for which she is entitled to an award of damages.

153. Based on the foregoing allegations, Plaintiff Murphy has stated a cause of action for sexual assault against Defendants.

THIRD CAUSE OF ACTION

Discrimination Based Upon Sex as to Plaintiff Murphy in Violation of New York State Human Rights Law (Executive Law, Article 15), § 296(1) Defendants.

154. Plaintiff Murphy repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.

155. Executive Law § 296 prohibits discrimination against an employee in the workplace because of that employee's sex. A prima facie case of sex discrimination is established when a Plaintiff Murphy can show: 1) membership in a protected class; 2) that she was qualified for her position; 3) she was subjected to an adverse employment action; and 4) under circumstances that give rise to an inference of discrimination.

156. As to the first element, Plaintiff Murphy is female.

157. As to the second element, Plaintiff Murphy is qualified for her position.

158. As to the third element, Plaintiff Murphy suffered adverse acts by Defendants subjecting Plaintiff Murphy to sexual harassment, a hostile work environment, and sexual assault and by placing Defendant Rider in a position to sexually harass and sexually assault Plaintiff Murphy on countless occasions.

159. As to the fourth element, Defendants' sexual assaults by Defendant Rider and the other above discriminatory comments and sexual harassment give rise to an inference of discrimination.

160. Based on the foregoing, Plaintiff Murphy has stated a cause of action for sex discrimination and hostile work environment against Defendants.

FOURTH CAUSE OF ACTION**Retaliation as to Plaintiff Murphy in Violation of New York State Human Rights Law
(Executive Law, Article 15), § 296(1) Against Defendants.**

161. Plaintiff Murphy repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.
162. To establish a prima facie case of retaliation, a Plaintiff Murphy must show: “(1) she has engaged in protected activity, (2) her employer was aware that she participated in such activity, (3) she suffered an adverse employment action based upon her activity, and (4) there is a causal connection between the protected activity and the adverse action.” *Matter of Abram v. N.Y. State Div. of Human Rights*, 71 AD3d 1471, 1474 (4th Dept 2010).
163. Plaintiff Murphy engaged in protected activity known to Defendants when she put Defendant on notice of having been sexually harassed and sexually assaulted by her supervisor Defendant Rider on countless occasions.
164. Plaintiff Murphy complained about this conduct on numerous occasions, which Defendants did nothing to rectify or address.
165. Defendants retaliated against Plaintiff Murphy by refusing to rectify the sexual harassment, protect her from Defendant Rider, and giving her poor performance reviews.
166. There was close temporal proximity between the above-mentioned actions and complaints of discrimination, establishing causation.
167. Based on the foregoing, Plaintiff Murphy has stated a cause of action for retaliation against Defendants.

FIFTH CAUSE OF ACTION**Sexual Harassment of Plaintiff Hickok in Violation of New York State Human Rights Law (Executive Law, Article 15), § 296(1) Against Defendants.**

168. Plaintiff Hickok repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.
169. Sexual harassment based upon a hostile work environment exists under Executive Law § 296 (1) when “the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the terms or conditions of employment” (*Vitale v. Rosina Food Prods.*, 283 AD2d 141, 143 [2001], quoting *Harris v Forklift Systems, Inc.*, 510 US 17, 21 [1993]. *Eastport Associates, Inc. v. New York State Div. of Human Rights*, 71 A.D.3d 890, 891, 897 N.Y.S.2d 177 (2010).
170. Defendants forced Plaintiff Hickok to endure a workplace that was permeated with discriminatory intimidation, ridicule, and insult. This discriminatory intimidation, ridicule, and insult was severe.
171. This discriminatory intimidation, ridicule, and insult was severe in the form of decades of sexual harassment despite Plaintiff Hickok’s countless complaints to Defendants.
172. Based on the foregoing, Plaintiff Hickok has stated a cause of action for sexual harassment against Defendants.

SIXTH CAUSE OF ACTION**Discrimination Based Upon Sex as to Plaintiff Hickok in Violation of New York State Human Rights Law (Executive Law, Article 15), § 296(1) Against Defendants.**

173. Plaintiff Hickok repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.
174. Executive Law § 296 prohibits discrimination against an employee in the workplace because of that employee’s sex. A prima facie case of sex discrimination is established when a

Plaintiff Hickok can show: 1) membership in a protected class; 2) that she was qualified for her position; 3) she was subjected to an adverse employment action; and 4) under circumstances that give rise to an inference of discrimination.

175. As to the first element, Plaintiff Hickok is female.
176. As to the second element, Plaintiff Hickok is qualified for her position.
177. As to the third element, Plaintiff Hickok suffered adverse acts by Defendants subjecting Plaintiff Hickok to sexual harassment and a hostile work environment and by placing Defendant Rider and others in a position to harass Plaintiff Hickok on countless occasions.
178. As to the fourth element, Defendants' above discriminatory comments and sexual harassment of Plaintiff Hickok give rise to an inference of discrimination.
179. Based on the foregoing, Plaintiff Hickok has stated a cause of action for sex discrimination and hostile work environment against Defendants.

SEVENTH CAUSE OF ACTION

**Retaliation as to Plaintiff Hickok in Violation of New York State Human Rights Law
(Executive Law, Article 15), § 296(1) Against Defendants.**

180. Plaintiff Hickok repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.
181. To establish a prima facie case of retaliation, a Plaintiff Hickok must show: "1) she has engaged in protected activity, (2) her employer was aware that she participated in such activity, (3) she suffered an adverse employment action based upon her activity, and (4) there is a causal connection between the protected activity and the adverse action." *Matter of Abram v. N.Y. State Div. of Human Rights*, 71 AD3d 1471, 1474 (4th Dept 2010).

182. Plaintiff Hickok engaged in protected activity known to Defendants when she put Defendant on notice of having been sexually harassed and subjected to a hostile work environment by Defendant Rider and others on countless occasions.

183. Plaintiff Hickok complained about this conduct on numerous occasions, which Defendants did nothing to rectify or address.

184. Defendants retaliated against Plaintiff Hickok by refusing to rectify the sexual harassment or to protect her from Defendant Rider and her other harassers.

185. There was close temporal proximity between the above-mentioned actions and complaints of discrimination, establishing causation.

186. Based on the foregoing, Plaintiff Hickok has stated a cause of action for retaliation against Defendants.

EIGHTH CAUSE OF ACTION
Constructive Discharge

187. Plaintiff Murphy and Plaintiff Hickok repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.

188. A constructive discharge occurs when the employer, rather than acting directly, deliberately makes an employee's working conditions so intolerable that the employee is forced into an involuntary resignation.

189. Defendants, through the above conduct, deliberately made Plaintiff Murphy's and Plaintiff Hickok's working environment so intolerable that they had no choice but to resign. A reasonable person in these employees' shoes would also have felt compelled to resign.

190. Based on the foregoing allegations, Plaintiff Murphy and Plaintiff Hickok state a cause of action for constructive discharge against Defendant.

NINTH CAUSE OF ACTION
Breach of Contract

191. Plaintiff Murphy and Plaintiff Hickok repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.
192. Based on the aforementioned facts and circumstances, Defendant breached its express and/or implied agreement(s) with Plaintiff Murphy to provide her a safe workplace environment free from sexual harassment and sexual assault. Defendant did so by permitting Defendant Rider to sexually assault and sexually harass Plaintiff Murphy during her employment.
193. Based on the aforementioned facts and circumstances, Defendant breached its express and/or implied agreement(s) with Plaintiff Hickok to provide her a safe workplace environment free from sexual harassment. Defendant did so by permitting Defendant Rider and others to sexually harass and otherwise subject Plaintiff Hickok to a hostile work environment during the entirety of her employment.
194. As a direct and foreseeable consequence of these breaches, Plaintiff Murphy sustained damages including, without limitation, emotional distress, and legal ramifications of Defendants' conduct. As a result of the foregoing, Plaintiff Murphy is entitled to damages in an amount to be determined at trial plus attorney's fees, expenses, costs, and disbursements.
195. As a direct and foreseeable consequence of these breaches, Plaintiff Hickok sustained damages including, without limitation, emotional distress, and legal ramifications of Defendants' conduct. As a result of the foregoing, Plaintiff Hickok is entitled to damages in an amount to be determined at trial plus attorney's fees, expenses, costs, and disbursements.
196. Based on the foregoing allegations, Plaintiff Murphy and Plaintiff Hickok state a cause of action for breach of contract against Defendant.

TENTH CAUSE OF ACTION
Tort of Negligence

197. Plaintiff Murphy and Plaintiff Hickok repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.
198. In New York, to establish a cause of action for negligence, a Plaintiff must show: (1) the defendant owed a cognizable duty to the Plaintiff, as one who was a foreseeable Plaintiff; (2) the defendant breached his duty to the Plaintiff; (3) the defendant's breach was the actual and proximate cause of the Plaintiff's damages; and that (4) the Plaintiff suffered legally cognizable injury or damages.
199. Here, as for the first element, Defendants owed Plaintiff Murphy a duty of providing a safe environment free of harassment, assault, and sexual violence while interacting with her. Ms. Murphy was a foreseeable Plaintiff Murphy.
200. As for the second element, Defendants breached their duty to Plaintiff Murphy by harassing her, subjecting her to vulgar text messages, sexually assaulting her, and raping her.
201. As for the third and fourth elements, Defendants' breach was the actual and proximate cause of Plaintiff Murphy's damages; Plaintiff Murphy suffered emotional distress damages as a result of Defendant's conduct.
202. Here, as for the first element, Defendants owed Plaintiff Hickok a duty of providing a safe environment free of harassment, assault, and sexual violence while interacting with her. Ms. Hickok was a foreseeable Plaintiff Hickok.
203. As for the second element, Defendants breached their duty to Plaintiff Hickok by harassing her and subjecting her to inappropriate sexual comments.

204. As for the third and fourth elements, Defendants' breach was the actual and proximate cause of Plaintiff Hickok's damages; Plaintiff Hickok suffered emotional distress damages as a result of Defendants' conduct.

205. Based on the foregoing allegations, Plaintiff Murphy and Plaintiff Hickok state a cause of action for negligence against Defendant.

ELEVENTH CAUSE OF ACTION

Hostile Work Environment Based Upon Sex in Violation of New York State Human Rights Law (Executive Law, Article 15), § 296(1) Against Defendants.

206. Plaintiff Murphy and Plaintiff Hickok repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.

207. It is an unlawful discriminatory practice for an employer to subject any individual to harassment because of a protected class, regardless of whether such harassment would be considered severe or pervasive under precedent applied to harassment claims. Such harassment is an unlawful discriminatory practice when it subjects an individual to inferior terms, conditions or privileges of employment because of the individual's membership in one or more protected categories.

208. Based on the foregoing allegations, Plaintiff Murphy and Plaintiff Hickok state a cause of action for hostile work environment against Defendant.

INJURY AND DAMAGES

209. As a result of the acts and conduct complained herein, Plaintiffs suffered tremendous emotional pain, suffering, inconvenience, injury to her reputation, loss of enjoyment of life, and other non-pecuniary losses. Plaintiffs have experienced severe emotional and physical distress, as described above.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request a judgment against the Defendants:

- a. Awarding Plaintiffs compensatory damages for mental, emotional and physical injury, distress, pain and suffering and injury to her reputation in an amount to be proven;
- b. Awarding Plaintiffs economic damages of lost wages and medical expenses;
- c. Awarding Plaintiffs punitive damages;
- d. Awarding Plaintiffs attorney's fees, costs, and expenses incurred in the prosecution of this action;
- e. Awarding Plaintiffs such other and further relief that this Court may deem equitable, just and proper to remedy the Defendant's unlawful employment practices.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally in an amount to be determined at trial plus interest, punitive damages, attorney's fees, costs, and disbursement of action, and for other such relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury for all issues triable of right by a jury in this case.

Dated: Buffalo, New York

August 4, 2021

By: _____
Lindy Korn, Esq.
Catherine McCulle, Esq.
Attorneys for Plaintiffs
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

JENNIFER MURPHY,
VALERIE HICKOK,

Index No. _____

Plaintiffs,

v.

VERIFICATION

TOWN OF TONAWANDA POLICE DEPARTMENT, *and*
BRETT RIDER *individually,*

Defendants.

Jennifer Murphy, under penalty of perjury, deposes and says:

I have read the attached *Complaint* captioned in this matter and find it to be true to my knowledge, except as to matters alleged upon information and belief, which I believe to be true.

Jennifer Murphy
JENNIFER MURPHY,

Sworn before me on this 4th day of August, 2021

C. Mally
Notary Public



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

JENNIFER MURPHY,
VALERIE HICKOK,

Index No. _____

Plaintiffs,

v.

VERIFICATION

TOWN OF TONAWANDA POLICE DEPARTMENT, *and*
BRETT RIDER *individually,*

Defendants.

Valerie Hickok, under penalty of perjury, deposes and says:

I have read the attached *Complaint* captioned in this matter and find it to be true to my knowledge, except as to matters alleged upon information and belief, which I believe to be true.



VALERIE HICKOK

Sworn before me on this 4th day of August, 2021



Notary Public

