

IN THE IOWA DISTRICT COURT IN AND FOR SCOTT COUNTY

MALLORY HOYT BAGBY,

Plaintiff,

v.

CITY OF DAVENPORT, IOWA;
DAVENPORT CIVIL RIGHTS
COMMISSION; LATRICE LACEY,
(individually and in her official capacity); TIM
KELLY, (individually and in his official
capacity); CODY ELIFF, (individually and in
his official capacity); MIKE MATSON,
(individually and in his official capacity);
MICHAEL GUSTER, (individually and in his
official capacity); MALLORY MERRITT,
(individually and in her official capacity); and
ALISON FLEMING, (individually and in her
official capacity),

Defendants.

Case No. _____

**PETITION AT LAW AND
JURY DEMAND**

Plaintiff Mallory Hoyt Bagby (“Bagby”), by and through her undersigned counsel, and for her Petition against Defendants City of Davenport, Iowa (the “City”), Davenport Civil Rights Commission (“DCRC”), Latrice Lacey (“Lacey”), Tim Kelly (“Kelly”), Cody Eliff (“Eliff”), Mike Matson (“Matson”), Michael Guster (“Guster”), Mallory Merritt (“Merritt”), and Alison Fleming (“Fleming”), collectively, “the Defendants”, states as follows:

PROCEDURAL REQUIREMENTS

1. On November 12, 2024, Bagby timely filed a complaint with the Iowa Civil Rights Commission (“ICRC”).
2. The ICRC issued a right-to-sue letter on January 21, 2025.

3. Bagby timely filed this lawsuit within 90 days of receiving the administrative release and otherwise exhausted all administrative remedies she was required to exhaust.

PARTIES

4. Plaintiff Mallory Hoyt Bagby is an individual and at all relevant times a resident of Davenport, Scott County, Iowa.

5. Defendant City of Davenport, Iowa is an Iowa municipality in Scott County, Iowa, with its City Hall located at 226 West 4th Street, Davenport, Iowa.

6. Defendant Davenport City Rights Commission is a subdivision of the Defendant City of Davenport, with its mailing address at 226 West 4th Street, Davenport, Iowa.

7. Defendant Latrice Lacey is an individual and at all relevant times a resident of Davenport, Scott County, Iowa. All contentions below are asserted against Lacey in her official capacity as Director of the Davenport Civil Rights Commission and against her individually as well.

8. Defendant Tim Kelly is an individual and at all relevant times a resident of Davenport, Scott County, Iowa. All contentions below are asserted against Kelly in his official capacity as Alderperson of the Davenport City Council and against him individually as well.

9. Defendant Cody Eliff is an individual and at all relevant times a resident of Davenport, Scott County, Iowa. All contentions below are asserted against Eliff in his official capacity as Assistant Director of the Davenport Civil Rights Commission and against him individually as well.

10. Defendant Mike Matson is an individual and at all relevant times a resident of Davenport, Scott County, Iowa. All contentions below are asserted against Matson in his official capacity as Mayor for the City of Davenport and against him individually as well.

11. Defendant Michael Guster is an individual and at all relevant times a resident of Davenport, Scott County, Iowa. All contentions below are asserted against Guster in his official capacity as Commissioner of the Davenport Civil Rights Commission and against him individually as well.

12. Defendant Mallory Merritt is an individual and at all relevant times a resident of Davenport, Scott County, Iowa. All contentions below are asserted against Merritt in her official capacity as Interim City Administrator, as Finance Director, and as Human Resources Director for the City of Davenport and against her individually as well.

13. Defendant Alison Fleming is an individual and at all relevant times a resident of Davenport, Scott County, Iowa. All contentions below are asserted against Fleming in her official capacity as Director of Human Resources for the City of Davenport and against her individually as well.

14. Pursuant to the common law of the State of Iowa, and Iowa Code § 670.2, “every municipality is subject to liability for its torts and those of its officers and employees, acting within the scope of their employment or duties, whether arising out of a governmental or proprietary function,” and thus all pleadings against the City of Davenport make it liable under this Code, the Iowa common law, and the doctrine of respondeat superior.

JURISDICTION AND VENUE

15. The Court has jurisdiction over the parties, as all are residents of Iowa, and, as a court of general jurisdiction, has jurisdiction over the subject matter of this lawsuit.

16. Venue is appropriate because the acts of which Bagby complains took place in Scott County, Iowa.

FACTUAL BACKGROUND

Introduction

17. Bagby was Assistant City Attorney for the City from October 12, 2017, to July 26, 2024.

18. During that period, Bagby reported to her direct supervisors Tom Warner (“Warner”), Corporation Counsel and Brian Heyer (“Heyer”), Assistant City Attorney.

19. Bagby, Warner and Heyer were the only attorneys serving in the City’s Legal Department.

20. By City Code, City Counsel hired and fired Corporation Counsel, but Corporation Counsel is required to be nominated to the position by the City Administrator. The City Administrator acts as the operational supervisor of the Legal Department.

21. Bagby’s line of command included Interim City Administrator Mallory Merritt, Mayor Mike Matson and the City Council. As an Alderperson, Tim Kelly had supervisory authority of Bagby and the Legal Department.

22. As an attorney for the City of Davenport representing the City and its employees, Bagby could not file a legal claim against the City while remaining employed as its attorney.

23. DCRC Commissioners are volunteers serving two-year terms, nominated by the Mayor and approved by City Council.

24. By City Code, staff within the Davenport Civil Rights Commission were subject to administrative policies of the City of Davenport.

25. At all relevant times, Latrice Lacey served as the Executive Director of the Davenport Civil Rights Commission. This position was supervised by the Commissioners of the Davenport Civil Rights Commission and the City.

26. Lacey's position had the authority to hire and fire staff and was the supervisor of the staff of the DCRC.

27. Latrice Lacey has used online pseudonyms of LL Lacey, Michael Cullerton, Minya Bitness, Tydah Thsht, Teresa Lacy, and others.

28. At all relevant times, Cody Eliff served as a staff member of the Davenport Civil Rights Commission, eventually serving as the Assistant Director. He was supervised by the DCRC and Lacey.

29. Cody Eliff has used online pseudonyms of CE Diamond, Boots Allen, Diego Pasamelo, and others.

30. Cody Eliff ran a public Facebook group called Davenport Eastside Democrats.

31. Latrice Lacey is a moderator on a Facebook group called Davenport Strong Against Corruption. This group was public until October 2023. It is now a private group. This group was formerly known as The QC Movement Against Corruption.

32. Michael Guster was a DCRC Commissioner and served as the Chairman of the DCRC.

33. Mallory Merritt was the Human Resources Director, then Finance Director, then nominated and approved as the Interim City Administrator for the City of Davenport.

34. Alison Fleming was the Human Resources Director succeeding Mallory Merritt.

35. Bagby was subjected to repeated instances of harassment and discrimination at the hands of City officials (both elected and volunteer) and City employees.

36. Bagby repeatedly alerted the City, including her direct supervisors; City Council; Mayor Matson; Merritt; Fleming and the DCRC that she was being discriminated against and harassed because of her race (white) and sex and gender (female) and that the harassment was intentionally being conducted in order to prevent her from doing her job.

37. Bagby even raised concerns about her own personal safety, yet the City took no action.

38. Instead, Bagby was retaliated against, with the harassment and discrimination only intensifying.

39. Throughout Bagby's career with the City, she was subjected to multiple false complaints made against her by Lacey and Eliff and others at the behest of Lacey and Eliff.

40. Every workplace conflict involving Lacey or Eliff and staff or volunteers that were of a different race or sex or gender than Lacey and/or Eliff was attributed by Lacey and/or Eliff to racial differences or by Lacey as sexual harassment.

41. Every single interaction between Bagby and Lacey or Bagby and Eliff after mid-2018 led to a complaint against Bagby that falsely and without any basis in fact or reality stated that Bagby was discriminatory or harassing.

42. Bagby was never made aware of any other Human Resource complaint against her by any employee other than Lacey or Eliff.

43. Bagby consistently had exemplary performance reviews throughout her tenure with the City.

44. Other City employees outside of the Legal Department filed Human Resource complaints against Lacey and Eliff.

45. No City employee outside of DCRC employees spoke to the media about Bagby or posted negative comments about Bagby online.

46. No defendant is aware of any negative comments Bagby made online about any coworkers or City volunteers.

47. Bagby could not perform her job without Lacey and/or Eliff accusing her of racism, calling her a bigot or a harasser.

48. For example, Lacey and Eliff repeatedly made assumptions and false accusations based on Bagby's race and sex/gender rather than her actions.

49. Both Lacey and Eliff made numerous public statements defaming Bagby.

50. Bagby would have been subject to discipline if she had engaged in identical behavior as Lacey or Eliff.

51. In April 2024, Lacey publicly disclosed payroll information of Bagby's that was confidential and had not been publicly released. Lacey was not authorized to receive or publicize such information.

52. Even though Bagby complained, the City never disciplined Lacey nor Eliff for their harassing and discriminatory actions.

53. The years of harassment and discrimination culminated in Bagby's forced resignation on July 15, 2024, with her last day of employment being July 26, 2024.

2018-2019

54. In early 2018, Lacey was arrested and charged with a variety of crimes including aggravated misdemeanors. She was later convicted by a jury of harassment as a serious misdemeanor.

55. Neither the City nor the Davenport Civil Rights Commission took any employment action against Lacey.

56. The Davenport Civil Rights Commission did not consult with Human Resources, the City Administrator, the Legal Department, or any other professional within the City's employ in determining whether to take employment action against Lacey.

57. Upon information and belief, any other department director or high-ranking employee who had pending criminal charges for aggravated misdemeanors would have had employment action taken against them, up to termination.

58. In late 2018 and early 2019, issues arose when the terms of three DCRC commissioners expired and new commissioners were duly appointed by the Mayor.

59. Lacey openly opposed this transition.

60. Attorney Richard Davidson, from the Lane & Waterman law firm provided an opinion to the City that the DCRC commissioner appointments expire upon the end of the term and that the three new DCRC commissioners were lawfully appointed and confirmed.

61. Even though Bagby did not provide this opinion, Lacey and Eliff held this opinion against her.

62. In retaliation for the opinion (that Bagby did not author, but Lacey and Eliff attributed in part to her) Eliff filed a bogus complaint with Human Resources against Bagby.

63. Bagby was required to sit for an interview with Mallory Merritt, who at the time was the Human Resources Director.

64. Merritt interviewed other City employees, which caused some employees to approach Bagby about Eliff's bogus allegations.

65. Despite Eliff's assertion that Bagby was harassing him, Eliff accessed Bagby's public calendar notices for the room reservations in City Hall and attended hearings that Bagby had arranged so that he could attend those same meetings.

66. In the coming weeks, the DCRC sent a City staff member a witness questionnaire to their personal/home address. The witness questionnaire was regarding the employee's official duties.

67. The City staff member requested that Bagby intervene and was upset that they were receiving mail to their home address while simultaneously having their work product investigated.

68. Lacey and Eliff refused to acknowledge Bagby's role as an attorney for the staff member or even that the staff member was allowed to have representation.

69. Lacey reported Bagby via email to the Department of Housing and Urban Development (HUD) and alleged that she was interfering with DCRC investigations.

70. Bagby responded to HUD that she was not interfering.

71. Lacey then filed a Human Resources complaint against Bagby because Bagby communicated with HUD and further alleged that Bagby had interfered with the DCRC investigation.

72. Lacey's complaint was investigated by Human Resources.

73. In response to the complaint, Corporation Counsel agreed to a set of rules for interaction between the Legal Department and DCRC for future complaints involving City staff. Mainly, that any employee could request the assistance of the Legal Department when they receive a questionnaire from DCRC related to their employment and that the City agreed that employees were required to respond.

74. Eliff then alleged that Bagby was told she could no longer communicate with DCRC on any matter. Bagby never received any such direction nor would that have been a productive outcome in mediating a workplace relationship.

75. When Lacey and Eliff's bogus complaints did not achieve the desired outcome, Eliff and Lacey began to make accusations against Bagby on Facebook via lightly veiled pseudonyms, including calls to file attorney ethics complaints against the staff of the City's Legal Department, including Bagby.

76. Approximately a week after making that call online, on or about June 5, 2019, Susan Greenwalt ("Greenwalt") filed an ethics complaint against Bagby with the Iowa Attorney Disciplinary Board using documents provided directly to her by Lacey and repeating the claims that Eliff and Lacey had made online.

77. On information and belief, Greenwalt made this complaint at Lacey's encouragement and request.

78. The documents submitted by Greenwalt indicated that they had been printed or otherwise saved from Lacey's email and the substance of the documents included confidential case file information.

79. At no point since the creation of the documents had Greenwalt been a member of the DCRC or otherwise authorized to receive or view the material.

80. The ethics complaint against Bagby was dismissed outright, but Bagby still carries the stigma of having a complaint filed.

81. In December 2019, at the request of the DCRC Commissioners, Bagby attended a DCRC board meeting.

82. Even though Bagby was requested to be at the meeting, Lacey made several dismissive and hostile gestures toward Bagby.

2020-2022

83. Approximately a few days before or the day prior to the January 2020 regularly scheduled DCRC meeting, Eliff filed a complaint with Human Resources alleging that Bagby attended the December 2019 DCRC meeting to harass him.

84. Eliff was not at the December 2019 board meeting.

85. Days after Bagby learned Eliff had filed this complaint, Eliff approached Bagby as she waited for the elevator. He stood immediately behind Bagby in a posture that made Bagby feel physically intimidated.

86. Days after this, Bagby saw Eliff immediately behind her in traffic, presumably because they both left work around the same time. Bagby, knowing that Eliff had made repeated complaints against her, became concerned that close proximity in traffic would lead to another Human Resources complaint against Bagby. Bagby pulled her car over to the side of the road and waited for two cycles of traffic lights to pass in order to ensure that Eliff and Bagby's paths did not cross in traffic again.

87. Even though the City had earlier determined, with support of its outside counsel's opinion, that the DCRC commissioners' terms had expired, the former commissioners refused to step down and the City was required to seek a declaratory judgment. *City of Davenport, Iowa v. Greenwalt, et al.* (Case No. CVCV300137).

88. In March 2020, Lacey attempted to intervene on behalf of the former commissioners.

89. It is unclear if Lacey was filing suit against the City in her official capacity as Director of the DCRC or personally. In her motion to intervene Lacey stated: "Lacey serves as the Director and Legal Counsel for the Davenport Civil Rights Commission."

90. Even though she represented herself as a City of Davenport employee in her motion to intervene, on information and belief, Lacey did not make any efforts to notify the City that she would be adverse to the City.

91. After the district court ruled that the Mayor could rightfully replace the DCRC commissioners and that Lacey did not have standing to be in the lawsuit, Lacey's harassment of Bagby only increased.

92. During the April 2021 DCRC regular meeting, the Communications Division staff member who normally recorded the meetings was not allowed into the online meeting.

93. That staff member requested a copy of the video recording and was denied and then asked Bagby to intervene.

94. Upon review of the meeting agenda, Bagby saw that DCRC administrative rules were discussed. Bagby became concerned that the Communications Division staff member's access had been denied in order to conceal changes to the DCRC's administrative rules.

95. Bagby was required to file a formal open records request for the video recording and the administrative rules. Inter-department requests like this are incredibly rare because departments should be able to coordinate open communication.

96. In response to Bagby's open records request, on June 1, 2021, Lacey responded with a 92-page letter that served to harass, belittle and abuse Bagby. The letter was sent to the DCRC Commissioners, City Council, Mayor, Warner, the City Administrator and other City staff.

97. Bagby immediately emailed Mallory Merritt, Christina Mondanaro-Murphy, Alison Fleming and Tom Warner about Lacey's harassment and forwarded them the harassing email and letter.

98. There was no investigation into Lacey's harassing letter.

99. Bagby was so distraught by the letter and the accusations contained within that she missed one of her children's team practices, even though she was the coach.

100. Bagby found out she was pregnant on June 2, 2021. Her pregnancy was soon classified as high-risk.

101. Nevertheless, even with the stress of Lacey's hostile commentary, Bagby continued to remain professional, and continued to work toward obtaining the necessary video.

102. On June 17, 2021, Lacey filed another false complaint against Bagby, this time claiming Bagby had not responded to Lacey's open records request made on June 1, 2021.

103. On July 13, 2021, Lacey discussed her false complaints of harassment during an open meeting for the DCRC.

104. There was a lengthy newspaper article published alleging the harassment and tying it to Bagby by name.

105. Bagby, Mayor Matson, and at least one other City staff member received a phone call from the Quad City Times asking about Bagby's harassing conduct as described by Lacey during that DCRC meeting.

106. Lacey spoke to the reporter of the newspaper, discussed the internal complaint and provided statements to the newspaper.

107. The Quad City Times articles had severe implications on Bagby's reputation.

108. Lacey is quoted in the Quad City Times article calling Bagby "unprofessional" and "retaliatory" and claimed that Bagby's actions were "a continuation of a pattern of harassment." None of these allegations were true.

109. Lacey's false internal complaint was unfounded, but the City took no action against Lacey for making this false complaint.

110. Failure to investigate or take remedial action is a violation of the City's own policy against false complaints.

111. The City's harassment policy states: "Individuals who intentionally report false claims with the purpose of damaging the individual or organization's reputation will be subject to separate disciplinary investigation."

112. Because Lacey was allowed to make false and harassing statements about Bagby without any consequence, Lacey continued her harassment of Bagby.

113. In an administrative hearing regarding the open records request, Lacey's legal argument to the Public Information Board began by falsely stating that Bagby had taken a

position on behalf of the City, not for any legal basis but simply because Bagby was sexist and racist.

114. Lacey's statement to the Iowa Public Information Board was false and defamatory.

115. The hearing was open and was attended by local government officials, attorneys and journalists.

116. The continuous harassment, false statements, and threats of further negative publicity or harassment impacted Bagby's health and well-being and the well-being of her high-risk pregnancy.

117. Bagby's complaint of Lacey's conduct received no investigation despite Bagby providing an audio recording of the meeting to Warner and Fleming.

118. Bagby complained to Fleming and to Warner that the treatment by Lacey was causing undue stress on her and her pregnancy.

119. Lacey's harassment and the lack of any response or action by the City caused Bagby to miss family outings and caused emotional distress. Bagby sought mental health treatment because of this emotional distress.

120. Bagby had her baby and was on parental leave from January 7, 2022, to April 5, 2022.

121. When Bagby returned from parental leave, the harassment and the City's failure to address the harassment Bagby was facing continued.

2023

122. On April 14, 2023, Warner received an email that a case had been filed in his name with the Department of Inspection and Appeals. Eliff had filed the case.

123. Warner requested that Bagby investigate why he was named without his authorization.

124. Bagby discovered that there were significant evidentiary failings and the case was unsupported.

125. Bagby provided Warner with the information and he “gave Mallory Bagby the task to remove my name from the case which had been filed with the Iowa Department of Inspection & Appeals with my name attached to it without my knowledge.”

126. Bagby contacted the Iowa Department of Inspection and Appeals and had Warner’s name removed.

127. In every monthly Director’s Report of the Davenport Civil Rights Commission since this instance, Lacey has included a line item, “Legal Department’s refusal to accept Commission referral.”

128. After Bagby complied with her supervisor Warner’s request, Eliff began another hostile campaign against her on Facebook.

129. Eliff, using a thinly veiled pseudonym, made false and defamatory statements. For example, he falsely claimed that Bagby was physically intimidating him.

130. Eliff would later file yet another false complaint to Human Resources regarding this issue. His complaint was investigated. He received no discipline for either filing a false complaint nor for filing a legal document in the name of another without authority to do so.

131. On September 27, 2023, Bagby presented an issue to the City Council. She was heckled the entire time she spoke.

132. On October 4, 2023, an “Anonymous Participant” posted in The QC Movement Against Corruption, “Mallory the city attorney. . . has also apparently harassed the civil rights department for years. FYI, there’s a pattern. The civil rights department is led by a black person.” This post was liked by two of Lacey’s pseudonyms, Lacey LL and Minya Bitness.

133. This was posted approximately one hour prior to that night’s City Council meeting at which Bagby was again scheduled to present to City Council.

134. Bagby, upon seeing the post, immediately emailed a screenshot to Fleming and Warner. Bagby did not receive a response or acknowledgment from Fleming.

135. Bagby then located Warner and told him that she was very upset about the post, that she could not speak at the City Council meeting that night as planned, and that she was going to sue Lacey and Eliff for defamation.

136. Warner and Bagby continued the conversation and an alderperson approached to ask Bagby to address specific issues during her presentation. Bagby indicated that she could not perform her duties due to the emotional distress caused by the comment.

137. Bagby still attended the City Council meeting. Despite her normal strong resolve, Bagby felt so uncomfortable in the room, that she had to ask a coworker to sit next to her as a buffer.

138. The next morning, Bagby contacted a mental health professional and was prescribed medication due to her stress, anxiety and emotional distress caused by her work environment.

139. On October 10, 2023, Bagby filed another complaint against Lacey and Eliff with the City.

140. The October 10, 2023, complaint addressed the harassing and defamatory comments by Lacey and Eliff online and Lacey and Eliff's treatment of Bagby at work.

141. Bagby stated, in part, in that complaint: "I believe the timing of the post last week was to intimidate me from doing my job . . .

142. On information and belief, the City informed Lacey of Bagby's complaint on or about October 10, 2023.

143. On information and belief, the City did not take any action to stop Lacey from intimidating Bagby or Lacey's interference with Bagby's work.

144. Bagby did not receive a response or acknowledgement of the October 10, 2023, complaint before Lacey's next instance of harassment.

145. Bagby was scheduled to give a presentation to City Council on October 11, 2023.

146. After Bagby gave her presentation and the meeting was complete, Lacey stood in the hallway leading to the North exit. In order to leave the building, Bagby had to walk close to Lacey.

147. As Bagby walked past Lacey, Lacey said to Bagby, "You need an escort."

148. At the time of the comment, Bagby considered the comment to be mocking. Based on Lacey's future statements, a reasonable person could interpret the comment to be physically threatening.

149. Bagby was shocked by the comment and stopped in the hallway and turned toward Lacey, but Lacey refused to look at Bagby.

150. During this time, the animus caused by the October 4 “Anonymous Participant” post changed public perception of Bagby, including doxing behavior such as offering a reward for information on Bagby.

151. On October 11, 2023, Bagby filed another complaint against Lacey for making comments to Bagby about her physical safety to Fleming and Warner.

152. The next day, Warner and Bagby spoke about the issue with City Administrator Corri Spiegel (“Spiegel”).

153. A third-party investigator was hired and Bagby sat for a zoom interview on Monday, October 23, 2023. Bagby was required to detail the years of harassment and was required to provide substantial documentation.

154. This process was lengthy and exhausting and designed to dissuade Bagby from making future complaints.

155. This investigatory process caused severe stress for Bagby.

156. For months, Bagby did not receive closure of the complaint.

157. On information and belief, Lacey and Eliff refused to be interviewed.

158. When they did finally sit for an interview, Eliff was allowed to make yet another false complaint against Bagby. Eliff was not disciplined for his false complaint.

159. Being investigated yet again in retaliation for filing a complaint about the harassment against her was humiliating and had a chilling effect on Bagby.

2024

160. On January 10, 2024, Bagby received notice regarding her October 2023 complaint dismissing the allegations and not addressing the root of the toxic environment she had been working in.

161. Bagby felt not only dismissed but vulnerable, as if the hostile undercurrent in the office had been officially sanctioned.

162. Bagby also received a closure letter regarding the complaints against her filed by Eliff. Both closure letters had nearly identical language regarding professionalism.

163. Bagby never received a closure letter or any other written documentation for any of the complaints filed against her previously.

164. Bagby requested a meeting with Fleming to discuss the closure letters. In that meeting, Bagby asked, “Can I make the same posts as they’re making about me?” Fleming responded, “Please don’t.”

165. In retaliation for Bagby’s complaints:

- a. more Facebook posts were made about Bagby by Eliff;
- b. the investigator asked Bagby to detail the years of harassment, a process that was painful and traumatic;
- c. Eliff filed additional baseless and retaliatory complaints against Bagby;
- d. Bagby had to redefend previous complaints against her that HR had investigated years prior;
- e. Bagby learned that Davenport Civil Rights Commissioners stated that being told of their employees’ online conduct was “inappropriate”; and
- f. the conduct was still not admonished.

166. Neither Eliff nor Lacey were disciplined for their conduct, even though it violated the City’s harassment policy.

167. Eliff is male and is not white.

168. Lacey is female and black.

169. Prior to Bagby's October 2023 complaint, none of her complaints had ever been investigated.

170. In comparison, Eliff's and Lacey's complaints about Bagby were investigated.

171. Eliff and Lacey were able to repeatedly make baseless and provable false allegations and were not disciplined.

172. Eliff and Lacey were afforded unnecessary and undue leniency.

February 14, 2024 Harassment

173. On February 14, 2024, the City Council held a regular scheduled meeting set for 5:30 p.m.

174. Bagby was leaving work that same day, alone and heading toward the North exit through a hallway ramp.

175. While Bagby walked toward the ramp she encountered Alderperson Kelly and Jessica Noles ("Noles").

176. Alderperson Kelly and Noles stood at the end of the ramp, blocking Bagby's entrance.

177. Bagby could not get by and said "Excuse me" to Alderperson Kelly and Noles in order to pass.

178. Noles moved.

179. Bagby passed and began walking up the hallway ramp to the exit. Noles said, "Love ya babe!"

180. "Love ya babe!" has become a rallying cry for the supporters of Alderperson Derek Cornette, after he left a voicemail message for Corri Spiegel using that phrase. Spiegel

reported this and other comments when she testified at a hearing to remove Alderperson Cornette from his position on City Council.

181. Bagby, believing that the comment was directed at her, responded that the comment was disgusting and terribly inappropriate.

182. In direct response, Alderperson Kelly said loudly: “Girl, why don’t you speak on something that pertains to you?”

183. Bagby was upset and surprised by Alderperson Kelly’s comment as Alderperson Kelly knew that Bagby was a City employee and the Assistant City Attorney.

184. Bagby said to Alderperson Kelly, “I am an employee here, Mr. Kelly. The comment was inappropriate.”

185. Rather than apologize, Alderperson Kelly mocked Bagby and said “Mallory. Mallory. Mallory.” in a condescending tone.

186. Noles laughed at Bagby and said, “First Amendment.”

187. Brian Heyer (“Heyer”) was inside City Council Chambers along the side opposite from where the interaction with Bagby had occurred. Heyer could hear Alderperson Kelly saying, “Mallory. Mallory. Mallory.” Heyer could not hear Bagby.

188. Alderperson Kelly then complained to Brian Heyer regarding Bagby. Alderperson Kelly did this in City Council Chambers immediately prior to a meeting, which meant that there were individuals from the public and staff members present.

189. That evening, Bagby emailed Human Resources Director Fleming asking how to file a complaint against an alderperson. Bagby received no response.

190. On February 15, 2024, Bagby provided Heyer a written complaint regarding the conduct of Alderperson Kelly the previous evening.

191. Bagby spoke to Heyer and requested that the video of the February 14, 2024, incident be retained in case Bagby needed it to defend her license to practice law.

192. On information and belief, the City did not retain the surveillance video of the February 14, 2024 interaction despite having multiple parties registering cross complaints.

193. The City did not take any action regarding Bagby's February 15, 2024, complaint.

194. Bagby began using the alley to leave the building to avoid additional confrontations.

195. When Bagby brought up her February 15, 2024, complaint to Fleming and the City's outside counsel on June 5, 2024, neither Fleming nor outside counsel had seen the complaint and did not appear to be aware of the complaint.

196. On June 5, 2024, Bagby told Fleming that it was emotionally distressing to file complaints with Fleming and not receive any response.

197. On February 16, 2024, Bagby reported, via email, to Human Resources and her supervisor another post of Eliff's that named Bagby. Bagby specifically indicated in the email that the harassment was causing mental health issues.

198. Bagby received no response or acknowledgement.

199. That evening Bagby suffered severe emotional distress causing the need for familial intervention.

200. On March 6, 2024, in a public comment portion of a City Council meeting Lacey made the statement that the Legal Department, including Bagby was part of the mafia and if they could get away with killing Lacey they would. This was a false and damaging statement about Bagby.

201. On March 13, 2024, in a public comment portion of a City Council meeting Lacey used a phrase implying that Bagby was going to have Lacey lynched. This was a false and damaging statement about Bagby.

202. City Council meetings are not only open to the public in physical attendance, but they are also publicly broadcast via the web and individuals can access past meetings on the City's website.

203. Bagby was subject to doxxing behavior in that her home address and a picture of her home were posted on the Davenport Strong Against Corruption page.

204. On April 10, 2024, Bagby learned that Human Resources attempted to have a meeting with Alderperson Kelly multiple times to discuss the February 14, 2024 incident.

205. At some point between February 14, 2024 and April 10, 2024, Alderperson Kelly finally did appear for a meeting, but brought Lacey.

206. On information and belief, Alderperson Kelly brought Lacey so that she could obtain confidential information about Bagby's complaints and further weaponize Bagby's hardships against her.

207. Lacey intentionally interfered with the investigation or at the very least inserted herself in order to further harass Bagby because of her race, sex and/or gender.

208. When the Iowa House Oversight Committee investigated the City's settlements with Corri Spiegel, Samantha Torres ("Torres") and Tiffany Thorndike ("Thorndike"), the Committee asked the City whether any other employees had complained about the Alderpersons referenced in the underlying settlements.

209. On August 30, 2024, the City responded that no employees, other than Spiegel, Torres and Thorndike had complained about City Alderpersons. However, this

was false, as Bagby had complained about Alderperson Kelly on February 15, 2024, June 5, 2024 and July 12, 2024.

**Lacey's Defamatory Campaign, Improper Access of Information
and Misuse of Funds**

210. On April 4, 2024, Bagby sent a letter to the DCRC commissioners, City Council, and the Mayor, and copied Merritt and Heyer in response to an open records request issued by Lacey on behalf of the DCRC. Bagby was alerting DCRC to ongoing concerns of gross mismanagement and abuse of authority. In Bagby's letter, she stated that Lacey was attempting to financially obligate the DCRC for open records made on her personal behalf and behalf of others and made a request for work for the private benefit or interest of an employee at the DCRC's expense.

211. Prior to Bagby sending the letter, she asked Heyer, Matson, Fleming, and two City Council members to review the letter for substance and style. Minor edits were suggested and Bagby made those edits. Matson requested that the letter be sent to all of City Council with at least half a day's notice before sending to Lacey. Bagby provided the requested notice to Council, Heyer, and Merritt. Bagby received no response from any person and sent the letter.

212. As attachments to the letter, Bagby included another open records request that was made by a member of the public who declined to pay the requisite fee and a later, nearly identical, open records request from Lacey on behalf of the DCRC.

213. On April 5, 2024, in direct response and retaliation to Bagby's letter, Lacey sent a 105-page letter to Bagby and approximately 20 others, including DCRC and City officials, that made defamatory statements alleging professional misconduct, abuse and unethical behavior, all of which were untrue.

214. The allegations were ad hominem attacks and not specific allegations of wrongdoing. The comments were meant to damage Bagby's reputation and cause professional and emotional harm.

215. Immediately after Lacey's letter was emailed, Alderperson Jade Burkholder ("Burkholder") came to Bagby's office to ask questions about the FOIA process.

216. Burkholder, in her tenure as alderperson, had never spoken to Bagby.

217. Burkholder had aligned herself with Lacey.

218. Burkholder's interaction with Bagby in Bagby's office was designed to further harass Bagby. And, on information and belief, Lacey encouraged Burkholder to see Bagby.

219. In the days that followed, Alderperson Reinartz commented to Bagby that the emotional stress would pass. Bagby responded exasperated, "This has been going on for five years." Alderperson Reinartz did not respond nor did he intervene.

220. On April 8, 2024, Bagby responded to Lacey's email stating in part: "In the letter you received on Friday from your Director, in addition to the robust name calling, she accuses me of being incompetent, of professional misconduct, of lacking experience in decorum and professionalism. I meant what I said, I harbor no ill will towards your department. I want to move the relationship forward. In my complaints last fall about the social media posts and related narratives, all I asked was that the behavior stop. Instead, it has gotten worse—even being mocked by Commissioners during your public meeting. You all are the supervisors of the Commission and I encourage you to reach out to verify the claims you are being told by your staff; to quell the waters; and to demand professional and collegial behavior."

221. Bagby specifically notified the DCRC Commissioners that Lacey had threatened her physical safety.

222. The DCRC Commissioners held a meeting on April 9, 2024, where they discussed Bagby.

223. Rather than addressing the complaint, Lacey took it as an opportunity to continue to defame Bagby, calling her complaints “clearly racist actions” – which they were not.

224. During the April 9, 2024 meeting, Commissioner Boyd asked, “Was Mallory Bagby asking anything of us?”

225. Commissioner Michael Guster (“Guster”) responded, “She’s not requesting anything. She’s just being messy.”

226. Guster went on to say that Bagby had “hate and vengeance and vindictiveness dripping from [her] tongue.”

227. Guster and Lacey also stated that Bagby believed in political violence, which is untrue.

228. Lacey, while still discussing Bagby, referred to City employees as liars. For Bagby, serving as counsel to the City, this accusation amounts to an accusation of professional misconduct.

229. On April 10, 2024, Lacey publicly referred to Bagby as a “slanderer” and disclosed during a public meeting that Bagby had received a raise of “\$30,000.” This was false. This “\$30,000” claim was repeated by several others in the following days.

230. Bagby had received a raise in early 2024, but it was not for \$30,000.

231. In her role as Assistant City Attorney, Bagby was aware of public information requests. No request was made regarding Bagby's salary or salary increase, and the salary increase had not otherwise been made public.

232. On April 11, 2024, Bagby complained verbally to both Heyer and Fleming about Lacey's access to Bagby's information and disclosure.

233. Bagby has never been told how Lacey could have accessed Bagby's salary information.

234. On April 17, 2024, Bagby complained about Lacey's conduct to the Iowa State Auditor's Office. Bagby also alerted the Iowa State Auditor that Lacey had announced in that same meeting that she was making direct cash "bonus" payments to her staff out of her own personal funds to reward them for undisclosed conduct.

235. The City was informed about this complaint to the State Auditor on April 30, 2024.

236. Also on April 9 2024, the DCRC released its meetings in which the DCRC stated that Bagby sent DCRC an "inappropriate letter."

Bagby Placed on Retaliatory Forced Administrative Leave

237. On April 10, 2024, a City Council meeting was held in which the contracts for Merritt and Heyer were discussed.

238. Also on April 10, 2024, Bagby alerted Dick Davidson ("Davidson"), from Lane & Waterman, outside counsel to the City, and Mayor Matson of a conflict-of-interest issue regarding the contract negotiation for Interim City Administrator Mallory Merritt.

239. Bagby notified Attorney Davidson and Matson that she was concerned that Merritt was directing the negotiation of her own employment contract.

240. Bagby explained that Merritt should not be the point of contact for her own contract negotiation, that she could not represent both herself and the City during the negotiation, and that as City Council had voted down the first iteration of her employment contract, the position was clearly adverse.

241. Bagby alerted both Attorney Davidson and Matson that Merritt's actions were an abuse of authority.

242. Bagby also raised the same concerns about Heyer's agreement to Attorney Davidson and Matson.

243. Bagby had raised these concerns to Heyer previously.

244. In the months prior, Bagby had also raised concerns regarding Merritt's husband being appointed to a department head position without any application process, an appointment that coincided directly with the dates of Corri Spiegel's departure; Merritt's hiring and usage of outside counsel without the knowledge of the Legal Department; and the method in which Merritt had been named Interim City Administrator.

245. Bagby had reported these concerns to Fleming, Matson, Heyer, and Warner.

246. At one point, Merritt's husband asked Bagby to sign off on a financial document because Heyer was not available and the normal course of having the Finance Director sign the change order was unavailable to him because the Finance Director was his spouse. Bagby declined, indicating that she had no access to any financial systems to verify whatever it was that he was asking her to sign. Merritt's spouse should have known that Bagby did not have authority or access to independently verify the information. Bagby was uncomfortable with the request.

247. Bagby had also raised concerns regarding the failure of Merritt to allow the Legal Department to hire another attorney despite one attorney retiring in January 2024 and one attorney planning to retire at the end of April 2024. Bagby was the only attorney left in the Legal Department.

248. Bagby raised concerns to Heyer and Fleming that Merritt's apparent intended outsourcing of Corporation Counsel roles would violate Davenport Municipal Code 2.40.050(B), which states "Corporation counsel shall be a full-time employee of the City and shall not engage in the private practice of law."

249. Bagby also raised concerns to City Council about Merritt's activities.

250. Merritt knew that Bagby had raised concerns about her, as Merritt began to limit her interactions with Bagby and require that Bagby follow a strict chain of command and report any issues directly through Heyer rather than Merritt.

251. The April 10, 2024 City Council meeting became out of control to the point that a member of the public shouted, "Who's in charge of this circus?" And Lacey shouted in response, "The animals!"

252. Lacey was allowed to remain at the meeting after this outburst.

253. Alderperson Kelly began to speak about his February 14 interaction with Bagby and the resulting investigation.

254. Bagby was not listed on the agenda.

255. Alderperson Kelly stated, "Mallory Bagby yelled at me."

256. Alderperson Kelly's statement was not true.

257. Discussion of City staff without that discussion being first listed on the agenda is inappropriate and may lead to violation of that staff member's rights under Iowa Code § 21.5(i).

258. No council member or staff member with a microphone called for point of order.

259. In response, Bagby said to Alderperson Kelly, "You called me 'girl'."

260. Because of Bagby's statement, Fleming forced her to leave Council chambers and directed Bagby to leave City Hall.

261. Bagby declined to leave City Hall, indicating that she had already arranged a phone call with outside counsel to discuss Merritt's contract not being passed.

262. Fleming told Bagby not to discuss the matter.

263. Bagby reminded Fleming that Bagby did not report to Fleming and that Bagby had professional responsibilities.

264. Fleming followed Bagby to her office in the Legal Department and Heyer arrived shortly after. Fleming told Heyer to direct Bagby to not have any discussions with outside counsel and Fleming left the office.

265. Fleming had no supervisory authority over Heyer or Bagby.

266. Heyer indicated that the conversation could likely wait until morning and left the building. Heyer did not direct Bagby to not call outside counsel.

267. Even if Heyer directed Bagby as such, he lacked authority to direct Bagby to not report abuse of power or conflicts of interest.

268. Bagby attempted to talk Matson who told Bagby to "get a good lawyer" and refused to talk with her further.

269. Bagby did talk with outside counsel Dick Davidson and informed him of her concerns involving the contract negotiation. She advised that Davidson needed to find a separate point of contact with the City regarding the employment contracts of Merritt and Heyer. Bagby suggested using Matson or another council person as they did not report to either Merritt or Heyer.

270. The next day, on April 11, 2024, Bagby was placed on a forced administrative leave that extended fifteen weeks, from April 11, 2024, to July 26, 2024.

271. The forced administrative leave was in and of itself retaliatory.

272. Bagby was placed on leave less than 24 hours after she took several actions protected by the Iowa Civil Rights Act, the First Amendment of the Iowa Constitution, and Iowa whistleblower protections, including:

- i. speaking out against the discriminatory treatment Alderperson Kelly took against her;
- ii. objecting to gender-based harassment by Alderman Kelly and the public in her workplace; and
- iii. alerting the City's outside counsel and City staff of conflict-of-interest issues regarding the negotiation and pay of the interim City Administrator Mallory Merritt.

273. At the time Bagby was placed on leave, she was told that it was to investigate her actions. Fleming and Heyer heavily implied that the leave would last at most three days.

274. Bagby asked what she should put as her out of office reply. Fleming responded, "We'll take care of it." No one placed an out of office reply on Bagby's email for weeks and then it was only at the insistence of Bagby.

275. At the time of the leave, Bagby was in the middle of settlement negotiations on a pending lawsuit.

276. The lack of response by Bagby could lead to her violation of her duty to be prompt and diligent as provided by the Iowa Rule of Professional Responsibility.

277. The day after Bagby was placed on leave, Alderperson Reinartz held a public ward meeting and stated, “How we handle the legal department will be reasonably evident within a week. The issue with Mallory Bagby is being dealt with today and tomorrow. Alderperson Kelly and I had this conversation earlier this morning. I assured him that something was gonna occur. I wouldn’t lie to him.” Bagby lives in Reinartz’s ward and presumably her neighbors were at the meeting.

278. The Alderperson’s discussion was a violation of Bagby’s privacy rights and detrimental to Bagby’s reputation.

279. The week after Bagby was placed on administrative leave, Alderperson Kelly went to the childcare center of Bagby’s children. This childcare center is not in Kelly’s ward and he was not requested to go to this facility by the owners of the facility. Kelly knew that Bagby’s children attended this facility because she previously had to recuse herself from providing advice on a legal matter between the facility and the City.

280. On information and belief, Alderperson Kelly going to the childcare center was an effort to harass and intimidate Bagby.

281. Prior to Bagby’s administrative leave, she made complaints about how the City and/or its officials were treating her on or about the following dates: 10/29/2019; 6/1/2021; 8/19/2021; 10/4/2023; 10/10/2023; 10/11/2023; 2/14/2024; 2/15/2024; 2/16/2024; 4/4/2024; 4/8/2024; and 4/11/2024.

282. After seven weeks of leave, on May 25, 2024, Bagby was provided a letter that listed “charges” against her. The first allegation was that Bagby was “unprofessional” for alerting City Council and DCRC about Lacey’s improper record requests and then for attempting to resolve the situation with Lacey by requesting mediation and for raising issues about Alderperson Kelly’s harassment of her. The second allegation was that Bagby was “insubordinate” for contacting Dick Davidson to report the conflict-of-interest issue. Both charges contained incorrect facts.

283. Although Bagby attended an interview with the City as requested, this letter outlining the “charges” against her was not discussed.

284. Bagby was not asked a single question about her behavior and was not provided any indication as to what “behavior” was being investigated for seven weeks.

285. Bagby was also informed that yet another complaint had been filed against her and she would be required to sit for further investigation with another, new separate outside counsel. It was not until she arrived at the interview that she learned that Lacey had filed a complaint against her. Although Bagby was never allowed to review or see the complaint, her understanding was that Lacey complained that Bagby’s objection to being called “girl” is in itself racist.

286. In total, Bagby sat for two lengthy interviews in the 15 weeks of her forced administrative leave, but was provided no closure or communication indicating when the leave might end or the “investigation” might be complete.

287. After the interview on June 5, 2024, which occurred in City Hall, Alderperson Burkholder went to Bagby’s office and asked to see her. As an Alderperson, Burkholder had never asked to see Bagby and had only spoken to Bagby once before. When the office

administrator asked what the meeting would be regarding, Burkholder said that she wanted to ask about Bagby's children.

288. On information and belief, Bagby had been seen in City Hall and Burkholder was sent by Lacey, Kelly, or Eliff to the Legal Department in an effort to further harass Bagby.

289. During the forced administrative leave, the position of Corporation Counsel was posted and the hiring process was complete.

290. By City Code, the position of Corporation Counsel is hired by a vote of City Council, but requires a recommendation by the City Administrator.

291. Bagby's forced administrative leave had a chilling effect on Bagby's application for the position of Corporation Counsel and Bagby did not apply because she had been placed on leave by the very person who would need to recommend her for the position.

292. Bagby was qualified for the position of Corporation Counsel.

Further Retaliation While On Leave

293. Bagby was on leave for an unprecedented fifteen weeks, ending only when she resigned.

294. While on administrative leave, the City barred Bagby from accessing her work emails or performing any work duties.

295. Bagby had no advance notice of being placed on administrative leave and had no time to prepare or wind up her law practice.

296. As Assistant City Attorney, Bagby had several cases in which she represented the City filed before the Scott County Court, the U.S. District Court for the Southern District of Iowa and several state and federal administrative agencies.

297. Additionally, Bagby would be directly assigned misdemeanor cases.

298. After placing Bagby on leave, the City neglected to set up any out-of-office response on her email.

299. On information and belief, no person reviewed or responded to any incoming emails received by Bagby's work email.

300. By way of example, Bagby's work email received an invoice from PACER, a federal court filing system. This invoice went unpaid until a physical late notice was mailed. All accrued fees in PACER were based on Bagby's employment with the City.

301. The City did not properly cover Bagby's cases for the City.

302. For months, even though Bagby alerted the City to the issue, Bagby continued to be named as attorney of record in misdemeanor and civil infraction cases despite Bagby having no authority to act on behalf of the City.

303. The City failed to properly address representation, putting Bagby's law license at jeopardy.

304. After the City failed to take action, Bagby was forced to individually review hundreds of cases in EDMS in order to file motions for withdraw on open cases. Bagby filed motions to withdraw on over sixty open cases, many of which had been filed after Bagby was placed on forced administrative leave.

305. Bagby was required to appear in person before a judge to explain why she was withdrawing from tort cases without knowing who the City would be appointing as counsel in her place. The process was professionally embarrassing for Bagby.

306. The City would not assist with the transition of administrative cases.

307. To date, it is still unknown whether the City has removed or substituted Bagby from the administrative cases that Bagby has specifically identified from memory.

308. Bagby requested a copy of the list of cases assigned to her. The City responded that such a list was attorney work product. The list has previously been disclosed in open records requests and is required by City Code 2.40.040(P).

309. After being forced to resign, Bagby attempted to make arrangements to pick up her personal items prior to her last date of employment.

310. On information and belief, Mallory Merritt was allowed to examine and review Bagby's personal items, including but not limited to notes Bagby kept regarding Merritt's conflict of interest in negotiating her own contract with the City.

311. Bagby was not permitted to collect her belongings prior to her last day despite Bagby having given two weeks' notice.

312. Because Bagby did not have access to her belongings, such as suit jackets and personally purchased standard office equipment, she was required to purchase items prior to beginning employment at her subsequent employer. The unnecessary frantic nature prior to making a good impression on her first day caused Bagby emotional distress.

313. Bagby's subsequent employer's ethical rules required that she disclose any cases pending in a federal jurisdiction. The administrative cases Bagby had identified were pending in federal jurisdictions and Bagby was required to request a waiver of the

employer's policies. Disclosing these issues to her new employer caused Bagby emotional distress.

314. In October 2024, an anonymous participant posted on a public Facebook group Quad City Movement, heavily associated with Davenport Strong Against Corruption, that Bagby received her new employment improperly through an Alderperson. This was false. The rumor was repeated on the City of Davenport's Facebook page a few days later and the City did not remove the comments. The comments were associated with a posting for Bagby's prior position. The post was targeted for attorneys and allegations of misconduct would be seen by Bagby's professional community.

315. In response to the ongoing public animosity months after she left employment with the City, Bagby filed a complaint with the Iowa Civil Rights Commission.

316. In early 2025, a news reporter contacted Bagby and stated that he had a copy of Bagby's civil rights complaint.

317. Bagby did not provide the complaint to any third parties including the media.

318. The reporter ran a story discussing Bagby's complaint and specifically naming Bagby.

319. The only person quoted by the reporter that would have had a copy of the complaint was Lacey.

320. On information and belief, Lacey or her agent provided a copy of Bagby's civil rights complaint in an effort to retaliate and further harass and defame Bagby.

321. It is a violation of the City of Davenport Administrative Policy to have disclosed the substance of the civil rights complaint.

322. Bagby's skip level supervisor, the Chief Counsel, saw the news article on the morning airing. Close family friends of Bagby's saw the news article on the evening airing. Multiple coworkers asked Bagby about the news article.

323. The disclosure of the complaint had the intended effect of harassing Bagby.

324. Lacey purportedly filed a civil rights complaint against Bagby on August 7, 2024.

325. Bagby never received notice from ICRC, EEOC or the City.

326. In that same complaint, Lacey named the City and DCRC as respondents. As the Director of the DCRC she would be responding to her own complaint.

327. On information and belief, Lacey was allowed to file legal action against the DCRC and remain as its attorney, responsible for responding to her own personal complaint.

COUNT I

Violation of the Iowa Civil Rights Act, Iowa Code Chapter 216: Discrimination and Hostile Work Environment: Sex, Gender and Race

(All Defendants)

328. Bagby repeats and realleges the allegations in paragraphs 1 to 327, as if fully set forth herein.

329. Under the provisions of the Iowa Civil Rights Act, it is unlawful for an employer or person to discriminate against or harass an employee on the basis of her race or on the basis of her sex or gender.

330. Bagby is white and female.

331. Bagby's sex, gender and/or race were motivating factors in the discrimination.

332. Defendants discriminated against Bagby for all the reasons stated in the paragraphs above and specifically by making false public statements about Bagby, failing to investigate her complaints, failing to discipline those discriminating against her, failing to discipline those harassing her, failing to end the discrimination and/or harassment, failing to discipline those making false complaints against her, placing her on administrative leave for retaliatory and discriminatory reasons, failing to make efforts to cover her cases while on administrative leave, putting her law license in jeopardy, treating her differently than her comparators, stopping her ability to apply for the Corporation Counsel position, subjected her to a hostile work environment and constructively discharged her.

333. Bagby suffered adverse actions when Defendants for all the reasons stated in the paragraphs above and specifically by making false public statements about Bagby, failing to investigate her complaints, failing to discipline those discriminating against her, failing to discipline those harassing her, failing to end the discrimination and/or harassment, failing to discipline those making false complaints against her, placing her on administrative leave for retaliatory and discriminatory reasons, failing to make efforts to cover her cases while on administrative leave, putting her law license in jeopardy, treating her differently than her comparators, stopping her ability to apply for the Corporation Counsel position, subjected her to a hostile work environment and constructively discharged her.

334. A causal connection exists between Plaintiff's race, gender and/or sex and the adverse employment actions.

335. As a proximate result of Defendants' actions, as outlined above, Plaintiff has in the past and will in the future suffer mental and emotional harm, anguish, humiliation, embarrassment, loss of dignity, lost wages and benefits, and lost earning capacity.

336. Iowa Chapter 216 was clearly established law at the time of the Defendants' violations of law.

WHEREFORE, Plaintiff prays for the following relief:

- a) The Defendants' conduct be declared to be in violation of Plaintiff's rights under and pursuant to Iowa Code §216.6;
- b) Defendants and their officers, employees, agents, attorneys, successors and assigns, and those acting in concert therewith, be permanently enjoined from any conduct violating Plaintiff's rights, or the right of others similarly situated, as secured by Iowa Code §216.6, and that the Court order such other injunctive relief as necessary to prevent the Defendants from continuing their discriminatory practices and to protect others similarly situated;
- c) Plaintiff be awarded compensatory damages;
- d) That Plaintiff be made whole by providing her appropriate lost earnings and benefits with pre- and post- judgment interest and other affirmative relief;
- e) That Plaintiff be made whole by providing her compensation for past and future mental and emotional harm and anguish and affirmative relief;
- f) Plaintiff be awarded reasonable attorney's fees and costs incurred in prosecuting this action; and
- g) That Plaintiff be awarded such additional and further relief as is just and proper.

COUNT II

Violation of the Iowa Civil Rights Act, Iowa Code Chapter 216: Retaliation

(All Defendants)

337. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 336, as if fully set forth herein.

338. Defendants subjected Plaintiff to discriminatory and harassing conduct.

339. Plaintiff's sex, gender and/or race were motivating factors in the discrimination and/or harassment.

340. Plaintiff complained to the City, her supervisors and the Davenport Human Rights Commission about the discrimination and harassment she suffered and otherwise opposed practices made unlawful by the Iowa Civil Rights Act.

341. Defendants retaliated against Bagby for all the reasons stated in the paragraphs above and specifically by making false public statements about Bagby, failing to investigate her complaints, failing to discipline those discriminating against her, failing to discipline those harassing her, failing to end the discrimination and/or harassment, failing to discipline those making false complaints against her, placing her on administrative leave for retaliatory and discriminatory reasons, failing to make efforts to cover her cases while on administrative leave, putting her law license in jeopardy, treating her differently than her comparators, stopping her ability to apply for the Corporation Counsel position, subjected her to a hostile work environment and constructively discharged her.

342. Bagby's complaints of discrimination and harassment were a factor motivating Defendants' retaliation against her.

343. Complaining about discrimination and harassment are protected activities.

344. Defendants' retaliation is a cause of the injuries suffered by Bagby.

345. Chapter 216 was clearly established law at the time of the Defendants' violations of law.

WHEREFORE, Plaintiff prays for the following relief:

- a) The Defendants' conduct be declared to be in violation of Plaintiff's rights under and pursuant to Iowa Code § 216.11;
- b) Defendants and their officers, employees, agents, attorneys, successors and assigns, and those acting in concert therewith, be permanently enjoined from any conduct violating Plaintiff's rights, or the right of others similarly situated, as secured by Iowa Code §216.11, and that the Court order such other injunctive relief as necessary to prevent the Defendants from continuing their retaliatory practices and to protect others similarly situated;
- c) Plaintiff be awarded compensatory damages;
- d) That Plaintiff be made whole by providing her appropriate lost earnings and benefits with pre- and post- judgment interest and other affirmative relief;
- e) That Plaintiff be made whole by providing her compensation for past and future mental and emotional harm and anguish and affirmative relief;
- f) Plaintiff be awarded reasonable attorney's fees and costs incurred in prosecuting this action; and
- g) That Plaintiff be awarded such additional and further relief as is just and proper.

COUNT III

Aiding and Abetting in Violation of the Iowa Civil Rights Act, Iowa Code Chapter 216

(all Defendants)

346. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 345, as if fully set forth herein.

347. Defendants are “persons” as that term is defined in the Act.

348. Under the Act, it is unlawful for any person to “intentionally aid, abet, compel, or coerce” another person to engage in discriminatory, harassing, or retaliatory conduct against any employee on the basis of her sex, gender or race or because she engaged in protected activity.

349. Bagby notified Defendants regarding their aiding, abetting, compelling, or coercing the discrimination based on Plaintiff’s sex, gender and/or race on multiple occasions.

350. After Bagby complained about discrimination and harassment on the basis of her sex, gender and/or race Defendants retaliated against Plaintiff by further subjecting her to a hostile work environment.

351. Plaintiff was protected under the Act because of her race (white) , because of her sex/gender (female), and because she engaged in protected activity.

352. Defendants are liable to Plaintiff for aiding and abetting one another and the City’s discrimination, harassment, and retaliation against Plaintiff.

353. As a proximate result of Defendants’ actions, as outlined above, Plaintiff has in the past and will in the future suffer mental and emotional harm, anguish, humiliation, embarrassment, loss of dignity, lost wages and benefits, and lost earning capacity.

354. Chapter 216 was clearly established law at the time of the Defendants’ violations of law.

WHEREFORE, Plaintiff prays for the following relief:

- a) The Defendants' conduct be declared to be in violation of Plaintiff's rights under and pursuant to Iowa Code 216.11;
- b) Defendants and their officers, employees, agents, attorneys, successors and assigns, and those acting in concert therewith, be permanently enjoined from any conduct violating Plaintiff's rights, or the right of others similarly situated, as secured by Iowa Code 216.11, and that the Court order such other injunctive relief as necessary to prevent the Defendants from continuing their discriminatory practices and to protect others similarly situated;
- c) Plaintiff be awarded compensatory damages;
- d) That Plaintiff be made whole by providing her appropriate lost earnings and benefits with pre- and post- judgment interest and other affirmative relief;
- e) That Plaintiff be made whole by providing her compensation for past and future mental and emotional harm and anguish and affirmative relief;
- f) Plaintiff be awarded reasonable attorney's fees and costs incurred in prosecuting this action; and
- g) That Plaintiff be awarded such additional and further relief as is just and proper.

COUNT IV-

Violation of the Iowa Civil Rights Act, Iowa Code Chapter 216 – Constructive Discharge

(All Defendants)

355. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 354, as if fully set forth herein.

356. Defendants engaged in a continuous pattern and practice of sex /gender, race, and harassment and discrimination that resulted in intolerable working conditions, such that Bagby's resignation was a reasonably foreseeable consequence of the insufferable working conditions created by Defendants.

357. Bagby frequently complained about harassment and discrimination, and it was never addressed.

358. Based on the Defendants' pattern of discriminatory and harassing conduct, Bagby reasonably believed there was no possibility that Defendants would respond fairly to her complaints or requests.

359. Defendants' violation of Iowa Code Chapter 216 is a cause of the injuries suffered by Bagby.

360. Chapter 216 was clearly established law at the time of the Defendants' violations of law.

WHEREFORE, Plaintiff prays for the following relief:

- a) The Defendants' conduct be declared to be in violation of Plaintiff's rights under and pursuant to Iowa Code ch.216;
- b) Defendants and their officers, employees, agents, attorneys, successors and assigns, and those acting in concert therewith, be permanently enjoined from any conduct violating Plaintiff's rights, or the right of others similarly situated, as secured by Iowa Code ch. 216, and that the Court order such other injunctive relief as necessary to prevent the Defendants from continuing their retaliatory practices and to protect others similarly situated;
- c) Plaintiff be awarded compensatory damages;

- d) That Plaintiff be made whole by providing her appropriate lost earnings and benefits with pre- and post- judgment interest and other affirmative relief;
- e) That Plaintiff be made whole by providing her compensation for past and future mental and emotional harm and anguish and affirmative relief;
- f) Plaintiff be awarded reasonable attorney's fees and costs incurred in prosecuting this action; and
- g) That Plaintiff be awarded such additional and further relief as is just and proper.

COUNT V

Retaliation and Wrongful Discharge in violation of Public Policy

(All Defendants)

361. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 360, as if fully set forth herein.

362. The First Amendment to the Iowa Constitution protects a municipal employee's speech on a matter of public concern.

363. Iowa Code § 70A.29 protects a municipal employee from retaliation after reporting information that "evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety."

364. Bagby was retaliated against after she reported the abuse of authority of Merritt negotiating her own contract with the City to the City's outside counsel; she reported Merritt's self-service, misuse of authority, and gross mismanagement; she reported Lacey's misuse and abuse of authority; informing the administrative law judge of Eliff's unauthorized filing on behalf of another in a legal proceeding; she spoke out against

Alderson Kelly's harassment of her during a City Council meeting; and she alerted Heyer, Fleming, and the State Auditor of Lacey's abuse of authority and violation of Iowa's public records laws by her access of private information without authorization and Lacey's self-pronounced abuse of authority, violation of law and abuse of funds regarding her making improper bonus payments.

365. The First Amendment of the Iowa Constitution and its application to public employees was clearly established law at the time of the Defendant's violation of the law. *Braunschweig v. Holmes*, 707 N.W.2d 338 (Iowa Ct. App. 2005).

366. Iowa Code §70A.29 is clearly established law at the time of the Defendant's violation of the law.

WHEREFORE, Plaintiff demands judgment against Defendants in an amount which will fully and fairly compensate her for her injuries and damages, for appropriate equitable and injunctive relief, for prejudgment and post judgment interest, for attorney's fees and litigation expenses, for the costs of this action, and for any such relief as may be just in the circumstances.

COUNT VI

Defamation

(City of Davenport, Davenport Civil Rights Commission, Lacey, Eliff,

Kelly and Guster)

367. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 366, as if fully set forth herein.

368. Defendants City of Davenport, DCRC, Lacey, Eliff, Kelly and Guster made statements concerning Bagby's alleging professional misconduct, abuse, unethical behavior,

racist behavior, sex harassment, sexism, incompetence and insubordination.

369. The statements were false.

370. Bagby was not a public figure.

371. Defendants City of Davenport, DCRC, Lacey, Eliff, Kelly and Guster made the statements with malice.

372. Defendants City of Davenport, DCRC, Lacey, Eliff, Kelly and Guster communicated the statements to someone other than Bagby.

373. The statements tended to injure the reputation of Bagby, exposed her to public hatred, contempt or ridicule and injured her ability to earn a living.

374. Damages may also be implied by law from the defamatory per se nature of the defamatory statements.

375. The defamatory statements were knowingly made without investigation or justification and were willfully and wantonly made, with reckless disregard of the rights of Bagby, entitling her to punitive damages against the individual defendants.

376. The defamatory statements proximately caused and continues to cause Bagby damages, including damages to her reputation, emotional distress, lost wages, loss of earning capacity, and general damages that are presumed to result from the communication of libelous statements, and attorney fees.

377. The law of defamation was clearly established at the time of the violation of Defendants City of Davenport, DCRC, Lacey, Eliff, Kelly and Guster. More specifically, Iowa has recognized defamation as a cause of action for over 100 years. *See e.g. Hughes v. Samuel Bros.*, 159 N.W. 589 (Iowa 1916). This has included claims against governmental entities. *Vinson v. Linn-Mar Community School Dist.*, 360 N.W.2d 108 (Iowa 1984).

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Defendants City of Davenport, DCRC, Lacey, Eliff, Kelly and Guster, awarding her pre- and post- judgment, compensatory damages, punitive damages in the individual defendants' individual capacities, costs, attorney fees, and for any other relief deemed appropriate under the circumstances.

COUNT VII

Negligent Supervision and Retention

(City of Davenport, Davenport Civil Rights Commission)

378. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 377, as if fully set forth herein

379. An employment relationship existed between Lacey and the City of Davenport and the Davenport Civil Rights Commission.

380. An employment relationship existed between Eliff and the City of Davenport and the Davenport Civil Rights Commission.

381. Lacey and Eliff repeatedly, for years, engaged in a campaign of harassment, discrimination, defamation and false reports of Bagby.

382. The City and DCRC knew or in the exercise of ordinary care, should have known of Lacey and/or Eliff's inappropriate and unacceptable behavior at the time it occurred.

383. The City and/or DCRC were negligent in failing to adequately train, direct, supervise and/or control Lacey and/or Eliff, such that they would not cause damage to Bagby.

384. The City and/or DCRC were negligent in retaining Lacey and/or Eliff such

that they continued to cause damage to Bagby.

385. Lacey and/or Eliff's inappropriate and unacceptable actions were a cause of damage to Bagby.

386. Negligent supervision was clearly established at the time of Defendant's violations of the law. *Godar v. Edwards*, 588 N.W.2d 701, 709 (Iowa 1999).

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Defendants City of Davenport and DCRC awarding her pre- and post- judgment interest, compensatory damages, costs, attorney fees, and for any other relief deemed appropriate under the circumstances.

COUNT VIII

Intentional Infliction of Emotional Distress

(All Defendants)

387. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 386, as if fully set forth herein.

388. Defendants acted intentionally and outrageously for all the reasons stated in the paragraphs above and specifically by making false public statements about Bagby, failing to investigate her complaints, failing to discipline those discriminating against her, failing to discipline those harassing her, failing to end the discrimination and/or harassment, failing to discipline those making false complaints against her, placing her on administrative leave for retaliatory and discriminatory reasons, failing to make efforts to cover her cases while on administrative leave, putting her law license in jeopardy, treating her differently than her comparators, stopping her ability to apply for the Corporation Counsel position, subjected her to a hostile work environment and constructively discharged her

389. Defendants intended to cause or recklessly disregard the probability of causing emotional distress to Bagby by engaging in the above conduct and by ignoring her repeated complaints of discrimination, harassment and retaliation and her repeated complaints relating to the emotional turmoil it caused.

390. The Defendants' outrageous conduct was a cause of the emotional distress.

391. Defendants' intentional infliction of emotional distress was a cause of injury to Bagby, including but not limited to physical and emotional injury, and a cause of damage to Bagby, including but not limited to past and future medical expenses, past lost earnings, future loss of earning capacity, past and future pain, suffering and loss of enjoyment of life and past and future loss of function of the mind and body.

392. Individual Defendants' conduct constitutes willful and wanton disregard for Bagby's rights, entitling them to recover punitive damages.

393. The law of intentional infliction of emotional distress was clearly established at the time of Defendants' violation. More specifically, this claim is the subject of chapter 2000 of the Iowa Civil Jury Instructions with Iowa case law dating back to the 1970s and citing the 1965 Restatement (Second) of Torts in support of recognizing this cause of action.

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Defendants, awarding her pre- and post- judgment interest, compensatory damages, punitive damages in the individual defendants' individual capacities, costs, attorney fees, and for any other relief deemed appropriate under the circumstances.

COUNT IX

Civil Conspiracy

(All Defendants)

394. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 393, as if fully set forth herein.

395. The Defendants engaged in a civil conspiracy among themselves to violate Bagby's constitutional and statutory rights, defame her and intentionally inflict emotional distress on her, and this conspiracy was a proximate cause of damages to Bagby as set forth herein, and all who so acted are jointly and severally liable for all of these damages.

396. The Defendants intentionally, willfully, and wantonly conspired to disregard the rights and properties of Bagby and are thus jointly and severally liable for punitive damages to punish and deter these individuals and other persons similarly situated from future similar, wrongful conduct.

397. The law of civil conspiracy was clearly established at the time of Defendants' violation. More specifically, Iowa has recognized a claim for civil conspiracy for over 100 years. *De Wulf v. Dix*, 81 N.W. 779 (Iowa 1900).

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against the Defendants, awarding her pre- and post- judgment interest, compensatory damages, punitive damages in the individual defendants' individual capacities, costs, attorney fees, and for any other relief deemed appropriate under the circumstances.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues triable to a jury, pursuant to Iowa R. Civ. P. 1.902.

Dated: April 16, 2025

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