

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

TRACY RHOADS, JESSICA BASTIAN,
SHANNON DUFFY, MEGAN
BURNHARDT, AND CINDY DONAHUE

Case No.

Plaintiffs,

v.

DES MOINES POLICE DEPARTMENT
and the CITY OF DES MOINES,

PETITION AND JURY DEMAND

Defendants.

The Plaintiffs, Tracy Rhoads, Jessica Bastian, Shannon Duffy, Megan Burnhardt, and Cindy Donahue, by and through their attorneys, Newkirk Zwagerman, P.L.C., hereby file the following petition and jury demand:

INTRODUCTION

1. Since the 1990's the Des Moines Police Department (hereinafter "DMPD") has accepted, perpetuated, fostered and encouraged its male officers to sexually harass or sexually demoralize some of its female officers.

2. While there are many good male and female officers at the DMPD, these good officers have their hands tied because there is nothing they can do to help stop the harassment without fear of retribution.

3. The DMPD has a culture of discriminating against and harassing females within the department spanning several decades, which the department as a whole condones and has done nothing to change the culture.

4. The DMPD needs a culture shift starting at the top in order to change the sexually hostile environment and to decrease the gender discrimination that is occurring.

5. The DMPD has known about sexual harassment occurring since the 1990s against some of its officers and has chosen to continue to allow it to occur.

6. The DMPD knows that female officers are treated poorly by male officers and supervisors because they are females and has chosen to allow the behavior to continue.

7. The DMPD knows it holds female officers to a higher standard but allows male officers to perform below department and community standards without repercussions.

8. The DMPD knows it overlooks qualified female officers for promotion and instead promotes less qualified males.

9. The DMPD allows its officers to engage in retaliation and continues its failure to address its second-class treatment of its female officers.

10. Because the male officers are not punished, they continue to sexually harass female officers and engage in gender discrimination and/or retaliation against those who complain.

11. This is evidenced by the fact that even after five women have made internal complaints and external complaints with the Iowa Civil Rights Commission (hereinafter "ICRC") of sexual harassment, gender discrimination, and retaliation, male officers continue to objectify women openly in roll call meetings.

12. Defendant would not take any action as late as August 2021, until a male officer repeated the sexually inappropriate comments in front of the commanding officers for a second time, with Plaintiff Rhoads demanding that something be done.

13. Additionally, Defendant chose to sweep sexual harassment under the rug and support Stew Barnes, a male officer who engaged in repeated sexual harassment of female employees.

14. Stew Barnes was allowed to retire without consequence, despite overwhelming evidence that he engaged in sexual harassment of at least four female employees.

15. Defendant also knew that Stew Barnes was sexually harassing women in the public, including females at a tanning salon and a credit union.

16. Defendant also knew that Stew Barnes was using police resources to find and stalk women in the public, and yet DMPD chose to do nothing.

17. Defendant refused to file charges against Barnes, despite four female employees asking whether charges could be filed.

18. Defendant should have conducted the investigation and found Barnes committed misconduct, which would have made him ineligible for his retirement benefits pursuant to Iowa Code §§ 400 and 411.

19. Despite knowing that Barnes sexually harassed female employees and civilians, the DMPD has allowed Barnes to receive all benefits that dedicated and loyal officers to the department receive, including being honored at a banquet in October amongst other retirees.

20. DMPD allowing Barnes to retire as a member in good standing undermines the great work all the other retired police officers did during their years of employment.

21. DMPD allowing Barnes to retire as a member in good standing undermines all of the great work the current police officers are doing to protect and serve the citizens of Des Moines.

22. The Plaintiffs have no choice but to file this lawsuit, because without court intervention, this conduct will not change.

PARTIES

23. Tracy Rhoads is a resident and citizen of Des Moines, Polk County, Iowa.

24. Jessica Bastian is a resident and citizen of Norwalk, Warren County, Iowa.

25. Shannon Duffy is a resident and citizen of Des Moines, Polk County, Iowa.

26. Megan Burnhardt is a resident and citizen of Waukee, Dallas County, Iowa.

27. Cindy Donahue is a resident and citizen of Des Moines, Polk County, Iowa.

28. Defendant DMPD is located in Des Moines, Polk County, Iowa and employs the Plaintiffs.

29. The City of Des Moines is located in Des Moines, Polk County, Iowa and employs the Plaintiffs

30. The acts of which Plaintiffs complain occurred in Des Moines, Polk County, Iowa.

31. Within 300 days of the acts of which Plaintiffs complain, Plaintiffs filed a complaint with the ICRC against the above-named Defendants.

32. Within 90 days of the filing of this petition, the ICRC issued a right-to-sue letter with respect to Plaintiffs' claims under the Iowa Civil Rights Act.

FACTS

33. All five of the Plaintiffs have experienced and witnessed gender discrimination.

34. Four of the five Plaintiffs have experienced sexual harassment.

35. All Plaintiffs have suffered retaliation for having spoken out against gender discrimination or sexual harassment.

36. Many male officers make sexist comments towards female officers on a regular basis.

37. Many male officers treat female officers like they are not as good at their job as male officers are, despite objective evidence to the contrary.

38. Some male officers use derogatory comments to refer to the female officers.
39. Some male officers call women who are gay, “dykes.”
40. Some male officers make comments that if a woman cuts her hair short that “she must be a dyke.”
41. If a female officer wears makeup, some male officers will make comments about how the female officer wants a sexual relationship with them.
42. Many male officers believe they can treat the female officers as sexual objects as opposed to respecting them for the work they perform.
43. Many officers know that if they treat women like sexual objects or devalue their work based on gender, they will not receive any punishment.
44. Female officers have been passed over for promotion in favor of less qualified males.
45. Female officers are held to a higher standard than male officers.
46. After the female officers complained about sexual harassment, they were blamed for enticing men into sexually harassing them.
47. After the female officers complained about sexual harassment, they were deliberately not selected for a committee that was supposed to create diversity and equity in the department.
48. This committee was a sham and had no intention of actually making things better for female officers.
49. After female officers complained, at least one male who was supportive of them was written up.

50. After the female officers complained to the ICRC, DMPD sent out an email telling officers to make sure they delete their files of any discipline occurring more than two years prior stating, “Take it from several of our employees that have had to learn the hard way. Written, Orals, or Counseling’s that may seem trivial to you will be used in any way possible to misconstrue your intent, character, etc. in a lawsuit.” (emphasis in original).

1. PLAINTIFF TRACY RHOADS

51. Tracy Rhoads (hereinafter “Rhoads”) began her employment with DMPD on June 30, 1997.

52. Rhoads experienced sexually harassing and degrading comments on a monthly and often daily basis since her employment began in the 1990s.

53. Rhoads has complained several times regarding the harassment and gender discrimination she received, but nothing changed, and the harassment continued.

54. Rhoads is filing this lawsuit because despite having raised concerns of sexual harassment and gender discrimination over the years, nothing has changed.

55. Rhoads has now witnessed this same pattern happen to younger female officers, and she can no longer hope that the DMPD will do the right thing and stop the harassment and discrimination.

A. Barnes Sexual Harassment Incident

56. In the fall of 2019, Stew Barnes, Police Union President, started taking an unusual interest Rhoads.

57. Despite having known him for 20 years, and having a professional relationship with him, Barnes approached Rhoads while she was walking to her car, put his phone in her face and said, “Get a load of this.”

58. Barnes was showing Rhoads a picture of himself getting into an above ground swimming pool, and he was completely naked.

59. Barnes then started scrolling through his phone and showed Rhoads more naked photos of him, including “dick pics” (pictures of his penis). In one picture he was standing in a pile of leaves with a rake in his hand completely naked. He explained that he makes bets and wagers with groups of women and that the loser must do naked dares, which included sending and showing naked pictures of himself.

60. Rhoads got in her car and left and tried to ignore what had happened as a strange encounter and hoped he would forget it and leave her alone.

61. In October and November of 2019, Barnes chose to start sending Rhoads text messages asking her to participate in his naked dare game.

62. Rhoads attempted to ignore him or would try to make up excuses to avoid him.

63. Barnes asked Rhoads if she would film him driving naked through Waterworks Park.

64. Rhoads told Barnes she would not film him driving naked in Waterworks Park because he was married, it was illegal, and told him to leave her out of it.

65. Barnes then stopped for about a week and then began texting her again, asking her to join in on his naked dare games.

66. In mid-December, Barnes again started texting Rhoads, and she told him to quit texting her, that she did not date at work, that she did not want to see his “naked shit,” and to just stop.

67. Barnes left her alone for a little while, but the pattern of him texting her and propositioning her to receive and send naked photos started again.

68. One message that Barnes sent Rhoads talked about how he was going to attend “illicit bias training—oopsie” meaning he knew exactly what he was writing and making fun of implicit bias training.

69. Rhoads tried to avoid Barnes as much as possible at work, but it was very challenging for her to do so since his office was in the same space where she would have to go to get the keys for the patrol car.

70. Rhoads would try to ignore him or use a different door to avoid him.

71. Rhoads was trying to manage the harassment herself by ignoring it and telling him to stop, but he was relentless.

72. In approximately July of 2020, Rhoads learned that Barnes was also sexually harassing a woman that worked at their credit union.

73. Rhoads was extremely hesitant to report the sexual harassment.

74. She was hesitant because she had reported instances of sexual harassment in the past, the harassment was not taken seriously, no one was really held accountable for it, and she knew she would risk becoming a target and being retaliated against.

75. In approximately mid July 2020, Barnes sent Rhoads a video of himself.

76. It was clear that prior to August of 2020, that many in DMPD including command, knew about the proclivities of Mr. Barnes, but Rhoads believed she still had to report this behavior.

77. On August 13, 2020, Rhoads reported the harassment to Assistant Chief, Al Tunks.

78. Rhoads asked if Sgt Brian Vance would accompany her to the meeting, but he was not permitted to attend, and the door was shut on him.

79. During the meeting, Rhoads voiced her concerns that she had previously reported sexual harassment in the past and that she had been retaliated against and that she was hesitant to report it this time because of how badly they had screwed up her previous complaints.

80. Rhoads then had a meeting with the Office of Professional Standards (OPS) where she reported the harassment.

81. Around this same time, Rhoads learned that Barnes was also attempting to sexually harass other female officers and employees at DMPD.

82. On August 21, 2020, Rhoads had not heard anything about her complaints or any investigation.

83. Rhoads spoke with Sgt. Lori Neely who accompanied her to Asst. Chief Tunks' office where they inquired about the status of the investigation.

84. Asst. Chief Tunks was dismissive and did not want to speak with them.

85. Asst. Chief Tunks refused to make eye contact with Rhoads.

86. Instead, he watched television and when she said she wanted to know what was going on, he dismissively responded without taking his eyes off the television that "it was done."

87. When Rhoads asked him what that meant, Asst. Chief Tunks said that Barnes had quit, refusing to take his eyes off the television set.

88. On August 22, 2020, Rhoads learned that Sgt. Chapman, Sgt. Nord, and Senior Police Officer (SPO) Quinn began their own investigation because OPS was not investigating properly.

89. Rhoads learned that two other female officers were being harassed by Barnes, SPO Megan Burnhardt and Officer Jessica Bastian.

90. On September 2, 2020, Rhoads learned that a civilian IT employee, Shannon Duffy, was being harassed by Barnes.

91. On September 2, 2020, the DMPD had a catered lunch for the officers and Chief Wingert, Assistant Chief Tunks and some of the Majors attended.

92. Rhoads was very uncomfortable and made her way to the door, when the Chief stopped her and asked her how her day was going.

93. Rhoads put her head down and shook her head, and the Chief walked away from her.

94. That was the only contact the Chief ever had with Rhoads during this time, sending her the clear message that he was not concerned that several of the female officers and employees were being harassed by Barnes.

95. After Rhoads complained and other women came forward to complain, Rhoads was accused by a male coworker of enticing these men to sexually harass her.

96. This type of response is a form of gender bias or victim blaming.

97. Additionally, rather than addressing her complaints of sexual harassment, the only ones to address any kind of sexual harassment was the union, that sent out a message DMPD sent out a message to the department cautioning officers that if they engaged in sexual harassment over social media, they would be caught.

98. The message was clear that it was about social media usage, not about prohibiting sexual harassment.

99. On October 16, 2020, Rhoads was called into HR.

100. HR provided no response about how they were going to prevent sexual harassment in the future.

101. Rhoads also learned that her co-workers were making comments about her that she “sucked in Barnes” (meaning she enticed him into engaging in sexually inappropriate communications) and that then she “turned on him” (meaning she set him up to accuse him of sexual harassment).

102. Because the DMPD did not properly address the sexual harassment, make it known it occurred and was not tolerated by sending a clear message to other officers, the DMPD set up the environment for Rhoads’ coworkers to retaliate against here and engage in victim blaming and victim shaming.

103. Rhoads complained about these comments as well, but no action was taken.

B. Other Incidents of Harassment

104. In 1997, Rhoads was harassed by having an SPO rub his body up against her during inspection every morning.

105. This SPO would also use Rhoads and another female to demonstrate pat downs, handcuffing, and takedowns, as a way to demean the two female officers.

106. Officers, including another SPO, commented to Rhoads about how uncomfortable it was that she was being subjected to all the physical touching, but not one male officer reported it.

107. In December 2000, a sergeant asked Rhoads if he could give her a massage, to which she refused. This same sergeant also asked her for “a shot at the title” (meaning he wanted to have sex with her), which is a line he used with other women.

108. It was later discovered this officer was allowed to retire -much the same way that Barnes was allowed to retire -after he was reported for kissing a DSM Register Reporter and other women from his gym without consent.

109. Rhoads was also harassed and discriminated against by Tom Sullivan, who was assigned to train her, and who made the following comments,

- a. “Who did I piss off, they gave me a fucking woman”,
- b. “Look at my partner’s lesbian haircut” (after Rhoads cut her hair short),
- c. “Dyke”,
- d. He also asked if another female officer was “fur trading” (meaning if she had sex with women).

110. The harassment continued and Rhoads wanted to quit; instead, she was transferred while Sullivan was not.

111. Sullivan received a short suspension, but then Sullivan’s friends retaliated against Rhoads, including cornering Rhoads and telling her, “No one likes you -why don’t you just quit.”

112. During the Spring of 1999 to the Spring 2001, when Rhoads applied for and received the position in the Community and Media Relations Unit, she was accused of sleeping with the Lieutenant of that unit.

113. One officer filed a grievance with the union challenging her hire, despite Rhoads having the necessary qualifications, including a degree with a double major and counseling experience.

114. During Spring 1999 to the Spring 2001, Rhoads was harassed by Councilman Mike McPherson who approached her at a lunch and asked her “You must work out to have a body like that.” He also asked Rhoads’ Lieutenant, “Please, Please, please tell me that she’s not a lesbian.”

115. After September 11, 2001, Rhoads was transferred to the Airport Unit for about 10 months and was told by my sergeant that “when Clay Blanchard grabs your ass, you need to let me know.”

116. In the summer or fall of 2002 Rhoads went back to the Traffic unit where Lieutenant Randy Dawson began asking her out. When she refused, he called her a “crazy, fucking dyke.”

117. After she rejected his advances, Dawson grabbed and forced Rhoads into the restroom where he held her in front of the mirror and told her to look at herself and her “ugly dyke haircut.”

118. Police Officers were present at this time, but no one did anything about the harassment.

119. In July 2003, Lt. Dawson had his son’s football coach come into our office to “check [Rhoads] out.” The next day Lt. Dawson announced in front of everyone that the coach said “Eww, not my type.”

120. Lt. Dawson also took a photo off Rhoads’ bulletin board of her boyfriend and her. He emailed it to about 50 people and wrote, “Look at what a fucking dork Tracy is dating.”

121. A fellow officer, Dennis Rich, made a complaint on Rhoads’ behalf after he realized she was too afraid to come forward.

122. Chief Morton called Rhoads into his office with Lt. Dawson because Lt. Dawson was supposed to apologize. Lt. Dawson said he did nothing wrong and did not know why he was there.

123. Lt. Dawson was promoted to Captain shortly after this situation.

124. Lt. Dawson then went on to harass another female officer and now sergeant, Lori Neely. Lt. Dawson was later allowed to retire without any discipline.

125. In June of 2005, Rhoads was transferred to the OWI squad. Sergeant Cam Moran required that Denise Schafnitz (female) and Rhoads “file papers,” while the male officers got to go out and patrol downtown on a special assignment.

126. In 2007, Rhoads took the detectives’ test.

127. Rhoads was told that she was second on the written score and number one on the interview.

128. Rhoads was passed over for a male officer, Tarry Pote, who was not even in the top ten on the list.

129. In the Spring of 2007, Rhoads went to the Narcotics Unit. Her first day on the job, her complaint about Tom Sullivan was brought up and Rhoads was told by Dan Blom that she should not be there. After this, no officers would partner with her, and she was eventually transferred to another squad.

130. In December 2007, Kirk Bagby grabbed Rhoads’ butt in the food line at the Christmas Party.

131. Rhoads was told by some officers that they would continue to harass her until she left the unit, so she was forced out of that unit and moved units in March of 2008.

132. Rhoads had complained to her Lieutenant who ignored her complaints.

133. Rhoads then started working with Rob Clark who sexually harassed her. Clark would talk about how big his penis was. Rhoads reported the harassment, and nothing was done except to promote Clark to Sergeant shortly after her complaints.

134. In 2011, Sgt. John LePorte started harassing Rhoads and two other female officers.

135. LePorte made inappropriate comments about officers being gay.

136. He made gendered comments to female officers accusing them of taking too long to complete paperwork, when he knew it was not taking female officers any longer than it took male officers.

137. LePorte would follow Rhoads around while she was on duty on the east side of Des Moines, even though he was on duty on the west side of Des Moines.

138. LePorte made efforts to try to physically touch Rhoads.

139. LePorte demanded that Rhoads meet him, gave her two large tubs of coconut oil, and told her it was “excellent for massage.”

140. A fellow officer saw the harassment LePorte was engaging in and filed a report.

141. OPS did not conduct a valid investigation by excluding witnesses that Rhoads identified, and instead interviewed individuals Rhoads did not work with.

142. Rhoads was very upset that they were not taking the investigation seriously and filed another complaint with Captain Dykstra who told Rhoads her complaints were not a big deal and to “relax.”

143. Shortly thereafter, Major Steve Waymire yelled at Rhoads about her complaints and told her that “if you’re so afraid to come to work then you can put on some dress clothes and come file papers in my office.”

144. Rhoads complained again about the harassment and lack of investigation through an attorney, which then prompted LaPorte to get a two-day suspension.

145. Proving that the officers knew the DMPD was not tasking Rhoads' complaints seriously, during roll call, a fellow officer, raised his hand and said, "if anyone wants to grab Tracy's ass you will only get two days off."

146. This comment was met with laughter.

147. In the latter part of 2017, Rhoads found out that Lieutenant Dan Northrup, known as "Dirty Dan," was coming to day patrol.

148. Northrup was called "Dirty Dan" because he was known throughout the department to harass women.

149. Northrup made sexually inappropriate comments to Rhoads.

150. Rhoads reported Northrup's conduct to her captain and was told, that it was out of his control.

151. The harassment continued and Rhoads knew it was not going to stop.

152. In an effort to avoid the harassment, she had stopped wearing makeup.

153. When Rhoads gained weight, she did nothing to try to lose it because she stopped caring about her appearance and was attempting any actions to just have her male coworkers leave her alone.

154. In June of 2017, Rhoads' Captain Dave Huberty said to Rhoads, "what up with this? You used to be skinny," so it did not matter if she gained weight or lost weight, she was constantly looked at as an object rather than an officer.

155. In the summer of 2017, Rhoads cut her hair short again because she was tired of getting comments on her looks on a regular basis.

156. When she walked into roll call with the short haircut, a few guys made comments in disgust of her new haircut.

157. SPO Ross Kline said “oh my God! What did you do? I guess you are done dating men!”

158. In the fall of 2019, Rhoads made several complaints about an officer who wasn't showing up on trips to back up the officers.

159. After a while, she stopped complaining because nothing was done.

160. When another male officer complained about this same officer not backing them up, Rhoads was blamed, with the sergeant stating “What's Tracy bitching about now?”

161. Rhoads was also physically assaulted by an officer when he grabbed her buttocks.

C. August 2021 Sexual Harassment and Retaliation

162. To show that the sexual harassment just will not stop, Rhoads was again sexually harassed by Ben Ihde in August 2021.

163. Rhoads and Ihde were joking about cupcakes in June and July 2021.

164. Ihde told Rhoads that he was going to bring in 30 cupcakes.

165. Ihde told Rhoads that he was going to give her five cupcakes and then ask her if he could get to first base, and if he gave her 10 cupcakes whether he could get to second base.

166. He also said he would give Rhoads all 30 cupcakes if she gave him a hickey.

167. Rhoads told him they were done talking about cupcakes.

168. On August 21, 2021, during roll call, Ihde was explaining an interaction he had with a nurse where he sexually objectified the nurse while derogating her competence as a female professional

169. Ihde made the comment in front of many other officers, including Rhoads, that a nurse did not take a form from him so he “threw the form on the desk, looked at her butt, and walked away.”

170. Rhoads immediately spoke up and asked her superiors if they were going to address it, to which they said they did not hear it.

171. Rhoads asked Ihde later in the day if she had heard him right, in front of her superior officers.

172. Ihde admitted it in front of the superior officers and stated he says things like that to “piss off Lori” -meaning Lori Neely, his female commanding officer.

173. While the complaint was then escalated, it was only escalated because Ihde was confident enough to repeat it in front of the superior officers after Rhoads had already complained about it.

174. Ihde has also made inappropriate comments about women’s breasts.

175. Ihde was allowed to resign instead of being investigated.

176. Rhoads is unaware of any discipline that occurred, which means Ihde is likely free to go to any other department around the Des Moines Metro without providing those departments with information regarding his propensity to sexually objectify females he is tasked to protect and serve.

177. Rhoads has also been retaliated against.

178. She was accosted at a funeral by an officer she named in the civil rights complaint.

179. Male officers made comments that Rhoads was making up the sexual harassment.

180. Male officers made comments that Rhoads was enticing men to sexually harass her so that she could report them.

181. When Rhoads reported these comments, nothing was done.

182. One of the male officers who was supportive of Rhoads and eventually reported what he had learned from Rhoads and about the civilian credit union employee was written up for not reporting the harassment earlier, sending Rhoads a clear message that she should not talk about the fact that she is being sexually harassed or discriminated against because whoever she tells will be disciplined.

183. DMPD intended to silence Rhoads and the other Plaintiff by disciplining their supporters

184. The officers who knew that Barnes and other male officers were sexually harassing women over the years, but those who supported the harassers openly or chose to remain silent, were not written up.

2. PLAINTIFF JESSICA BASTIAN

185. Jessica Bastian (hereinafter “Bastian”) began her employment with DMPD on November 6, 2017.

186. Bastian experienced sexual harassment throughout her employment, most prominently during the summer of 2020.

187. Bastian is filing this lawsuit is because she does not want to be sexually harassed in the future and wants the DMPD to fix the problem so none of the new officers will have to experience sexual harassment.

188. Bastian understands that she will have to deal with sexual harassment over her entire career if she does not speak up now to help put an end to it.

189. Bastian received explicit messages and photographs from SPO and Union President Stew Barnes.

190. Bastian informed SPO Barnes she was not okay with receiving explicit content; however, Barnes continue to message and send photos to Bastian.

191. Bastian made every attempt to avoid Barnes and the harassment.

192. Following Rhoads complaints, Bastian came forward with her complaints of sexual harassment in August of 2020 to Captain Lillie Miller, Sergeant Nord, and Sergeant Chapman.

193. Captain Miller notified the Chief's office and Office of Professional Standards to conduct an interview with Bastian.

194. During this interview it was stated that Barnes' actions were not seen as criminal.

195. No action was taken as a result of her complaint.

196. Bastian had also been approached by a male officer shortly after she started working for DMPD.

197. This officer contacted Bastian through her private Facebook account rather than sending her a work email.

198. This male officer had no reason to contact Bastian privately.

199. Bastian learned this male officer was known to seek out female officers around the station and had been accused of sexual harassment previously, so she deleted his messages and blocked him from her account.

200. On October 16, 2020, Bastian met with HR and was told nothing further was going to happen regarding her complaints.

201. HR had a prepared statement that they attempted to read to Bastian. Bastian interrupted and asked them what they were going to do to ensure this did not happen in the future.

202. Bastian explained to HR that she had not wanted to come forward because of how the department has handled past complaints.

203. Bastian also questioned HR about department sexual harassment policies and repercussions if someone is found to have committed sexual harassment.

204. Bastian was told there was nothing specific and that repercussions are situational.

205. The department's lack of response has caused Bastian to question if it would be worth coming forward with other complaints of sexual harassment.

206. Bastian received an email that stated that if male officers sexually harassed females on social media, they would be caught; the sentiment was not that the DMPD condoned sexual harassment, but instead gave the male officers a head's up that they should not sexually harass females on social media.

207. Additionally, the Department retaliated against Bastian by starting a group within the department that was organized to help support female officers, but Defendants refused to select Bastian and every other female who filed an ICRC complaint to be on the committee.

3. PLAINTIFF SHANNON DUFFY

208. Shannon Duffy (hereinafter "Duffy") worked for DMPD from approximately 1995-2001 in animal control.

209. Duffy returned to the DMPD April 4, 2017.

210. During her time in animal control, Duffy experienced sexual harassment.

211. Duffy did not report the harassment or do anything about it because she thought if she quietly did her job, she would be left alone.

212. Currently, Duffy works in the IT department as a Public Safety Digital Evidence Specialist and has access to the body cameras officers use.

213. Duffy has experienced sexual harassment from SPO and Union President Stew Barnes.

214. At first, conversations between Duffy and Barnes were fairly professional and innocuous.

215. Beginning in August 2019 through August of 2020, Barnes' messages turned explicit, and he sexually harassed Duffy over Facebook messenger.

216. Barnes sent Duffy full frontal nudity photos.

217. He also asked Duffy to make bets and wages with him.

218. Barnes suggested that if he won, Duffy would have to bring him a Dairy Queen Buster Bar but if Duffy won, she would get to drive around with him naked for two minutes.

219. Duffy originally thought this was harmless banter; however, once it became clear Barnes intended a sexually charged relationship, Duffy told him she was not comfortable with it.

220. Barnes told Duffy he would not take it that far but continued to comment about his desire to send Duffy pictures of his penis.

221. The harassment soon got to the point Duffy did not want to answer her phone, becoming nervous whenever it beeped to see who it was.

222. In March of 2020, Duffy told Barnes she was more uncomfortable than comfortable with their conversations.

223. Barnes said he would act accordingly but continued to try and test Duffy's boundaries, sending pictures of his pool or himself sunbathing in the pool through June 2020.

224. Duffy did not initially report Barnes because she wanted the harassment to go away and thought she could handle it herself.

225. After hearing of Rhoads complaints of sexual harassment, Duffy had a conversation with Rhoads and Sgt. Vance regarding her experiences.

226. Sgt. Vance reported the harassment to OPS and Duffy was called for an interview in September of 2020.

227. Duffy was interviewed with Lt. Doty present who is rumored to not work well with women.

228. During the interview Duffy brought up her concerns about Barnes being able to retire in good standing, despite being under investigation.

229. Duffy was told that because Barnes retired, they did not get his side of the story so they could not make a finding that he had sexually harassed anyone.

230. Duffy was told by Sgt. Frentress to “be happy he was gone.”

231. Barnes was in no way held accountable.

232. HR did not contact Duffy for a month after her OPS interview.

233. Duffy then participated in an HR interview where she was told the investigation was complete.

234. Duffy questioned why Officer Barnes was allowed to retire in good standing and why the Chief had not commented on the complaints made against Barnes.

235. No one with any real authority has come forward to say that the allegations against Barnes were real or found.

236. Around October 19, 2020, Duffy found Rhoads in tears in the hallway because she had been told she was being blamed for the sexual harassment.

237. Duffy knew that if Rhoads was being blamed, that she also was being blamed for making complaints of sexual harassment.

238. Duffy understood that nothing would change if male officer could continue to blame female officers for bringing the complaint of sexual harassment instead of blaming the harasser for engaging in improper and illegal behavior at work.

239. Duffy is bringing this lawsuit because she cannot stand by and watch other females in the department be victims of sexual harassment.

4. PLAINTIFF MEGAN BURNHARDT

240. Megan Burnhardt (hereinafter “Burnhardt”) began working for the Des Moines Police Department August 26, 2013.

241. Burnhardt began her employment as a police officer and is currently a Senior Police Officer.

242. Throughout her time at DMPD, Burnhardt has been held to a higher standard than her male colleagues.

243. Burnhardt’s then Lieutenant, now Captain David Seybert, held Burnhardt to higher standard for doing the same things her male co-workers did, such as, criticizing how she performed certain duties.

244. Captain Seybert held her to a higher standard despite Chris Mock telling Captain Seybert that he had trained Burnhardt, and that she was performing the tests how Mock had trained her to.

245. In 2020, Burnhardt took the detective’s test.

246. Despite scoring just as well as many of her co-workers, she was not included in the list of those who made the detectives’ list.

247. In addition to the gender discrimination Burnhardt faced, she also experienced sexual harassment.

248. Between 2017 and 2019 Burnhardt had strictly work-related conversations with now retired Union President and SPO Stew Barnes.

249. In late 2019, Barnes began harassing Burnhardt.

250. Barnes began by asking Burnhardt if she wanted to place a bet on a football game

251. Burnhardt told Barnes she did not like to bet and was not a gambler.

252. Barnes continued to pester Burnhardt about placing a bet.

253. Burnhardt finally agreed and offered \$5.00 towards the wager.

254. After the game, Barnes messaged her and told Burnhardt she needed to pay up by going skinny dipping in the police pool.

255. Burnhardt told him she was not going to do that.

256. Barnes was relentless and continued to pressure her regarding going skinny dipping in the police pool.

257. This happened many times over the course of a few months.

258. Burnhardt would provide excuses such as needing to get home or having her kids with her, hoping Barnes would get the hint.

259. Around June of 2020, Barnes sent Burnhardt a photo of himself laying completely naked in the pool on the raft.

260. Burnhardt did not respond.

261. Barnes then sent Burnhardt two photos of himself riding on a lawnmower completely nude.

262. One photo was full frontal nudity, the other was Barnes sitting, but Burnhardt could tell that he was naked.

263. Barnes told Burnhardt he was riding the lawnmower nude because he had lost a bet.

264. The next photo Burnhardt received was of Barnes completely naked at the police pool.

265. He was sitting on a chair and told Burnhardt it was because of another bet he had lost.

266. Between photos, Barnes continued to ask Burnhardt if she wanted to make a bet with him.

267. Burnhardt would tell him that she had a boyfriend, was happy, and did not want to screw anything up in her relationship or upset Barnes' wife.

268. Burnhardt would change the subject to work, again hoping Barnes would get the hint.

269. Barnes would talk about other things for a while, but he would always circle back to trying to raise sexually inappropriate subjects.

270. At one point, Barnes told Burnhardt that just thinking about what he could do to her made him hard while he was in the tanning bed.

271. While on vacation with family in July of 2020, Barnes continued to send Burnhardt messages.

272. Burnhardt would not read them and instantly deleted them.

273. Burnhardt deleted the messages because she was afraid it would get out and people would think that she was asking for it.

274. Burnhardt felt that if she made an accusation against the Union President that she would be treated poorly by him or the Union if she ever needed help.

275. Burnhardt was worried she would not get fair treatment from the Union.

276. For this reason, Burnhardt chose not to report the harassment or seek help.

277. Burnhardt heard of Rhoads' complaint a few weeks after Rhoads made her complaints.

278. At the time, Burnhardt did not want anything to do with it or her name brought up as she was not in a position to deal with it.

279. After Rhoads made her complaint, the department started asking every female in roll call if they knew anything about it.

280. Burnhardt talked to Collin Quinn, who was acting Sergeant that day, and told him she did not want her name brought up but that she had also received messages from Barnes.

281. Burnhardt then heard that a mentee had also received messages from Barnes.

282. A few days later, Burnhardt talked with Bastian and Duffy about the harassment they received.

283. After this conversation, Burnhardt spoke with Captain Miller who told Burnhardt she did not want her to feel like she cannot report.

284. Miller told Burnhardt to schedule a meeting with OPS and make a formal complaint.

285. Burnhardt talked with OPS in September and told them about the photos Barnes had sent her.

286. There was not much more to the meeting.

287. Burnhardt did not hear anything more about her complaint or any other complaints made by other women until her HR interview.

288. While waiting for further action, Burnhardt heard comments made about Rhoads.

289. These statements were being made to undermine Rhoads' complaints, saying things like "Tracy can be just as bad as the guys with some of the stuff she says."

290. Burnhardt is not aware of Rhoads ever sending other officers naked pictures.

291. Burnhardt's claim of sexual harassment is not just about some harmless banter that takes place between officers.

292. During the HR interview, Burnhardt was told they could not force Barnes to talk as he was allowed to retire.

293. The pension board was not notified of the active department investigation and Barnes was allowed to walk out with his pension intact.

294. Burnhardt was not asked if she wanted to press charges, there was only an internal investigation.

295. The internal investigation was put forth with minimal effort and nothing else was done about the matter.

296. At the end of the HR meeting, Burnhardt and the other women told HR that the way this was handled was setting a precedent that a male officer can sexually harass females and then walk about with full retirement.

297. Burnhardt, like Bastian, was also not asked to be on the diversity and equity committee supporting female officers.

298. Burnhardt is filing this lawsuit is because she does not want any other females to have to go through this kind of harassment.

299. Burnhardt also wants to hold the DMPD accountable and not let DMPD allow a harasser to retire when the harasser is caught committing unlawful activity.

5. PLAINTIFF CYNTHIA DONAHUE

300. Cynthia Donahue (hereinafter “Donahue”) began working for the DMPD December 2, 1991.

301. Donahue began her career with DMPD as a police officer and is current a Lieutenant.

302. Over the years, Donahue has witnessed and experienced how male officers are treated better than female officers.

303. Male officers are given the benefit of the doubt while female officers are distrusted and questioned.

304. Male officers are provided with information to do their job, while female officers are not included on key conversations, perpetrating the “good old boys club” atmosphere and constantly excluding female officers.

305. In January of 2018, Donahue filed a civil rights complaint.

306. Donahue had been supporting a black male officer who was targeted based on race.

307. He was being targeted based on his race and Donahue was being targeted as a result of her support of him.

308. On February 2, 2018, Donahue received a letter from the Iowa Civil Rights Commission stating they had received her complaint.

309. Exactly 10 days later, on February 12, 2018, Donahue was transferred to the airport in retaliation for filing her complaint.

310. The African American male officer was also transferred.

311. Transferring officers to the airport is well known throughout the department to be a form of punishment.

312. Since Donahue has been at the airport, her male supervisor, Captain Mark Wessels and Assistant Chief Tunks, have been unprofessional by ignoring emails, questions, and work-related issues from Donahue.

313. Donahue does not believe Wessels ignores similar requests from her male counterparts.

314. In October of 2018, Donahue had applied and made the Civil Service List for promotion.

315. There were 10 individuals on this list.

316. The list is valid and in effect for two years.

317. During the following two years, Donahue was repeatedly passed over for promotion.

318. Most of the time Donahue was passed over for less qualified males with less experience.

319. The DMPD asked at least two male employees to hold off their retirement so there would not be any openings while that list was still active.

320. Donahue believes this was done so that the list would expire, and she would no longer be able to be selected for promotion.

321. The list expired in October of 2020 and Donahue has not been promoted.

322. In January of 2021, Donahue applied for and made the list for Captain after interviewing with the Civil Service Commission.

323. This list is good for two years until January 18, 2023.

324. On January 26, 2021, Donahue interviewed with Major Dykstra, Major Waymire, and Assistant Chief Tunks for the captain's list.

325. During this interview Donahue let them know she had not had an evaluation in years.

326. Donahue's last evaluation was in September of 2014.

327. Yearly evaluations are used to determine if an officer is qualified for the promotion.

328. Donahue's evaluations were not reviewed before her interview and the committee did not know she had not been evaluated in years.

329. Donahue's evaluations were not reviewed because there was no intention of giving her the promotion due to being an older female with a previous ICRC complaint filed against the department.

330. Donahue also raised concerns that the department was not promoting the most qualified individuals.

331. Donahue has a good record with no discipline since 1991 and has been passed over for younger males with little to no experience.

332. Donahue has experience in numerous departments, which would have been evident in her yearly reviews had she received them.

333. Donahue's experience includes patrol, detective, traffic, neighborhood-based service delivery, airport, and narcotics.

334. Donahue holds a master's degree in Public Administration.

335. On February 16, 2021, Bagby was promoted to Captain over Donahue.

336. Donahue has 11 years seniority over Bagby.

337. Bagby was promoted after Rhoads filed her ICRC complaint on November 11, 2020, where she stated he had grabbed her butt.

338. Donahue has not grabbed any officers' butts.

339. With the exception of Lillie Miller, the DMPD has promoted primarily males.

COUNT I

**VIOLATIONS OF THE IOWA CIVIL RIGHTS ACT
Sexual Harassment**

340. Plaintiffs reallege all prior paragraphs of this petition as if fully set forth herein.

341. Defendant discriminated against Plaintiffs with respect to the terms and conditions of their employment on the basis of their sex and subjected them to sexual harassment in violation of Iowa Code Chapter 216.

342. Defendant DMPD knew or should have known about the harassment but failed to promptly and effectively stop the harassment.

343. Defendant failed to exercise reasonable care to prevent the harassment Plaintiffs endured.

344. Defendant failed to take prompt and appropriate remedial action to end the harassment Plaintiffs were subjected to.

345. As a proximate result of Defendant's acts and omissions, Plaintiffs have in the past and will in the future suffer damages including, but not limited to, mental and emotional distress; fear; anguish; humiliation; embarrassment, lost enjoyment of life; lost wages, benefits, future earnings, and other emoluments of employment.

WHEREFORE, Plaintiffs demands judgment against Defendant in an amount which will fully and fairly compensate them for their injuries and damages, for lost wages, front pay and future wages, emotional distress, mental anguish, compensatory relief, equitable relief, attorney fees, court costs, interest as provided by law, and for any other relief recoverable under the Iowa Civil Rights Act.

COUNT II

**VIOLATIONS OF THE IOWA CIVIL RIGHTS ACT
Gender Discrimination**

346. Plaintiffs reallege all prior paragraphs of this petition as if fully set forth herein.

347. Defendant discriminated against Plaintiffs with respect to the terms and conditions of their employment on the basis of their sex in violation of Iowa Code Chapter 216.

348. Defendant permitted differences in treatment and preferential treatment towards male employees.

349. Defendant permitted a culture where female officers were devalued for their work compared to male officers.

350. Defendant failed to promote female officers who were more qualified than male officers that were promoted.

351. As a proximate result of Defendant's acts and omissions, Plaintiffs have in the past and will in the future suffer damages including, but not limited to, mental and emotional distress; fear; anguish; humiliation; embarrassment, lost enjoyment of life; lost wages, benefits, future earnings, and other emoluments of employment.

WHEREFORE, Plaintiffs demands judgment against Defendant in an amount which will fully and fairly compensate them for their injuries and damages, for lost wages, front pay and future wages, emotional distress, mental anguish, compensatory relief, equitable relief, attorney fees, court costs, interest as provided by law, and for any other relief recoverable under the Iowa Civil Rights Act.

COUNT III

**VIOLATIONS OF THE IOWA CIVIL RIGHTS ACT
Retaliation**

352. Plaintiffs reallege all prior paragraphs of this petition as if fully set forth herein.

353. Defendants retaliated against Plaintiffs for filing civil rights complaints with the ICRC and for exercising their rights to oppose discrimination and harassment in violation of Iowa Code Chapter 216.

354. Defendant DMPD is aware that its officers sexually harass and discriminate against females but choose to allow illegal discrimination and harassment to continue.

355. Defendant DMPD allows male officers to blame the female victims of harassment and discrimination rather than holding the male officers accountable.

356. Defendant DMPD sent the female officers a clear message by not asking any of the female officers who filed ICRC complaints to be on their gender committee.

357. Defendant DMPD sent the female officers a clear message to remain silent about their sexual harassment and discrimination by disciplining a male officer who was supportive of Plaintiffs.

358. Defendant DMPD sent Plaintiffs a clear message that they supported the male harassers and those who discriminated against Plaintiffs by telling officers to purge their files of any discipline because it would be held against them in a lawsuit.

359. As a proximate result of Defendant's acts and omissions, Plaintiffs have in the past and will in the future suffer damages including, but not limited to, mental and emotional distress; fear; anguish; humiliation; embarrassment, lost enjoyment of life; lost wages, benefits, future earnings, and other emoluments of employment.

WHEREFORE, Plaintiffs demands judgment against Defendant, in an amount which will fully and fairly compensate them for their injuries and damages, for lost wages, front pay and future wages, emotional distress, mental anguish, compensatory relief, equitable relief,

attorney fees, court costs, interest as provided by law, and for any other relief recoverable under the Iowa Civil Rights Act.

JURY DEMAND

COMES NOW, the Plaintiffs, and hereby requests a trial by jury in the above-captioned matter.

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