

Kevin D. Swenson (5803)  
Brian D. Shelley (14084)  
Jake R. Spencer (15744)  
Chrystal Mancuso-Smith (11153)  
SWENSON & SHELLEY PLLC  
520 E Tabernacle  
St. George, Utah 84770  
Phone: (435) 265-3500  
Facsimile: (855) 450-8435  
Email: [Kevin@SwensonShelley.com](mailto:Kevin@SwensonShelley.com)  
Email: [Brian@SwensonShelley.com](mailto:Brian@SwensonShelley.com)  
Email: [Jake@SwensonShelley.com](mailto:Jake@SwensonShelley.com)  
Email: [Chrystal@SwensonShelley.com](mailto:Chrystal@SwensonShelley.com)

*Attorneys for Plaintiff*

---

**UNITED STATES DISTRICT COURT OF THE DISTRICT OF UTAH  
SOUTHERN REGION**

---

WHITNEY OTTLEY, an individual,  
  
Plaintiff,

vs.

AUSTIN JAMES CORRY, an individual;  
KANOSH TOWN, UTAH, a Municipal  
Corporation and Political Subdivision of the  
State of Utah; and DOES 1 – 5;

Defendants.

**COMPLAINT**

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

**TIER 3**

---

COMES NOW Plaintiff Whitney Ottley, by and through undersigned counsel, complaints of Defendants Austin James Corry, Kanosh Town, and DOES 1 – 5 and alleges as follows:

**SUMMARY OF CASE**

Plaintiff is a woman who resides in Fillmore, Utah and works in Kanosh Town where she also has a small business where she produced baked goods for sale. She first came into contact with Assistant Fire Chief Corry through Facebook when he placed an order for cookies in

November 2016. Their arrangement was for Assistant Fire Chief Corry to pick up the cookies from Plaintiff's place of employment but instead, he contacted her at approximately 10:00 p.m. claiming that he could not leave the Fire Station. She agreed to drop off the cookies at the Fire Station, not knowing that he would be there alone. Upon knocking on the Fire Station door, Plaintiff was let in by Assistant Fire Chief Corry. He locked the door behind her and told her "this will only take a minute." After the door was locked behind her, Plaintiff discovered that they were alone in the Fire Station. Assistant Fire Chief Corry then grabbed Plaintiff by the throat and proceeded to force her past an office area to where a flatbed fire truck was parked. Without releasing her, Corry forced Plaintiff up onto the back of the fire truck. Corry kept repeating a mantra of "this will only take a minute." Corry ripped off Plaintiff's pants and raped her. The entire time from when Corry first grabbed her until he allowed her to leave after he had finished raping her, Plaintiff was crying and repeatedly telling Corry "no." Assistant Fire Chief Corry disregarded Plaintiff's protests and continued his assault.

As set forth in further detail below, Assistant Fire Chief Corry physically restrained Plaintiff at the Department so that he could sexually assault her; used his superior physical strength over Plaintiff so that he could sexually assault her; relied on the inherent trust place by the public in the members of government departments, such as the Fire Department, to require her to come to the fire station for the sole purpose of making her available for his assault; used his unfettered supervisory control of the Fire Department facility and its employees, to ensure that his assault of Plaintiff could proceed without interruption or witness; and did so without fear of repercussion as his direct supervisor was his father – Fire Chief and Millard County Sheriff Scott Corry. This information is also contained within the police records pertaining to Defendant's arrest and

charging with the rape of this Plaintiff, filed while he is being held in a separate criminal matter involving the sexual assault and rapes of another Fire Department employee. Assistant Fire Chief Corry's misconduct demeaned, humiliated, and frightened Plaintiff. Additionally, Plaintiff had a well-founded fear of retribution given Assistant Fire Chief Corry's position of power and authority within the community in which Plaintiff resides and works as well as his knowledge of her place of employment. Such fears have been compounded by the information provided in the news regarding Assistant Fire Chief Corry's arrest on charges of sexually assaulting a female employee of the Fire Department that took place at the Fire Station under similar circumstances.

At the time of Plaintiff's assault, Kanosh Town knew or should have known about Assistant Fire Chief Corry's sexual predatory nature and conduct through several independent means. First, at the time of his attack on Plaintiff, Assistant Fire Chief Corry was engaging in the sexual harassment and sexual assault of a female at the Fire Department, as described in the reports, notices, and the filing of formal criminal charges against Assistant Fire Chief Corry pertaining to his assault and multiple rapes of a female fire-fighter under his supervision. Kanosh Town knew or should have known of his propensity for violent sexual assault. Upon information and belief, the Town took no corrective action to ensure that Assistant Fire Chief Corry's inappropriate, sexually charged behavior, perpetrated by a man in a position of power within the Town, was put to a stop. Upon information and belief, although the Town knew or should have known of Assistant Fire Chief Corry's use of the Fire Station as the preferred location for his deviant behavior, the Town took no steps to limit his ability to control the Station (in terms of ensuring he was not alone with potential victims and could not imprison them within the Fire Station at will). Further, to the extent that the Town was aware of, and installed, Assistant Fire Chief Corry's father Scott Corry

in a direct supervisory role over his son coupled with the Town's knowledge that the Fire Chief was simultaneously serving as a Millard County Sheriff – the organization that was tasked with investigating criminal activity at the Fire House, Kanosh bears responsibility for the failure in the chain-of-command within its Fire Department that allowed the assaults to occur without repercussion.

Assistant Fire Chief Corry was therefore allowed to exploit and misuse his position of power and authority over Plaintiff without fear of reprisal. Tragically, the sexual behavior escalated and became violent, culminating in his raping Plaintiff at the Department.

Accordingly, Plaintiff brings this Complaint, after first having complied with the Notice of Claim requirements set forth in Utah Code Ann. § 63G-7-401.

### **PARTIES**

1. Plaintiff Whitney Ottley is resident of Fillmore, Utah.
2. Defendant Kanosh Town, Utah ("***Kanosh***" or the "***Town***") is a municipal corporation and political subdivision of the State of Utah, located in Millard County, Utah.
3. Defendant Austin James Corry ("***Assistant Fire Chief Corry***") was at all relevant times an individual residing in Utah and employed by Kanosh as the Assistant Fire Chief of its Fire Department. Upon information and belief, Assistant Fire Chief Corry is presently incarcerated at the Utah County Correctional Facility.
4. The true names and capacities, whether individuals, corporate, associates or otherwise sued herein as DOES are currently unknown but expected to include, but not be limited to: individuals with knowledge of the wrongful and tortious acts complained of, with responsibilities for hiring, firing, supervising, and/or training members of the Kanosh Fire

Department, and the like. Plaintiff is informed and believes, and therefore alleges, that each of the named DOE Defendants are negligently responsible in some manner for the occurrences herein alleged and that conduct, or lack of conduct, by DOE Defendants contributed to the circumstances which caused her injuries. Plaintiff will amend this Complaint to allege the true names and capacities once discovered.

5. Plaintiff alleged that all or some of said fictitiously named DOE Defendants were the principals, agents, joint venturers, partners, co-conspirators, employers, employees, contractors, subcontractors, independent contractors, predecessors in interest and/or successors in interest to said defendants, and are responsible for the injuries and damages sustained by Plaintiff, as more fully set forth below, and are residents of the State of Utah, are doing business in Utah and/or committed acts pursuant to which they are under the jurisdiction of the State of Utah, and/or partners of each and the other and as such are either joint tortfeasors and/or jointly and severally liable and legally responsible in some manner for the events and happenings herein, and proximately caused the injuries and damages to Plaintiff as set forth herein

#### **JURISDICTION AND VENUE**

6. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 over Plaintiff's cause of action arising under the Constitution of the United States and 42 U.S.C. § 1983.

7. A substantial part of the events giving rise to these claims occurred in this judicial district, thus venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2).

8. Plaintiff has complied with all applicable claim statutes under the laws of the State of Utah, including Utah Code Ann. § 63G-7-401, et seq.

9. Defendants are subject to personal jurisdiction within this district.

### **FACTUAL ALLEGATIONS**

10. Plaintiff was a resident of Fillmore, Utah at all times relevant to this Complaint and ran a small business selling baked goods.

11. At the time of Plaintiff's assault in 2016 and continuing until on or around September 2018, Defendant Austin James Corry was employed as the Assistant Fire Chief of the Kanosh Fire Department and had unfettered access to the Fire Station.

12. At the time of Plaintiff's assault, Scott Corry was employed as the Fire Chief of the Kanosh Fire Department and had direct supervisory authority over his son, Austin.

13. At the time of Plaintiff's assault and continuing until on or around October 2018, Scott Corry was also employed by the Millard County Sheriff's Office as a Sergeant and, in that capacity, was tasked with conducting any criminal investigations involving the Fire Department.

14. During the relevant times at issue, Assistant Fire Chief Corry lured Plaintiff to the Fire Department under false pretenses (by claiming that he could not pick up the baked goods he had ordered but required them to be delivered to him).

15. Assistant Fire Chief Corry then invited the Plaintiff into the building and then locked the door behind her thereby trapping Plaintiff in the building without a means to escape.

16. After being locked into the building by Assistant Fire Chief Corry, Plaintiff discovered that they were alone in the Fire Station.

17. Assistant Fire Chief Corry told Plaintiff "this will only take a minute."

18. Over her protests and attempts to leave the Fire Station, Assistant Fire Chief Corry's verbal comments then progressed to unwanted physical touching.

19. Assistant Fire Chief Corry then grabbed Plaintiff by her throat and forced her to walk past an office area to where a fire truck was parked.

20. Without releasing her, Corry tossed some fire fighter jackets on the back of the fire truck and threw Claimant down on top of the jackets.

21. Corry kept repeating his mantra of “this will only take a minute.” Corry ripped off Claimant’s pants and raped her.

22. During the entire time from when Corry first grabbed her until he allowed her to leave after he had finished raping her, Plaintiff was crying and repeatedly telling Corry “no.” Assistant Fire Chief Corry disregarded Claimant’s protests and continued his assault.

23. Plaintiff attempted to prevent being forced into the vehicle, however Corry is much larger and physically stronger than she was and so she was overpowered.

24. Plaintiff told Assistant Fire Chief Corry “no” multiple times, however, he was too strong and held Plaintiff by the throat and used this pressure to pin her down to the truck bed and to prevent her from getting up.

25. After the assault, Assistant Fire Chief Corry walked away from the vehicle as if nothing had happened.

26. Assistant Fire Chief Corry’s violent and nonconsensual assault of Plaintiff was painful, humiliating, and demeaning.

27. Plaintiff has a well-founded fear of retribution given Assistant Fire Chief Corry’s position of power and authority in the community. Such fears are compounded by the familial relationship between Fire Chief (and then-Millard County Sherriff) Scott Corry (father) and Austin Corry (son).

28. At the time of Plaintiff's rape, Kanosh Town knew or should have known about Corry's propensity for violence against women and for his deviant sexual nature given his history of sexual assaults against a subordinate employee of the Fire Department.

29. Upon information and belief, at the time of Plaintiff's rape, Kanosh Town had not provided any sexual harassment training to any town employees, volunteers, agents, and/or representatives (or any other individuals for which the Town is found to be responsible).

30. Upon information and belief, at the time that criminal charges were filed against Assistant Fire Chief Corry, Kanosh Town had not provided any sexual harassment training to any town employees, volunteers, agents, and/or representatives (or any other individuals for which the Town is found to be responsible).

31. Upon information and belief, despite Assistant Fire Chief Corry's arrest on criminal, sexual assault and rape charges or the receipt of multiple Notices of Claim, Kanosh Town still did not provide any sexual harassment training to any town employees, volunteers, agents, and/or representatives (or any other individuals for which the Town is found to be responsible).

32. Plaintiff put Kanosh Town (hereinafter "*the Town*") on notice of Assistant Fire Chief Corry's inappropriate conduct through the filing of criminal charges against Corry and through the service of a Notice of Claim in or around December 2018.

33. Kanosh Town had additional and separate notice of Corry's propensities for violence and sexual assault through charges filed, and claims made, by one of his subordinate employees.

34. Kanosh Town took no action until Defendant Corry was arrested and, then, took only minimal action.

35. Assistant Fire Chief Corry was arrested on August 22, 2018 by the Provo Police Department for his assault against his subordinate. Upon information and belief, Austin Corry admitted in police interviews that he assaulted the subordinate, that she did not consent; and he continued his assault anyways.

36. The manner of assault described in Austin Corry's August 22, 2018 criminal matter against his subordinate, is similar to those relating to his assault of Plaintiff in November 2016.

37. Assistant Fire Chief Corry was arrested again on November 21, 2018 by the Utah County Sherriff's Department for his assault against Plaintiff.

**FIRST CAUSE OF ACTION**  
**Equal Protection Claim under 42 U.S.C. § 1983**  
**[Defendant Austin Corry]**

38. Plaintiff incorporates by reference, all of the above paragraphs as if fully reproduced herein.

39. Acting under color of state law, Assistant Fire Chief Corry sexually assaulted Plaintiff.

40. He touched her sexually against her will and raped her.

41. Assistant Fire Chief Corry committed these acts against Plaintiff based on her sex.

42. In so doing, Assistant Fire Chief Corry violated Plaintiff's constitutional right to equal protection under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

43. Plaintiff has suffered harm as a result of Austin Corry's mistreatment of her on the basis of her sex.

44. Plaintiff has suffered harm as a result of this mistreatment including, among other things, psychological and emotional distress, lost wages, and medical expenses.

**SECOND CAUSE OF ACTION**  
**Substantive Due Process Claim under 42 U.S.C. § 1983**  
**[Defendant Austin Corry]**

45. Plaintiff incorporates by reference, all of the above paragraphs as if fully reproduced herein.

46. Assistant Fire Chief Corry's rape of Plaintiff violated her fundamental right to bodily integrity and deprived her of her right to substantive due process under the Due Process Clause of the Fourteenth Amendment.

47. Assistant Fire Chief Corry's sexual misconduct demonstrated a degree of outrageousness and a magnitude of harm so great as to shock the conscience.

48. Assistant Fire Chief Corry acted under color of state law when committing his assaults on Plaintiff.

49. Plaintiff has suffered harm as a result of this mistreatment including, among other things, psychological and emotional distress, mental anguish, lost wages, and medical expenses.

**THIRD CAUSE OF ACTION**  
**False Imprisonment**  
**[Defendant Austin Corry]**

50. Plaintiff incorporates by reference, all of the above paragraphs as if fully reproduced herein.

51. Assistant Fire Chief Corry engaged in conduct with the intent to confine and/or detain Plaintiff within boundaries fixed by Assistant Fire Chief Corry during his raping of Plaintiff

by physically restraining her, as well as by confining her in the Fire Department after tricking her to the fire station under false pretenses.

52. Assistant Fire Chief Corry's conduct resulted in a confinement of Plaintiff while she was conscious of the confinement and harmed by it.

53. Plaintiff did not consent to any instance of physical restraint or confinement.

54. Assistant Fire Chief Corry's conduct amounted to an unlawful detention or restraint of Plaintiff against her will.

55. Assistant Fire Chief Corry engaged in willful misconduct as defined under Utah Code §§ 63G-7-102(11) and 63G-7-202(c)(i) and therefore he retains no immunity from suit pursuant to Utah Code Ann. § 63G-7-202(3)(c)(i).

56. Plaintiff has been injured and damaged as a result of this unlawful confinement.

**FOURTH CAUSE OF ACTION**  
**Intentional Infliction of Emotional Distress**  
**[Defendant Austin Corry]**

57. Plaintiff incorporates by reference, all of the above paragraphs as if fully reproduced herein.

58. Assistant Fire Chief Corry's sexual assault of Plaintiff, along with his abuse of authority as Assistant Fire Chief to effectuate such sexual assault, constitute outrageous and intolerable conduct.

59. Assistant Fire Chief Corry either intended to inflict severe emotional distress upon Plaintiff or knew or should have known that such sexual assault would cause Plaintiff to suffer such distress.

60. Plaintiff has suffered physical harm, discomfort, severe or extreme emotional distress, mental anguish, extreme fear and shame since the time of the rape and continues to suffer severe mental distress to the present day as a result of, and caused by, Assistant Fire Chief Corry's misconduct.

61. Assistant Fire Chief Corry engaged in willful misconduct as defined under Utah Code §§ 63G-7-102(11) and 63G-7-202(c)(i) and therefore he retains no immunity from suit pursuant to Utah Code Ann. § 63G-7-202(3)(c)(i).

**FIFTH CAUSE OF ACTION**  
**Battery**  
**[Defendant Austin Corry]**

62. Plaintiff incorporates by reference, all of the above paragraphs as if fully reproduced herein.

63. Assistant Fire Chief Corry acted intentionally toward Plaintiff intending to cause her harmful or offensive contact, or an imminent apprehension of such contact with the incident of rape.

64. Assistant Fire Chief Corry repeatedly made physical contact with Plaintiff's person and effects, each without her consent.

65. As a result of this contact, Plaintiff suffered physical, mental, and emotional harm.

66. Harmful contact with Plaintiff directly resulted.

67. Assistant Fire Chief Corry engaged in willful misconduct as defined under Utah Code §§ 63G-7-102(11) and 63G-7-202(3)(c)(i) and therefore he retains no immunity from suit pursuant to Utah Code Ann. § 63G-7-202(3)(c)(i)

**SIXTH CAUSE OF ACTION**  
**Sexual Assault**  
**[Defendant Austin Corry]**

68. Plaintiff incorporates by reference, all of the above paragraphs as if fully reproduced herein.

69. Assistant Fire Chief Corry behavior at the outset of the instance of rape was intended to cause harmful or offensive contact with Plaintiff, or imminent apprehension of such contact with Plaintiff.

70. As a result of Assistant Fire Chief Corry's actions, Plaintiff was put in imminent apprehension of such contact.

71. Assistant Fire Chief Corry engaged in willful misconduct as defined under Utah Code §§ 63G-7-102(11) and 63G-7-202(3)(c)(i) and therefore he retains no immunity from suit pursuant to Utah Code Ann. § 63G-7-202(3)(c)(i).

72. Plaintiff has been injured and damaged as a result of Assistant Fire Chief Corry's misconduct.

**SEVENTH CAUSE OF ACTION**  
**Negligent Hiring, Supervision, and/or Retention**  
**[Defendant Kanosh Town]**

73. Plaintiff incorporates by reference, all of the above paragraphs as if fully reproduced herein.

74. The Town owed a duty to Plaintiff, who came into contact with Assistant Fire Chief Corry through his employment with the Department, to protect Plaintiff from harm at the hands of its employees, including Assistant Fire Chief Corry.

75. The Town breached that duty by, among other things, failing to properly investigate Assistant Fire Chief Corry's background before his hiring, failing to adequately supervise Assistant Fire Chief Corry, by retaining him as an assistant fire chief after complaints of his sexual and other misconduct, and/or by failing to take steps to ensure that the familial relationship between Fire Chief Scott Corry and Assistant Fire Chief Austin Corry could not result in the failure to protect Plaintiff, and others, from harm.

76. As a direct and foreseeable consequence of the Town's negligence in hiring, failing to supervise, and retaining Assistant Fire Chief Corry, Plaintiff suffered the injuries described above.

77. The Town owed a duty to Plaintiff, who came into contact with Assistant Fire Chief Corry through his employment with the Department, to protect Plaintiff from harm at the hands of its employees, including Fire Chief Scott Corry.

78. The Town breached that duty by, among other things, a) failing to properly investigate and consider the familiar relationship between Assistant Fire Chief Austin Corry and Fire Chief Scott Corry before hiring Scott Corry to supervise his son Austin Corry b) failing to adequately supervise Fire Chief Corry, c) by retaining him as a fire chief despite the inherent conflict of interest that exists due to Scott Corry's simultaneous employment by the Millard County Sherriff's Office as that organization would be responsible for investigation of possible criminal actions at the Fire Department where Scott and Austin worked; and/or by d) failing to take steps to ensure that the familial relationship between Fire Chief Scott Corry and Assistant Fire Chief Austin Corry could not result in the failure to protect Plaintiff, and others, from harm.

79. As a direct and foreseeable consequence of the Town's negligence in hiring, failing to supervise, and retaining Fire Chief Scott Corry, Plaintiff suffered the injuries described above.

80. The Town's breach of its duty was the proximate cause of Plaintiff's injuries at the hands of Assistant Fire Chief Austin Corry.

81. The Town additionally breached its duty when other sexual assaults had occurred at the Fire Department that had not been addressed.

82. By failing to take any action to prevent Assistant Fire Chief Corry from using his authority as Assistant Fire Chief to continue his inappropriate and illegal sexual behavior, the Town was negligent.

83. Plaintiff has been injured and damaged as a result of the Town's negligence.

#### **PRAYER FOR RELIEF**

Wherefore, Plaintiff pray for relief against Defendants as follows:

1. For judgment in Plaintiff's favor and against Defendant Austin Corry for violation of Plaintiff's Equal Protection rights;

2. For judgment in Plaintiff's favor and against Defendant Austin Corry for violation of Plaintiff's Substantive Due Process rights;

3. For judgment in Plaintiff's favor and against Defendant Austin Corry for False Imprisonment;

4. For judgment in Plaintiff's favor and against Defendant Austin Corry for the Intentional Infliction of Emotional Distress;

5. For judgment in Plaintiff's favor and against Defendant Austin Corry for Battery;

6. For judgment in Plaintiff's favor and against Defendant Austin Corry for Sexual Assault;

7. For judgment in Plaintiff's favor and against Defendant Kanosh Town for Negligent Hiring, Supervision, and/or Retention of Defendants Austin Corry;

8. For an award of compensatory and punitive damages in favor of Plaintiff and against Defendant Kanosh Town, including damages resulting from emotional distress, in excess of an amount of \$300,000, to be determined at trial;

9. For an award of compensatory and punitive damages in favor of Plaintiff and against Defendant Austin Corry, including damages resulting from emotional distress, in excess of an amount of \$300,000, to be determined at trial;

10. For an award of reasonable attorneys' fees and costs associated with this action;

11. For an award of post-judgment interest as allowed by law;

12. For an award of non-monetary damages in favor of Plaintiff and against Kanosh Town as follows:

a. The institution of approved Annual Harassment, Discrimination, and Retaliation Training for all Kanosh Town Fire Department supervisors and employees (including additional approved training for Human Resource employees);

b. The institution of approved Annual Harassment, Discrimination, and Retaliation Training for all members of the Kanosh Town Mayor's Office (including additional approved training for Human Resource employees);

c. The institution of approved mandatory guidelines for the confidential investigation and resolution of any complaint or claim of harassment or discrimination lodged against

the Kanosh Town Fire Department, with such guidelines to include an independent, extra-Departmental process for reporting, investigation, and resolution of any such complaints or claims;

d. The institution of approved guidelines for the full and complete vetting of the hiring and/or promotion of individuals as Fire Chief, Assistant Fire Chief, and/or other managerial or supervisory position; and

e. The institution of a third-party hotline and independent service wherein persons who have suffered from sexual assault or harassment may report and have their reports processed.

13. For general damages, including pain and suffering, lost wages, attorneys' fees and costs, and punitive damages as provided for under Utah Code Ann. § 63G-7-401(3)(c)(iii); and

14. For other such relief as the Court may deem just.

DATED this 22<sup>nd</sup> day of October 2019.

SWENSON & SHELLEY, PLLC

/s/ Kevin D. Swenson  
KEVIN D. SWENSON  
BRIAN D. SHELLEY  
JAKE R. SPENCER  
CHRYSTAL MANCUSO-SMITH  
*Attorneys for Plaintiff*