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CIVIL ACTION NO. _____

BARREN COUNTY CIRCUIT COURT
DIVISION ONE (1)
HONORABLE JOHN T. ALEXANDER

COURTHOUSENEWS

JENNIFER ARBOGAST

PLAINTIFF

v.

THE CITY OF GLASGOW
d/b/a GLASGOW POLICE DEPARTMENT

DEFENDANT

SERVE: REGISTERED AGENT
Henry Royse
Mayor
City of Glasgow
126 East Public Square
Glasgow, KY 42141

COMPLAINT

The Plaintiff, Jennifer Arbogast (hereinafter “Arbogast” or “Plaintiff”) files her Complaint against the Defendant, The City of Glasgow d/b/a Glasgow Police Department (hereinafter as “GPD” or “the City) and in support hereof states as follows:

I. PARTIES, JURISDICTION AND VENUE

1. Arbogast is a Glasgow, Barren County, Kentucky resident.
2. Defendant, The City of Glasgow d/b/a Glasgow Police Department conducts employment and business in Glasgow, Barren County, Kentucky.
3. The events underlying the claims set forth herein took place in Glasgow, Barren County, Kentucky.
4. Venue and jurisdiction are proper in this Court.
5. The amount in controversy, exclusive of costs and fees, is greater than the minimum jurisdictional amount of this Court.

Presiding Judge: HON. JOHN T. ALEXANDER (643358)

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COURTHOUSENEWS**II. BACKGROUND FACTS**

6. Arbogast, a female, is a former employee of GPD.
7. GPD is an employer as defined under the Kentucky Civil Rights Act (“KRS 344 *et. seq.*”).
8. KRS 344 prohibits discrimination on the basis of an employee’s gender, which includes fostering an environment that is ripe of sexual harassment, as well as prohibits disparate treatment in the form of treating male employees more favorably than female employees.
9. Arbogast began her employment for the City, specifically GPD, on September 27, 2002 in the position of Patrol / Police Officer.
10. Throughout the tenure of her employment at GPD, Arbogast was promoted numerous times as she rose through the ranks.
11. In July 2019, Arbogast was promoted to the position of Police Chief.
12. Arbogast was the City’s first female Police Chief.
13. Arbogast experienced great success in her tenure as Police Chief, although she had to deal with routine comments of gender discrimination.
14. Specifically, the following individuals made discriminatory comments to or about Arbogast:
 - a) GPD’s Lieutenant, Jabin McGuire: “I don’t believe a female should be doing this job [Police Chief]; “I didn’t want you to be promoted to Police Chief;” “A male should be the Chief.”
 - b) GPD’s Sergeant, Steve Fields: “I just don’t think you can handle it [the role of Police Chief].”
 - c) GPD’s Major, Terry Flatt: “[Former and now current Police Chief] Guy Howie “wouldn’t do it this way” in reference to Chief Arbogast’s decisions. He made it well-known throughout GPD that he “did not like working or taking orders from a female.”
 - d) GPD’s City Treasurer, Stephanie Gossett: “This is a male position [Police Chief]. No female should be Police Chief.”

15. Former GPD Officer, Howard Garrison (hereinafter “Garrison”), regularly witnessed other male GPD Officers make discriminatory and sexist remarks about Arbogast, specifically her being a female and in the Chief position. [A copy of Garrison’s Affidavit is attached hereto as Exhibit “1”].

16. One of the City’s former Councilmembers, Sherri Diane Eubank (hereinafter “Eubank”), regularly witnessed numerous City employees make discriminatory and sexist remarks about Arbogast being a female and in the Police Chief position. [A copy of Eubank’s Affidavit is attached hereto as Exhibit “2”].

17. During her employment, Arbogast was also the direct subject of severe and pervasive sexual harassment in the form of inappropriate, lewd, and sexual comments, questions, and inferences including, but not limited to, whether Arbogast “slept her way to the top” and whether she was having sexual relationships with male subordinates.

18. On January 1, 2023, Henry Royse (hereinafter “Royse”) became the City’s new Mayor.

19. From approximately July 2022 through her constructive discharge of employment from the City, Arbogast engaged in both verbal and written complaints to the City’s former and current Human Resources Managers, Barbara England and Lance Cummings, specifically regarding the discriminatory comments and sexual harassment she was being subjected to on a severe and pervasive basis.

20. Upon witnessing the discriminatory and sexist comments from GPD’s City Treasurer, Stephanie Gossett (hereinafter “Gossett”), Arbogast engaged in legally protected complaints to the City’s Administrator, April Russell (hereinafter “Russell”).

21. In response to Arbogast’s complaints to Russell, Russell admitted that Gossett did not want Arbogast in the position of Police Chief because “that position was a male’s role.”

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22. Following Gossett’s admittedly discriminatory and sexist statements to and about Arbogast, GPD’s Major, Terry Flatt (hereinafter “Flatt”), told Arbogast, “You just don’t have the right body parts to butter up Stephanie to get things for the police department.”

23. In early February 2023, Royse and the City’s Councilmembers began receiving anonymous emails, which contained extremely disparaging, defamatory, and blatantly erroneous statements and allegations against Arbogast.

24. On February 14, 2023, Royse called Arbogast, specifically issuing her an ultimatum that either she could retire or he was going to terminate her employment.

25. Arbogast had no intentions of retiring at the time, as she was dedicated to her job and loved being the City’s Police Chief.

26. During the conversation, Arbogast asked Royse the reason behind her being forced out of her job unwillingly, to which Royse was unable to provide any legitimate reason.

27. Eubank witnessed the phone call between Arbogast and Royse, as Arbogast had been with Eubank at the time and placed the call on speakerphone for Eubank to hear. [Exhibit “2”].

28. Following the news that Royse was forcing Arbogast to resign, retire, or be terminated, the local news stations started releasing stories on the same.

29. Royse’s comments to various news outlets were contradicting as to whether he had asked her to resign.

30. Specifically, on February 16, 2023, when questioned by Glasgow News 1 whether Royse requested Arbogast’s resignation, he responded, “Well, no.” [A copy of the 2/16/2023 GN1 article is attached hereto as Exhibit “3”].

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31. However, during an interview with WNKY News 40 on March 1, 2023, Royse stated that he did ask Arbogast to resign during a private, face-to-face conversation. [A copy of the 3/1/2023 News 40 article is attached hereto as Exhibit “4”].

32. Following Royse’s conversation to Arbogast in forcing her to resign or be terminated, the City attempted to coerce Arbogast into signing a “Verified Resignation and Statement of Election to Retire” document. [A copy of the Verified Resignation and Statement of Election to Retire document is attached hereto as Exhibit “5”].

33. Due to the document containing numerous falsities, most specifically the fact that it stated “my resignation as Police Chief and my election to retire is made freely, voluntarily, and after due consideration on my part,” Arbogast rightfully refused to sign the statement presented to her by the City. [Exhibit “5”].

34. Instead, Arbogast drafted and submitted her own statement, make specific statements such as: “It had not been my intentions to retire;” “Mayor Royce [sp.] during a conversation with me on February 14, 2023 said he wanted to make a change and asked me to resign with no reason given or documentation;” and “**I feel that if I were to stay at this point, I would be further retaliated against.**” (emphasis added) [A copy of Arbogast’s signed, constructive discharge letter is attached hereto as Exhibit “6”].

35. Royse ordered Arbogast to vacate her office on February 20, 2023, whereupon she continued to officially serve the City as its Police Chief until April 1, 2023.

36. The City’s forced retirement of Arbogast constitutes a constructive discharge.

37. Arbogast had no decision in the matter – either resign or be terminated.

38. Following her unlawful, constructive discharge, the City named Flatt, a male, as the Interim Police Chief.

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39. The City subsequently hired another male, Guy Howie, to replace Arbogast's position of Police Chief, effective April 17, 2023.

40. Although the anonymous emails sent to the Mayor and Councilmembers contained disparaging, defamatory, and blatantly false allegations against both Arbogast and Flatt, Royse permitted Flatt to keep his role in the department, even promoting him to replace Arbogast in the interim, yet unilaterally forced Arbogast's constructive discharge.

41. Following her constructive discharge, the City's issued a "cease and desist" letter to the anonymous sender, specifically stating that there "are legal processes in place for grievances and complaints to be lodged with respect to the affairs of the police department, but, to protect individuals from character assassination and slander, the grievance and complaint processes actually require that aggrieved or complainant put his or her name, under oath, to specific allegations and be prepared to back them up with credible proof."

42. However, the City, specifically Royse, had never received any formal grievance or complaint against Arbogast during her tenure as Police Chief.

43. Although the City's policy and procedure states that complaints must go through the formal "legal processes," the Mayor unilaterally decided to constructively discharge Arbogast due to the emails and character assassinations, failing to investigate the validity or accuracy of the emails or speak with Arbogast regarding the same.

44. The City retaliated against Arbogast by constructively discharging her for engaging in legally protected complaints to the City's HR department and to Russell.

45. As a result of the gender discrimination, disparate treatment, sexual harassment, retaliation, and constructive discharge by the City, Arbogast has suffered from emotional distress since her

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unilateral separation from GPD on April 1, 2023, including symptoms associated with humiliation, embarrassment, anxiety, and increased stress.

46. The ultimatum issued by Royse on February 14, 2023 – either to resign, retire, or be terminated – acted as a constructive discharge, as Arbogast had no option to continue her employment as Police Chief or in any other position within the GPD.

47. In the past, GPD has had a pattern and practice of permitting male, high-ranking employees to transfer to different positions, job titles, or departments, in order to continue their employment with the City, instead of being forced out unwillingly like Arbogast.

48. During Arbogast's three and one-half (3.5) year tenure as Police Chief, she achieved numerous accomplishments and milestones for the department and the City, including but not limited to the following:

- a) Leading the charge in advocating and succeeding with pay raises for her Police Officers, specifically obtaining raises for them from \$15 per to hour to \$18 per hour;
- b) Meetings with the NAACP, which resulted in the rebuilding of trust in the Glasgow community between its citizens and police officers;
- c) Advocated and succeeded in having the City build a training room and maintenance garage for GPD; and
- d) Repaired a previously fractured relationship between Kentucky State Police and GPD.

III. CLAIMS AND CAUSES OF ACTION

**A. GENDER DISCRIMINATION / HOSTILE WORK ENVIRONMENT /
DISPARATE TREATMENT (KRS 344 et al.)**

49. Arbogast re-alleges all allegations contained in paragraphs 1 through 48 above as if fully set forth herein.

50. The City’s actions constitute gender discrimination, hostile work environment, and disparate treatment in violation of the Kentucky Civil Rights Act, Kentucky Revised Statutes, Chapter 344 *et. seq.* (hereinafter “KRS 344”).

51. As a result of the City’s gender discrimination, hostile work environment, and disparate treatment, Arbogast has been damaged in an amount in excess of the minimum jurisdictional limits of this court.

**B. SEXUAL HARASSMENT / HOSTILE WORK ENVIRONMENT
(KRS 344 et al.)**

52. Arbogast re-alleges all allegations contained in paragraphs 1 through 51 above as if fully set forth herein.

53. GPD’s actions constitute sexual harassment and hostile work environment in violation of KRS 344.

54. GPD’s actions created and subjected Arbogast to an actionable sexually hostile work environment in violation of KRS 344.

55. As a result of GPD’s sexual harassment and hostile work environment, Arbogast has been damaged in an amount in excess of the minimum jurisdictional limits of this court.

C. UNLAWFUL RETALIATION FOR ENGAGING IN LEGALLY PROTECTED COMPLAINTS REGARDING GENDER DISCRIMINATION AND SEXUAL HARASSMENT (KRS 344 et al.)

56. Arbogast re-alleges all allegations contained in paragraphs 1 through 55 above as if fully set forth herein.

57. The City constructively discharged Arbogast in violation of the anti-retaliation provisions of KRS 344.

58. As a result of the City’s actions, Arbogast has suffered monetary damages recoverable under KRS 344, in an amount in excess of the minimum jurisdiction of this Court.

D. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

59. Arbogast re-alleges all allegations contained in paragraphs 1 through 58 above as if fully set forth herein.

60. The City’s actions constitute the tort of intentional infliction of emotional distress, also known as the tort of outrage, under Kentucky tort law.

61. As a result of the City’s intentional infliction of emotional distress, Arbogast has been damaged monetarily in an amount in excess of the minimum jurisdictional limits of this Court.

E. MANDATORY RECOVERY OF ATTORNEY’S FEES AND COSTS

62. Arbogast re-alleges all allegations contained in paragraphs 1 through 61 above as if fully set forth herein.

63. Arbogast is mandatorily entitled to recover her attorney’s fees and costs pursuant to the provisions of KRS 344.

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WHEREFORE, Plaintiff, Jennifer Arbogast, respectfully prays that she be awarded the following relief and all other relief to which she may be entitled against the Defendant, The City of Glasgow d/b/a Glasgow Police Department:

- A. Trial by jury;
- B. Judgment against the Defendant on all claims asserted herein;
- C. Compensatory damages including but not limited to past and future lost wages and past and future lost benefits;
- D. Compensatory damages including but not limited to emotional distress, mental anguish, humiliation and embarrassment;
- E. All statutory remedies provided by KRS 344;
- F. An award of statutory attorney fees, costs, and expenses;
- G. Statutory interest on all monetary damage awards, verdicts, or judgments; and
- H. All additional and other relief to which Arbogast may be entitled.

Respectfully submitted,

THE ZOPPOTH LAW FIRM

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