

IN THE STATE OF MICHIGAN
FOR THE CIRCUIT COURT FOR THE COUNTY OF GENESEE

JASON CATE, JOEL BARNES III,
MARY BUSZEK, ESTHER CAMPBELL,
BRIAN CORLEW, CARISSA DOTSON,
LISA GORDON, JOAN KETZLER,
DONALD LEWIS, RODNEY MCGAHA,
MICHAEL ROSS, TROY SIMPSON,
DOMINIC TEFFT, KATHLEEN VILLARREAL,
ALFINO DONASTORG, TRACEE WALKER,
MATT BAKER AND SALINA JUAREZ,

CASE NO. 19-113438 -CD
HON. BRIAN S. PICKELL

Plaintiffs,

v.

CITY OF FLINT, TIMOTHY JOHNSON,
and MAKINI JACKSON,
Jointly and Severally,

Defendants.

A TRUE COPY
Genesee County Clerk

LAW OFFICES OF DEAN T. YEOTIS
DEAN T. YEOTIS (P41290)
CRISTINE WASSERMAN (P53656)
Attorneys for Plaintiffs
611 W. Court Street
Flint, MI 48503
(810) 767-6100

FIRST AMENDED COMPLAINT AND JURY DEMAND

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in this Court where it was given case number 19-113438 CD and is assigned to Hon. Brian S. Pickell.

PLAINTIFFS Jason Cate, Joel Barnes III, Mary Buszek, Esther Campbell, Brian Corlew, Carissa Dotson, Lisa Gordon, Joan Ketzler, Donald Lewis, Ron McGaha,

Michael Ross, Troy Simpson, Dominic Tefft, Kathleen Villarreal, Alfino Donastorg, Tracee Walker, and Matt Baker, by their attorneys, the LAW OFFICES OF DEAN T. YEOTIS, complain of Defendants as follows:

PARTIES AND JURISDICTION

1. Plaintiff Jason Cate is a resident of the County of Genesee, State of Michigan.
2. Plaintiff Joel Barnes III is a resident of the County of Saginaw, State of Michigan.
3. Plaintiff Mary Buszek is a resident of the County of Genesee, State of Michigan.
4. Plaintiff Esther Campbell is a resident of the County of Genesee, State of Michigan.
5. Plaintiff Brian Corlew is a resident of the County of Saginaw, State of Michigan.
6. Plaintiff Carissa Dotson is a resident of the County of Genesee, State of Michigan.
7. Plaintiff Lisa Gordon is a resident of the County of Genesee, State of Michigan.
8. Plaintiff Joan Ketzler is a resident of Genesee County, State of Michigan.
9. Plaintiff Donald Lewis is a resident of Genesee County, State of Michigan.
10. Plaintiff Rodney McGaha is a resident of Genesee County, State of Michigan.
11. Plaintiff Michael Ross is a resident of Genesee County, State of Michigan.

LAW OFFICES
DEAN T. YEOTIS
611 W. Court Street
Flint, MI 48503
(810) 767-6100
Fax (810) 767-6415

12. Plaintiff Troy Simpson is a resident of Genesee County, State of Michigan.
13. Plaintiff Dominic Tefft is a resident of Genesee County, State of Michigan.
14. Plaintiff Kathleen Villarreal is a resident of Genesee County, State of Michigan.
15. Plaintiff Tracee Walker is a resident of Genesee County, State of Michigan.
16. Plaintiff Alfino Donastorg is a resident of Genesee County, State of Michigan.
17. Plaintiff Matt Baker is a resident of the County of Oakland, State of Michigan.
18. Plaintiff Salina Juarez is a resident of Pickens County, State of Georgia.
19. Defendant City of Flint is a municipal corporation located in the County of Genesee, State of Michigan.
20. Upon information and belief Defendant Timothy Johnson, an African American, is an employee of the City of Flint and at all times pertinent to this Complaint was the Chief of Police for the City of Flint Police Department.
21. Upon information and belief Defendant Makini Jackson, an African American, is an employee of the City of Flint and at all times pertinent to this Complaint she was the Human Resource Manager for the City of Flint.
22. The claims Plaintiffs assert in this case are:
 - a) Race Discrimination contrary to the Michigan Elliott-Larsen Civil Rights Act – MCL 37.2202, *et seq.*;
 - b) Racial Discrimination failure to hire claim pursuant to the State of Michigan Elliott-Larsen Civil Rights Act.

- c) Race and Sexual Harassment contrary to the Michigan Elliott-Larsen Civil Rights Act – MCL 37.2101, *et seq.*;
- d) Retaliation in violation of Article VII of the Michigan Elliott-Larsen Civil Rights Act – MCL 37.2701, *et seq.*;

23. The amount in controversy in this case exceeds Twenty-Five Thousand Dollars (\$25,000).

24. This Court has subject matter jurisdiction over this case based on the general subject matter jurisdiction provision of the Revised Judicature Act, MCL 600.605.

25. This is a Court of proper venue for this action under MCR 600.1621 because this is the Court in the County in which Defendants transact business.

26. This is a Court of proper venue for this action under MCL 600.1621 because this is the Court in the County in which Plaintiffs reside.

GENERAL ALLEGATIONS

27. Defendant City of Flint is the municipal corporation all Plaintiffs work for and/or applied for employment with.

28. Defendant Timothy Johnson, as the Chief of Police with Defendant, City of Flint, had supervisory and/or management authority over several of the Plaintiffs and did utilize his authority to adversely affect a term, condition and/or privilege of several Plaintiffs' employment.

29. Defendant Makini Jackson, in her capacity as the Human Resource Manager for Defendant, City of Flint, had supervisory/management authority over each Plaintiff and/or applicant and did utilize her authority to adversely affect a term, condition

and/or privilege of each Plaintiffs' employment and/or application for employment with the City of Flint.

30. Plaintiff Jason Cate, a Caucasian man, began employment with Defendant, City of Flint in August 1996 as a Police Officer.

31. In approximately March 2016, Plaintiff Cate took the Captain examination, scoring number 2 on the eligibility list.

32. With no explanation, the promotion to Captain was given to Sandra Taylor, an African American, who had scored lower on the Captain's exam than Plaintiff.

33. Captain Taylor has been heard to comment to other employees of Defendant, "I hate white people!"

34. In approximately March of 2017, Plaintiff Cate was assigned to work as a Lieutenant in the Detective Bureau.

35. As a Lieutenant in the Detective Bureau, Plaintiff Cate was entitled to receive stand-by-pay, a take home police vehicle, free gas, as well as overtime pay and a significant boost to his professional reputation.

36. Part of his duties as Lieutenant in the Detective Bureau saw Plaintiff Cate overseeing an FBI task force and several grants which were charged with working on cold case homicides and a sexual assault initiative.

37. In approximately February 2018 Plaintiff Cate was demoted and reassigned to Patrol Bureau and an African American Lieutenant with less rank seniority replaced him in the Detective Bureau and on the FBI Task Force.

38. The demotion of Plaintiff Cate from Detective to Patrol Bureau resulted in Lieutenant Cate suffering damages of approximately \$25,000 to \$30,000 per year in stand-by-pay, call in pay and overtime, as well as his take home vehicle.

39. Plaintiff Joel Barnes III, a Caucasian man, began employment with Defendant, City of Flint in September 1994 and currently works as an Electrician.

40. Sometime in 2017 or 2018 a supervisory position became vacant in Traffic Engineering.

41. Sherry Tolbert, an African American was appointed to provisionally fill this supervisory position by Defendants.

42. As with most positions within the City of Flint, the policies and procedures require a competitive application and interview process is supposed to be conducted in order to find the most qualified candidate for the position. While this competitive process takes place, Management is permitted to provisionally appoint an individual to carry out the duties of the position.

43. Defendants permitted Ms. Tolbert to remain in the Supervisory provision well past the allotted time for provisional appointments.

44. Eventually, Defendants changed the name of the position to Traffic Signal Electrician Supervisor, bumped the pay scale up to match where Sherry Tolbert was, and permanently filled the position with Sherry Tolbert bypassing the entire competitive process.

45. Plaintiff Barnes, as an electrician wanted the Supervisory position, but because of Defendants' preferential treatment of Sherry Tolbert, an African American, Plaintiff Barnes was deprived of the opportunity.

46. On another occasion, during the same time frame, when a position was provisionally filled by a Caucasian employee, Defendants insisted that the competitive hiring process proceed and then ultimately selected an African American to fill the position, even though the Caucasian employee was on an approved bereavement and personal leave.

47. Plaintiff Mary Buszek, a Caucasian woman, began employment with Defendant, City of Flint in August 1998 as a Police Officer, assigned to work in the Detective Bureau.

48. In October of 2017 Plaintiff Buszek was sexually harassed by Tyrone Booth, an African American Police Officer, through phone calls and text messages asking her to perform oral sex on him.

49. Tyrone Booth is well known as the "right hand" or "golden boy" of Police Chief, Defendant Timothy Johnson.

50. Mr. Booth is also the best friend of Deputy Chief Devon Bernitter and served as "Best Man" at his wedding.

51. Earlier in her career with Defendant, Plaintiff Buszek was directed to perform oral sex on her Supervisor, Sgt. Devon Bernitter.

52. In December of 2017 Tyrone Booth approached Plaintiff while she was sitting in her office and intentionally thrust his pelvic area into Plaintiff's face.

53. Plaintiff refused Booth's sexual advances and harassment and shortly thereafter began to receive unfair and manufactured disciplines.

54. Booth would brag to Buszek that neither Defendant Johnson nor Deputy Chief Bernritter would believe her if she complained about his sexual advances because of the earlier incident with Deputy Chief Bernritter.

55. In addition to receiving unfair discipline, Plaintiff Buszek would be subjected to ridiculous investigations, like being investigated for an anonymous complaint for being rude.

56. In February 2018, Plaintiff and several other Caucasian police officers were reassigned from the Detective Bureau to Patrol.

57. In March 2018, Plaintiff Buszek was suspended based upon allegations made by an African American officer alleging Plaintiff had assaulted her.

58. Despite another officer coming forward and reporting that Patterson was the one who made the threats, Plaintiff Buszek's suspension was not removed from her file.

59. Moreover, Patterson was never given time off or otherwise disciplined for lying about making the complaint.

60. Plaintiff reported these instances of sexual harassment to Defendants in October of 2018.

61. A meeting took place between Plaintiff, Defendant Jackson and several other African American females. During this meeting Defendant Jackson was mean, loud, berating and belittling towards Plaintiff Buszek.

62. Plaintiff responded she should never have made an internal complaint for sexual harassment and Defendant Jackson responded that she "absolutely should not have, and now she knows better in the future."

63. In addition to the foregoing, Plaintiff Buszek has been discriminated and retaliated against in the terms and conditions of her employment including being reassigned away from the Detective Bureau causing a substantial loss in her wages.

64. Plaintiff Esther Campbell, a Caucasian woman, began employment with Defendant, City of Flint in August 1996 and achieved the rank of Sergeant with the City of Flint Police Department working in the CATT, the Crime Area Target Team.

65. In February of 2018, Plaintiff Campbell was removed from the CATT team and assigned to work in the CIB or Criminal Investigation Bureau, a much less recognized or prestigious position.

66. Throughout her career but, specifically between February 2018 and June 2019, Plaintiff excelled at her position in the CIB despite significant racially derogatory comments and criticisms from African American supervisors and coworkers.

67. In July of 2018, while investigating a double homicide, Plaintiff Campbell learned that Defendant Johnson had contact with potential suspects but had never advised the Investigator.

68. Following her interview of the suspect, Plaintiff was advised that Capt. Taylor, had been watching the interview and stated: "She shouldn't be interviewing this suspect, we need a black officer to do that."

69. On another occasion Plaintiff Campbell was removed from a case that was reassigned by Capt. Taylor to an African American Sergeant with an explanation that "a whitey shouldn't be investigating this case."

70. In October of 2018, Plaintiff Campbell overheard an African American Sergeant complain in reference to Plaintiff that "I am about sick and tired of racist white supervisors around here. I don't even know what Esther is doing on this case."

71. In early June, 2019, Plaintiff Campbell arrived at a mandatory "Intel meeting" to find that she and Deputy Chief Bernitter were the only Caucasian individuals in the room.

72. As Plaintiff walked into the meeting, she heard Deputy Chief Bernitter recounting a recent conversation he had with Defendant Jackson where Jackson had asked him if he was her "white" friend because a bunch of white males were saying she was racist.

73. During this same meeting, an African American Lieutenant in charge of the CATT Squad berated, belittled and disrespected Plaintiff Campbell, in front of the entire group.

74. When Plaintiff asked if she could have an opportunity to speak, she was advised by the same individual, "I'm not the least bit interested in your f----ing rebuttal."

75. Several African Americans in attendance at the meeting conveyed to Plaintiff that they were offended and outraged on her behalf and that the Lieutenant's outburst was not at all appropriate.

76. In June 2019, Defendant City of Flint demoted Plaintiff Campbell from the CIB, People Crimes Division to the Criminal Sexual Conduct division.

77. Defendants' discriminatory actions toward Plaintiff Campbell resulted in substantial loss of wages, loss of take home vehicle, on call pay and overtime, as well as a diminished retirement benefit.

78. Plaintiff Brian Corlew, a Caucasian man, began employment with Defendant, City of Flint in September 2005 and most recently worked as a Senior Maintainer in the Maintenance Department.

79. From approximately 2009 until 2015 Plaintiff Corlew worked as the Provisional Maintenance Foreman.

80. In July of 2017, while Plaintiff Corlew was on an approved bereavement and personal leave, Defendant City of Flint offered an exam and posted an opening for the permanent placement of the Maintenance Foreman position Plaintiff had held for 5.5 years.

81. Plaintiff was never given notice of the posting or the exam.

82. Ultimately, Defendant awarded the position to an African American.

83. Plaintiff Matt Baker, a Caucasian man, began employment with Defendant, City of Flint in May 2017 and is currently employed as an Auditor.

84. In May 2018, Plaintiff Baker applied for an exempt, Budgets and Grants Manager position which was posted with the City of Flint.

85. Plaintiff Baker, along with 4 other individuals took the examination for the position described above, with Plaintiff Baker scoring first on the exam.

86. As the application process continued, Plaintiff became aware of the fact that human resources was manipulating scores based upon seniority, which usually should not occur with exempt positions within the City of Flint.

87. In addition to this manipulation, which lowered Plaintiff Baker to 4th position, Plaintiff had concerns that the exam was scored incorrectly as well.

88. After acknowledging that the answer key was incorrect, Defendants' Human Resources Department did nothing about filling this position, until late 2018 or early 2019 when an African American was hired to fill the Budget and Grants Manager position without having tested or even being part of the original application process.

89. Plaintiff Baker expressed his concerns and complaints to Defendants' Human Resources Department that he believed he was being treated unfairly because of his race and soon thereafter began to receive intimidation and bully tactics from Defendants, including ostracizing him and putting him down to coworkers.

90. In addition, Plaintiff Baker has also received unfair discipline for manufactured reasons, while legitimate concerns involving African American co-workers go unpunished despite Defendants' knowledge of the occurrences.

91. Then, in approximately May or June of 2019, Plaintiff emailed his supervisor, the Deputy Chief of Finance, African American, Tamar Lewis indicating that he wanted to apply for and be considered for the vacant Deputy Treasurer position, which contrary to City of Flint procedures was not posted or otherwise made available for applicants.

92. Ms. Lewis' response was that Plaintiff Baker could apply for whatever position he wanted to online, even though the Deputy Treasurer position was not posted online, and beginning the next Monday he would no longer be working as an Auditor, but was to report to the Customer Service Department where he would be working as a Cashier.

93. Plaintiff Carissa Dotson, a Caucasian woman, began employment with Defendant City of Flint in March 1996 and most recently worked as an Account Supervisor.

94. In December 2018, Plaintiff Dotson applied to a posting for the Deputy Finance Director position through Defendants' online application process.

95. Plaintiff was advised shortly after the submission of her application that the position had already been filled by an African American named Ayunnah Dompres.

96. Shortly thereafter the Director of Finance, Hughie Newsome, an African American and Ms. Dompres both resigned from the City of Flint.

97. Without posting the position online, testing, or offering interviews, the position of Deputy Director of Finance was awarded to Tamar Lewis, an African American.

98. Plaintiff Lisa Gordon, a Caucasian woman, began employment with Defendant, City of Flint in February 2018 as a part-time Police Terminal Operator.

99. In July 2018, Plaintiff Gordon applied for an open Identification Bureau Tech Trainee position that was full-time, but Plaintiff was advised that a former tech had sued and won so there wasn't money in the budget to fill the position.

100. In December 2018 the position was once again posted and Plaintiff once again applied.

101. In February 2019 Plaintiff received an email inviting her to take the examination.

102. Several days later, the City notified Plaintiff of her score and the fact that she was listed as number 1 on the promotional eligibility list.

103. Ultimately an African American, who was not present when the exam was taken, was hired off the street to fill this full-time position.

104. Plaintiff Joan Ketzler, a Caucasian woman, began employment with Defendant, City of Flint in December 2006 and most recently has worked as a Principal Clerk Typist, assigned to work for Captain Sandra Taylor.

105. Plaintiff Ketzler has heard Captain Taylor comment on several occasions, "I don't like white people and I especially don't like white women."

106. Since coming under Captain Taylor's supervision in February of 2018, Plaintiff Ketzler has been subjected to rude, demeaning and derogatory comments and criticisms by Captain Sandra Taylor on an almost daily basis.

107. Plaintiff Ketzler has observed other African American employees receive favorable and preferential treatment by Captain Taylor and other African Americans, while Caucasian employees are spoken to and treated with disdain, anger and intimidation.

108. The racial discrimination and harassment displayed by Captain Taylor and other African Americans in command positions has created a toxic work environment for Plaintiff Ketzler such that the stress and anxiety has caused Plaintiff to be hospitalized.

109. Plaintiff Donald Lewis, a Caucasian man, began employment with Defendant, City of Flint since approximately 1995 and currently works as an Operations Supervisor at the Water Pollution Control Plant for the City of Flint and has also been assigned significant duties relating to Safety and training.

110. Plaintiff Lewis has submitted and assisted other Plaintiffs in the submission of multiple complaints regarding racially discriminatory practices and racially

hostile work environment for Caucasian individuals to City of Flint management employees.

111. In addition to this systematic racially motivated retaliation by Defendants City of Flint and Makini Jackson, Plaintiff Lewis has been treated differently in the terms and conditions of his employment, including being disciplined unfairly, having his access and ability to apply for the WPC Supervisor position and acting in a capacity to provide backup payroll approval for WPC denied and frequently being investigated by Defendant Makini for manufactured reasons.

112. As a direct and proximate result of his opposition to and assistance in complaints made by Plaintiffs and himself regarding the racial discrimination and racial harassment within the City of Flint, Plaintiff Lewis has been retaliated against including but not limited to being issued unwarranted and unfair discipline, being denied wages approved by his supervisor and other promotional opportunities.

113. Plaintiff Rodney McGaha, a Caucasian man, began employment with Defendant, City of Flint in April 1997 in the Parks and Recreation Department

114. In approximately 2000, Plaintiff McGaha was moved into the Transportation Department.

115. On March 29, 2018 a posting was released by the City of Flint for the position of Transportation Director, requiring a Bachelor's Degree.

116. Plaintiff McGaha, was the Traffic and Sign Coordinator for Defendant on April 2, 2018 and applied for the promotion to Transporting Director.

117. On July 25th of 2018, Plaintiff McGaha received an email notifying him that the posting for the Transportation Director position was cancelled.

118. A few days later, Plaintiff was notified that an African American was promoted to the Transportation Department's supervisory position without out any consideration of him.

119. The African American selected for the position, did not meet the educational requirements of the position and received \$5,000.00 per year more than original considered for the position.

120. Plaintiff Michael Ross, a Caucasian man, began employment with Defendant, City of Flint in August 1998 as a Police Officer most recently assigned to the Detective Bureau.

121. In 2015 and early 2016, there existed a Sergeant's list on which Plaintiff Ross was listed as number 4 on the list.

122. This list was to expire in early 2016, but Defendant City of Flint continued to award promotions to Sergeant based upon the scoring on this list beyond the date it expired.

123. Three African American officers, including one who had previously been terminated for assaulting a police officer, were permanently or provisionally promoted to the rank of Sergeant based upon their placement on this expired list.

124. In 2018, a Sergeants' spot became available but instead of continuing down the list and awarding the promotion to Plaintiff Ross, Defendant issued a new Sergeants' Exam.

125. This exam, as well as the next Sergeants' exam was deemed compromised by the Union, but while the issue was being disputed, an African

American officer specially assigned to work for Mayor Weaver, was promoted to Sergeant.

126. Shortly thereafter, having unsuccessfully taken the Sergeants' exam at least once, Defendant Johnson's "right hand" man, Tyrone Booth was provisionally promoted to Sergeant as well.

127. Although Plaintiff Ross was initially identified as number 4 on the Sergeants' list, Defendant has 5 African American Police Officers to the rank of Sergeant.

128. In addition, Plaintiff Ross has a disfiguring scar on his chin, which is usually concealed with facial hair because the area cannot/should not be shaved.

129. In 2017, Plaintiff Ross was directed to shave his facial hair for department photos and despite having medical documentation supporting the need to avoid shaving this area, Plaintiff complied with the directive.

130. In 2018, Defendant released a new policy regarding police department employees having facial hair, which indicated that Defendants' Human Resource Department had to approve an officer having facial hair.

131. After the new policy was issued, Plaintiff Ross met with Defendant Jackson seeking approval for his facial hair.

132. Defendant Jackson was rude and insensitive to Plaintiff's concerns, but was advised she would provide him with a form to have completed by his physician.

133. After several weeks passed with no form being provided by Defendant Jackson, Plaintiff learned that an African American Police Officer, Quinion Wheeler was approved to have facial hair by Defendants.

134. To date Plaintiff Ross has not received the necessary form from Defendant Jackson or anyone else from Defendants' Human Resource Department and on October 17, 2019, Plaintiff Ross was advised via email that he was not permitted to contact Defendant Jackson any longer about this matter.

135. Plaintiff Troy Simpson, a Caucasian man, began employment with Defendant, City of Flint in August 1996 as a Police Officer.

136. In early January of 2018, Plaintiff Simpson was a Sergeant assigned to work in the Detective Bureau on homicides.

137. During this timeframe an African American Sergeant was observed commenting to Defendant Johnson that they "hadn't known that the NBC (Nigger Beating Crew) was still around" in reference to a group text message that had been sent out inviting other police officers to a poker party at Plaintiff Tefft's house.

138. Within days after these comments being made about the "NBC", Chief Johnson directed a Police Officer to show him the mass text message regarding the poker party.

139. A week or two later, Plaintiff was transferred out of the Detective Bureau and assigned to work in Patrol causing Plaintiff to lose on call pay and a take home vehicle.

140. Plaintiff Simpson's position in the Detective Bureau was filled by an African American.

141. Plaintiff Dominic Tefft, a Caucasian man, began employment with Defendant, City of Flint in February 1999 as a Police Officer.

142. Prior to March 25, 2017, Plaintiff Tefft was a Sergeant assigned to the Traffic Division, where he received a take home cruiser, on call pay and specialized in Traffic Accident Reconstruction for the City of Flint.

143. At that time, Sgt. Cholyonda Brown, an African American, was assigned to assist Sgt. Jason Groulx with a backlog of traffic cases. Sgt. Brown did not have on call status, a take home vehicle or perform any of the normal duties of a Traffic Sergeant.

144. In April of 2018, Plaintiff Tefft was demoted and reassigned to work in the Patrol Division, which did not have on call pay or a take home cruiser, while an African American Sergeant, Cholyonda Brown with substantially less experience, took over the Traffic Sergeant supervisory position.

145. At the time of his demotion, Defendants claimed to Sgt. Tefft, there were too many Sergeants in the Traffic Division.

146. In fact, Sgt. Brown took over the vast majority of Plaintiff Tefft's duties and benefits, including receiving training for accident reconstruction, on call pay and a take home cruiser.

147. Since his demotion in 2018, although the Traffic Sergeant positions have become open, Plaintiff Tefft has never been afforded an opportunity to return to his Traffic Division position.

148. Plaintiff Kathleen Villarreal, a Caucasian woman, began employment with Defendant, City of Flint in August of 1985 and most recently worked as an Assistant Operation Supervisor.

149. In June of 2019 Defendant offered Plaintiff Villarreal a non-exempt position of Deputy Treasurer.

150. However, in addition to taking over the duties of the Deputy Treasurer, Plaintiff Villarreal was advised that her current duties as the Assistant Operation Supervisor would remain hers as well.

151. Plaintiff refused the offer.

152. A day later, Defendant made an offer to an African American employee for the Deputy Treasurer position, but as an exempt employee with substantially less job responsibilities than those presented to Plaintiff Villarreal.

153. Had Plaintiff Villarreal been offered the same exempt position with the same duties as those offered to her African American counterpart, she would have accepted the promotion.

154. In May of 2018, Plaintiff Tracee Walker, a Caucasian woman, applied for the full-time Water Clerk Customer Service position with Defendant City of Flint.

155. Plaintiff took the examination and did well.

156. When Plaintiff called to follow up on her application process she was told that the position had to be filled with African American individuals, who had never taken the test.

157. As a result, Plaintiff Walker did not get hired by Defendant.

158. Plaintiff Alfino Donastorg, an African American man of Caribbean decent, was a Lieutenant with Defendant's Police Department in 2018.

159. At that time, Plaintiff Donastorg was promoted and assigned to work directly with the Chief of Police handling Internal Affairs investigations.

160. Shortly after his promotion, Plaintiff learned that several serious allegations of sexual harassment had been made against Defendant Johnson's newly

appointed Deputy Chief, Devon Bernitter, and newly appointed Sergeant and (“right hand man”) Tyrone Booth.

161. Despite Plaintiff’s best efforts, Defendants refused to investigate the sexual harassment allegations against Bernitter and Booth.

162. When Plaintiff confronted Defendant Johnson about the sexual harassment investigations, Plaintiff was told “there is no investigation!”

163. Defendant Johnson then held up an older photo of the City of Flint Police Department “higher ups” and said, “my purpose is to change the color of all the people that fill these positions.”

164. The tone of this meeting was either Plaintiff was with Defendants in changing the color of the police department or he was against them.

165. Plaintiff conveyed he wanted no part of Defendant’s “purpose” and that he simply wanted to do his job and do it well.

166. Shortly thereafter, Plaintiff was denied training by the Chief, investigations were taken away from him to be handled by Bernitter or Booth, and Plaintiff began to receive unfair and bogus discipline.

167. Feeling as though he had no choice or risk losing his job, in February 2019, Plaintiff Donastorg submitted the necessary paperwork for his retirement and soon thereafter left his employment with the City of Flint.

168. As a direct and proximate result of Plaintiff Donastorg’s opposition to and complaints about sexual and racial harassment in the workplace as well as racial discrimination, Plaintiff Donastorg was constructively discharged.

169. A reasonable person in Plaintiff Donastorg's position would have felt compelled to retire.

170. But for Defendants' retaliation Plaintiff Donastorg would have continued working for several additional years.

171. Plaintiff Salina Juarez a Caucasian female, was hired by the City of Flint in 2003 and performed in excellent fashion through the tenure of her employment.

172. The last position Plaintiff Juarez held at the time of her separation of employment with Defendants was Senior Customer Service Representative.

173. Between March 2017 and her separation, Plaintiff Juarez sought several promotions within the City of Flint.

174. In or around April 2019 Plaintiff learned of a possible position opening in the Assessors Department for Assessor Trainee position.

175. Without any posting or application process, this position was filled by Sue Wells-Cowper, an African American.

176. In mid to late 2018, a position in the Water Service Center became available and Plaintiff Juarez submitted her application.

177. Plaintiff never received any communication from the City of Flint regarding this position.

178. Plaintiff complained to her supervisor and the Human Resources Department about being overlooked for the identified promotional opportunities in 2018 and 2019, but instead of addressing these concerns, Defendants retaliated against Plaintiff Juarez.

179. Specifically, Defendants began to treat Plaintiff Juarez less favorably in the terms and conditions of her employment, which included denying her reimbursed for her tuition, receiving demeaning confrontations, counseling and discipline by Defendant Makini Jackson.

180. Defendant Jackson berated, degraded and humiliated Plaintiff Juarez for issues that were not her fault and/or responsibility and because Plaintiff would not violate the City of Flint Policy.

181. Feeling as though she had no choice, given Defendants' propensity to favor African American's in hiring and promotional opportunities, along with Defendant Jackson's escalating abuse, Plaintiff Juarez felt she had no alternative but to resign her employment with the City of Flint after more than 16 years.

182. In September of 2019 and as a direct and proximate result of Plaintiff Juarez race and her opposition to racial discrimination in the workplace, Plaintiff Juarez was constructively discharged.

183. A reasonable person in Plaintiff Juárez position would have felt compelled to resign.

184. As a direct and proximate result of Defendants' actions and comments, Plaintiffs have suffered and continue to suffer past and future economic damages as well as past and future emotional and mental anguish damages. Plaintiffs also seek a statutory fee award.

COUNT I:
ELLIOTT-LARSEN MCLA 37.2202
RACE DISCRIMINATION CLAIM AGAINST ALL DEFENDANTS

185. Plaintiffs incorporate paragraphs 1 through 184 above.

186. Plaintiffs Baker, Barnes, Buszek, Campbell, Cate, Corlew, Dotson, Gordon, Walker, Villarreal, Tefft, Lewis, McGaha, Ross, Juarez and Simpson were treated more harshly in the terms and conditions of their employment, including, but not limited to various disciplines, pay, provisional appointments, investigations, unfavorable reassignments and demotions based upon their race.

187. In each instance of harsh or detrimental conduct towards Plaintiffs, a similarly situated African American employee was treated more favorably than the Plaintiffs.

188. The Caucasian race of Plaintiff Baker, Barnes, Buszek, Campbell, Cate, Corlew, Dotson, Gordon, Walker, Villarreal, Tefft, Lewis, McGaha, Ross, Juarez and Simpson was a substantial causative factor in their harsh and detrimental treatment.

189. Thus, Plaintiffs Baker, Barnes, Buszek, Campbell, Cate, Corlew, Dotson, Gordon, Walker, Villarreal, Tefft, Lewis, McGaha, Ross, Juarez and Simpson assert a MCL 37.2202 race discrimination claim against Defendants.

190. Based on Defendants' wrongful acts, Plaintiffs Baker, Barnes, Buszek, Campbell, Cate, Corlew, Dotson, Gordon, Walker, Villarreal, Tefft, Lewis, McGaha, Ross, Juarez and Simpson have suffered past and future economic damages as well as past and future emotional and mental anguish damages. Plaintiffs also seek a statutory attorney fee award.

**COUNT II:
ELLIOTT-LARSEN MCLA 37.2202
RACE DISCRIMINATION – FAILURE TO HIRE/PROMOTE CLAIM
AGAINST ALL DEFENDANTS**

191. Plaintiffs incorporate paragraphs 1 through 190 above.

192. Plaintiffs Baker, Barnes, Cate, Corlew, Dotson, Gordon, Villarreal, Lewis, McGaha, Walker, Juarez and Ross applied for various promotions within the City of Flint as described above.

193. Plaintiff Walker applied for a position within the City of Flint as described above.

194. In each instance of seeking a promotion or applying for employment, Plaintiffs Baker, Barnes, Cate, Corlew, Dotson, Gordon, Villarreal, Lewis, McGaha, Ross, Juarez and Walker were subjected to prejudicial, unfair and unfavorable application of various City of Flint policies and procedures in order to deprive them of an equal and fair opportunity to obtain the sought after promotion.

195. Defendants' manipulation of their policies and procedures was done for the sole purpose of insuring African American individuals received disproportionate and unwarranted promotional and hiring opportunities within the City of Flint.

196. In each instance of promotional and hiring opportunities, an unqualified or less qualified (per Defendants' policies and procedures) African American employee/individual was awarded the promotion or position.

197. The Caucasian race of Plaintiff Baker, Barnes, Buszek, Campbell, Cate, Corlew, Dotson, Gordon, Walker, Villarreal, Tefft, Lewis, McGaha, Ross, Juarez and Simpson was a substantial causative factor in their failure to be awarded the promotions or positions.

198. Thus, Plaintiffs Baker, Barnes, Buszek, Campbell, Cate, Corlew, Dotson, Gordon, Walker, Villarreal, Tefft, Lewis, McGaha, Ross, Juarez and Simpson assert a MCL 37.2202 race discrimination claim against Defendants.

199. Based on Defendants' wrongful acts, Plaintiffs Baker, Barnes, Buszek, Campbell, Cate, Corlew, Dotson, Gordon, Walker, Villarreal, Tefft, Lewis, McGaha, Ross, Juarez and Simpson have suffered past and future economic damages as well as past and future emotional and mental anguish damages. Plaintiffs also seek a statutory attorney fee award.

**COUNT III:
ELLIOTT-LARSEN MCLA 37.2202
RACE AND SEXUAL HARASSMENT AGAINST ALL DEFENDANTS**

200. Plaintiffs incorporate paragraphs 1 through 199 above.

201. Defendants racially harassed Plaintiffs Buszek, Campbell, Ketzler, Donastorg, and Cate and nurtured the existence of a racially hostile work environment by initiating a culture of preferential treatment for African Americans.

202. Defendants further racially harassed Plaintiffs Buszek, Campbell, Ketzler, Cate and Donastorg by failing and refusing to take prompt remedial action to put a stop to racial harassment in Plaintiffs' workplace.

203. This racial harassment created a hostile work environment substantially interfering with the terms and conditions of Plaintiffs' employment.

204. Defendant City of Flint is also responsible for the sexual harassment of Plaintiff Buszek through the actions of its Management employees, Deputy Chief Bernritter and Sgt. Tyrone Booth.

205. Both Bernritter and Booth demanded sexual favors from Plaintiff Buszek and then discussed their exploits with other City of Flint employees creating a hostile work environment which substantially interfered with the terms and conditions of Plaintiff Buszek's work environment.

206. Plaintiffs Buszek, Campbell, Ketzler, Cate and Donastorg accordingly assert a race harassment claim against Defendants.

207. Plaintiff Buszek accordingly asserts a sexual harassment claim against Defendants.

208. Based on Defendants' wrongful acts, Plaintiffs Buszek, Campbell, Ketzler, Cate and Donastorg have suffered past and future economic damages as well as past and future emotional and mental anguish damages. Plaintiffs also seek a statutory fee award.

**COUNT IV:
ELLIOTT-LARSEN MCLA 37.2701
ARTICLE VII RETALIATION AGAINST ALL DEFENDANTS**

209. Plaintiffs incorporate paragraphs 1 through 208 above.

210. Plaintiffs Baker, Buszek, Ketzler, Lewis, Cate, Juarez and Donastorg made complaints regarding race and/or sexual harassment and/or race discrimination to Defendants' management employees.

211. Plaintiffs Baker, Buszek, Ketzler, Lewis, Cate, Juarez and Donastorg opposed and refused to participate in race discrimination and race/ sexual harassment as requested by Defendants as it relates to other Plaintiffs in this litigation.

212. Defendants were angered at these Plaintiffs because of their complaints and opposition to race discrimination and race/sexual harassment.

213. After Plaintiffs Baker, Buszek, Ketzler, Lewis, Cate, Juarez and Donastorg opposed violations of the Elliott-Larsen Civil Rights Act in their work place, these Plaintiffs were retaliated against, including but not limited to unfair and unwarranted disciplines, investigations, loss of pay, demotions, reassignments, etc., in substantial

part, because of their protected activities.

214. Accordingly, Defendants violated Article VII of the Michigan Elliott-Larsen Civil Rights Act.

215. Based on Defendants' wrongful acts, Plaintiffs Baker, Buszek, Ketzler, Lewis, Cate, Juarez and Donastorg have suffered past and future economic damages as well as past and future emotional and mental anguish damages. Plaintiffs also seek a statutory fee award.

CONCLUSION

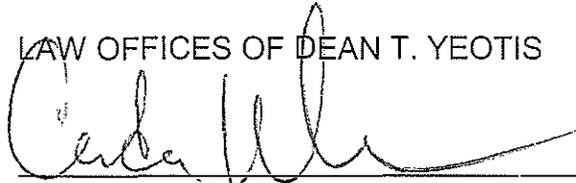
Plaintiffs seek judgment against Defendants for damages exceeding Twenty Five Thousand Dollars (\$25,000.00) together with costs, interest and attorneys fees pursuant to statute.

PLAINTIFFS RELY UPON THE PREVIOUSLY FILED DEMAND FOR JURY TRIAL

Plaintiffs rely upon the demand for a jury trial previously filed in this case pursuant to Michigan Court Rule 2.508(B).

Respectfully submitted,

LAW OFFICES OF DEAN T. YEOTIS



DEAN T. YEOTIS (P41290)
CRISTINE WASSERMAN (P53656)
Attorneys for Plaintiffs

Dated: October 24, 2019

LAW OFFICES
DEAN T. YEOTIS
611 W. Court Street
Flint, MI 48503
(810) 767-6100
Fax (810) 767-6415