

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

IMPROPER PRACTICE CHARGE

INSTRUCTIONS: File an original and four (4) copies of this Charge with the Director of Public Employment Practices and Representation, New York State Public Employment Relations Board, PO BOX 2074, ESP AGENCY BLDG 2, FLS 18 & 20, ALBANY, NY 12220-0074. If more space is required for any item, attach additional sheets, numbering item accordingly.

DO NOT WRITE IN THIS SPACE

Case No. U-

Date Received:

1. CHARGING PARTY

a. Name (If employee organization, give full name, including any affiliation and local name and number):

Andrea M. Kess

b. Address (No. & Street, City and Zip Code, County, Email):

Telephone Number: [REDACTED]

c. Name and title of the representative filing charge:

Eric Sanders, Esq.

d. Name, address, telephone number, and Email of attorney or other representative, if any, to whom correspondence is to be directed:

Telephone Number: 212-652-2782

The Sanders Firm, P.C. 30 Wall Street, 8th Floor New York, N.Y. 10005 email: [REDACTED]

2. PUBLIC EMPLOYER AND/OR EMPLOYEE ORGANIZATION AGAINST WHICH CHARGE IS BROUGHT

a. Name and Address (No. & Street, City and Zip Code, County, Email): East Hampton Town Police Benevolent Assoc.

P.O. Box 1035 East Hampton, N.Y. 11937

b. Telephone Number: 631-329-3317

3. Is the charging party filing a separate application for injunctive relief pursuant to §204.7 of the Board's Rules of Procedure?

YES

NO

4. VIOLATIONS ALLEGED

Pursuant to Article 14 of the Civil Service Law, as amended (Public Employees' Fair Employment Act), the charging party hereby alleges that the above-named respondent(s) has (have) engaged in or is (are) engaging in an improper practice within the meaning of the following subsections of Section 209-a of said Act (check the subsection(s) allegedly violated):

If by a public employer

If by an employee organization

209-a.1(a)

209-a.1(b)

209-a.1(c)

209-a.1(d)

209-a.1(e)

209-a.1(f)

209-a.1(g)

209-a.1(h)

209-a.2(a)

209-a.2(b)

209-a.2(c)*

* If the charge alleges a violation of Section 209-a.2(c) of the Act based on an employee organization's processing of or failure to process a claim that a public employer has breached its agreement with such employee organization, identify the public employer:

a. Name and Address (No. & Street, City and Zip Code, County, Email): The Town of East Hampton 159 Pantigo Rd,

East Hampton, NY, 11937 email:

b. Telephone Number: 631-324-8787

[REDACTED]

5. Specify in detail the alleged violation(s). Include names, dates, times, places and particular actions constituting each violation. Use additional sheet(s), if necessary. Failure to supply sufficient factual detail may result in a delay in processing or dismissal of the charge.

Charging Party, Andrea M. Kess, alleges that since her appointment on April 3, 2016, and more significantly from early 2018 to the present, she and other female officers have been subjected to gender-based discriminatory practices within the East Hampton Town Police Department. These practices include exposure to sexually offensive conduct, constant questioning of their integrity and competence, denial of training, advancement, and other promotional opportunities, assignment to punitive duties, denial of overtime, excessive supervision, and other forms of retaliatory treatment.

Throughout this period, Ms. Kess, a union member of the Respondent East Hampton Town Police Benevolent Association (PBA), repeatedly raised these concerns with President Joseph Izzo, who failed to take any protective action. Instead, President Izzo actively discouraged Ms. Kess from pursuing legal claims against the Town and other police officials. Despite this discouragement, Ms. Kess filed several EEOC Charges of Discrimination against the Respondent Town of East Hampton without union support.

6. If the charge alleges a violation of Section 209-a.1(d) or 209-a.2(b) of the Act, has the charging party notified the Board in writing of the existence of an impasse pursuant to Section 205.1 of the Board's Rules of Procedure?

YES NO

7. The charging party is available immediately to participate in a pre-hearing conference and a formal hearing.

YES NO

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) SS.:

Andrea M. Kess, being duly sworn deposes and says, that (s)he is the charging party above named, or its representative, and that (s)he has read the above charge consisting of this and 3 additional page(s), and is familiar with the facts alleged therein, which facts (s)he knows to be true, except as to those matters alleged on information and belief, which matters (s)he believes to be true.

Andrea Kess

(Title)

Richard M. ESO
Subscribed and sworn to before me
this 08.15.2021
(month/date/year)

COUNTY WESTCHESTER
REG # 025A0013820

Reset Form

Print Form

5. Specify in detail the alleged violation(s). Include names, dates, times, places and particular actions constituting each violation. Use additional sheet(s), if necessary. Failure to supply sufficient factual detail may result in a delay in processing or dismissal of the charge.

On July 17, 2024, Ms. Kess filed EEOC Charge No.: 520-2024-6652, revealing electronic evidence obtained from President Izzo and other PBA members that demonstrated their intentional cover-up of discriminatory practices against her and others during an 'Independent Investigation' conducted by Arthur Riegel, hired by the Respondent Town of East Hampton. Ms. Kess also alleged that the Position Statement filed with the EEOC contained false representations. In response to these filings and public disclosures, the Respondents became upset and conducted several meetings to discuss the situation.

On August 7, 2024, in a coordinated effort between the Respondent Town of East Hampton, through Chief Michael D. Sarlo, and the Respondent East Hampton Town Police Benevolent Association, the Board of Trustees served Ms. Kess with disciplinary charges related to her EEOC filing, falsely claiming she had no legal right to disclose private messages. This action is viewed by Ms. Kess as an attempt to frustrate her legal claims, dissuade witnesses from opposing discriminatory practices, and undermine the credibility of her evidence.

6. If the charge alleges a violation of Section 209-a.1(d) or 209-a.2(b) of the Act, has the charging party notified the Board in writing of the existence of an impasse pursuant to Section 205.1 of the Board's Rules of Procedure?

YES NO

7. The charging party is available immediately to participate in a pre-hearing conference and a formal hearing.

YES NO

STATE OF NEW YORK)
COUNTY OF) SS.:

Andrea M. Kess, being duly sworn deposes and says, that (s)he is the charging party above named, or its representative, and that (s)he has read the above charge consisting of this and 3 additional page(s), and is familiar with the facts alleged therein, which facts (s)he knows to be true, except as to those matters alleged on information and belief, which matters (s)he believes to be true.

Andrea Kess

(Title)

Subscribed and sworn to before me
this 08.15.2024
(month/date/year)

COUNTY OF WESTCHESTER
REG # 028A0013820

Reset Form

Print Form

5. Specify in detail the alleged violation(s). Include names, dates, times, places and particular actions constituting each violation. Use additional sheet(s), if necessary. Failure to supply sufficient factual detail may result in a delay in processing or dismissal of the charge.

Notably, the Respondents did not challenge the authenticity of the evidence she disclosed.

On August 8, 2024, the Respondent East Hampton Town Police Benevolent Association and its Board of Trustees held a special meeting at police headquarters, a space maintained by the Respondent Town of East Hampton, to suspend Ms. Kess for six months for allegedly acting against the union's interests by documenting and publicly disclosing evidence of workplace discrimination. Ms. Kess did not participate in the meeting, labeling the action as retaliation for asserting her legal rights. After a brief presentation by the PBA and the Board of Trustees, approximately 30 members voted to suspend Ms. Kess, including members she accused of covering up discriminatory practices. Ms. Kess was not directly notified of her suspension but learned about it through a general email sent to the membership.

6. If the charge alleges a violation of Section 209-a.1(d) or 209-a.2(b) of the Act, has the charging party notified the Board in writing of the existence of an impasse pursuant to Section 205.1 of the Board's Rules of Procedure?

YES NO

7. The charging party is available immediately to participate in a pre-hearing conference and a formal hearing.

YES NO

STATE OF NEW YORK)
) SS.:
COUNTY OF)

Andrea M. Kess _____, being duly sworn deposes and says, that (s)he is the charging party above named, or its representative, and that (s)he has read the above charge consisting of this and 3 additional page(s), and is familiar with the facts alleged therein, which facts (s)he knows to be true, except as to those matters alleged on information and belief, which matters (s)he believes to be true.

Andrea Kess

(Title)

[Signature]
Subscribed and sworn to before me
this 08.15.2024
(month/date/year)

COUNTY OF WESTCHESTER
REG # 025A 0013820

Reset Form Print Form

5. Specify in detail the alleged violation(s). Include names, dates, times, places and particular actions constituting each violation. Use additional sheet(s), if necessary. Failure to supply sufficient factual detail may result in a delay in processing or dismissal of the charge.

Therefore, Ms. Kess alleges that the Respondent Town of East Hampton, through Chief Michael D. Sarlo, and the Respondent East Hampton Town Police Benevolent Association, through the Board of Trustees, have retaliated against her in violation of § 209-a.1 (a), 209-a.2 (a) and (c).

This summary encapsulates the primary allegations for inclusion in the charging document.

6. If the charge alleges a violation of Section 209-a.1(d) or 209-a.2(b) of the Act, has the charging party notified the Board in writing of the existence of an impasse pursuant to Section 205.1 of the Board's Rules of Procedure?

YES NO

7. The charging party is available immediately to participate in a pre-hearing conference and a formal hearing.

YES NO

STATE OF NEW YORK)
COUNTY OF) SS.:

Andrea M. Kess, being duly sworn deposes and says, that (s)he is the charging party above named, or its representative, and that (s)he has read the above charge consisting of this and 3 additional page(s), and is familiar with the facts alleged therein, which facts (s)he knows to be true, except as to those matters alleged on information and belief, which matters (s)he believes to be true.

Andrea Kess

(Title)

Subscribed and sworn to before me
this 08.15.2024
(month/date/year)

COUNTY OF WESTCHER
REG # 025A0013820

Reset Form

Print Form