

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ANDREA M. KESS,

COMPLAINT

JURY TRIAL

Plaintiff,

-against-

THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ,
as Town Supervisor; DAVID LYS, as Council Member; CATE
ROGERS, as Council Member; THOMAS FLIGHT, as Council
Member; IAN CALDER-PIEDMONTE, as Council Member;
MICHAEL D. SARLO, as Chief of Police; CHRISTOPHER
ANDERSON, as Captain; DANIEL TOIA, as Lieutenant; GREGORY
SCHAEFER, as Lieutenant; CHELSEA TIERNEY, as Lieutenant;
WAYNE MATA, as Sergeant; GREGORY MARTIN, as Sergeant;
RYAN HOGAN, as Sergeant and RAYMOND RAU, as Police
Office, each sued in their official and individual capacities as
employees of the TOWN OF EAST HAMPTON

Defendants’

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Plaintiff ANDREA M. KESS, through THE SANDERS FIRM, P.C., files this federal
complaint against Defendants’ THE TOWN OF EAST HAMPTON; KATHEE BURKE-
GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-
PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA;
GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN;
RYAN HOGAN; and RAYMOND RAU respectfully alleges that:

JURISDICTION AND VENUE

1. The jurisdiction of this Court is invoked under 18 U.S.C. § 1965, 28 U.S.C. §§ 1331,
1343, and 2202 to secure protection of and to redress deprivation of rights secured by:

a. Title VII of the Civil Rights Act of 1964;

- b. Civil Rights Act of 1871, 42 U.S.C. § 1983; and
- c. New York State Executive Law § 296.

2. The unlawful employment practices and violations of Plaintiff ANDREA M. KESS'S civil rights complained of herein were committed within the Eastern District of New York.

PROCEDURAL REQUIREMENTS

3. Plaintiff ANDREA M. KESS has filed suit with this Court within the applicable statute of limitations period.

4. Plaintiff ANDREA M. KESS alleges that on or about May 25, 2023, she filed a Charge of Discrimination with the United States Equal Employment Opportunity Commission [EEOC], Charge No.: 520-2023-04757.

5. Plaintiff ANDREA M. KESS alleges that on or about June 6, 2024, she received a Notice of Right to Sue from the United States Department of Justice.

6. Plaintiff ANDREA M. KESS is not required to exhaust any administrative procedures before suit under the Civil Rights Act of 1871 or New York State Executive Law § 296.

BACKGROUND [April 3, 2016 – Present]

7. Plaintiff ANDREA M. KESS alleges that on or about April 3, 2016, she was appointed as a police officer with Defendant THE TOWN OF EAST HAMPTON.

8. Plaintiff ANDREA M. KESS alleges that Defendant THE TOWN OF EAST HAMPTON'S police department is located at 131 Wainscott NW Rd, in the Hamlet of Wainscott, Town of East Hampton, County of Suffolk, NY, 11975.

9. Plaintiff ANDREA M. KESS alleges that Defendant THE TOWN OF EAST HAMPTON is located at 159 Pantigo Rd, East Hampton, County of Suffolk, NY, 11937.

10. Plaintiff ANDREA M. KESS asserts that from her appointment, particularly starting in early 2018 and continuing to the present, she and other female officers have been and remain subject to gender-based discriminatory practices. These practices include sexually inappropriate behavior, constant challenges to their integrity and competence, denial of training, advancement, and promotional opportunities, punitive assignments, denial of overtime, excessive supervision, and other forms of retaliatory treatment.

11. Plaintiff ANDREA M. KESS alleges that in 1978, the United States Equal Employment Opportunity Commission [“EEOC”] adopted the Uniform Guidelines on Employee Selection Procedures [“UGESP”] under Title VII of the Civil Rights Act of 1964.

12. Plaintiff ANDREA M. KESS alleges that the UGESP provides uniform guidance for employers to ensure its testing and selection procedures follow Title VII of the Civil Rights Act of 1964, theory of disparate impact.

13. Plaintiff ANDREA M. KESS alleges that the UGESP outline three (3) different methods for employers to prove its testing and selection procedures are job-related and consistent with business necessity.

14. Plaintiff ANDREA M. KESS alleges that these methods of proving job-relatedness are called “test” validation.

15. Plaintiff ANDREA M. KESS alleges that Defendant THE TOWN OF EAST HAMPTON as an employer, upon information and belief, is not in compliance with the UGESP.

16. Plaintiff ANDREA M. KESS alleges that Defendant THE TOWN OF EAST HAMPTON under Defendant MICHAEL D. SARLO has failed to grant she and other similarly situated female officers' discretionary appointments to the Detective Division. In fact, she was denied discretionary appointments twice to the Detective Division despite outperforming all officers in the measurable metrics of arrests, citations, and other law enforcement activities.

17. Plaintiff ANDREA M. KESS alleges that since April 3, 2016, she is the most active law enforcement officer, having the most investigatory experiences including courtroom testimony, she's received fourteen (14) commendations for exemplary service, she's received numerous awards from Mothers Against Drunk Driving [MADD] and Suffolk Top Cop, she's received exemplary character references and letters from other sworn personnel, agency partners including the Bureau of Alcohol Tobacco, Firearms and Explosives, United States Attorney's Office for the Southern District of New York and the Joint Federal Bureau of Investigation [FBI] and Suffolk County Police Department [SCPD] Sex Trafficking/ Kidnap Task Force.

18. Plaintiff ANDREA M. KESS alleges that Defendants' MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; WAYNE MATA; GREGORY MARTIN; RAYMOND RAU and others either participated, condoned, or acquiesced to the discriminatory practices.

19. Plaintiff ANDREA M. KESS alleges that Defendant THE TOWN OF EAST HAMPTON is aware of this male-centric culture but has done nothing to protect its female officers.

20. Plaintiff ANDREA M. KESS alleges that Defendant CHELSEA TIERNEY, despite being fully aware of the mistreatment and harassment of KESS and other female employees by male colleagues, particularly Defendant DANIEL TOIA, failed to take appropriate

action as required by Defendant TOWN OF EAST HAMPTON'S Anti-Harassment and Anti-Sexual Harassment Policy.

21. Plaintiff ANDREA M. KESS alleges that since April 3, 2016, as the only female supervisor, Defendant CHELSEA TIERNEY was legally obligated to protect KESS by reporting these issues and ensuring corrective measures were taken.

22. Plaintiff ANDREA M. KESS alleges that instead of fulfilling her duties, Defendant CHELSEA TIERNEY was complicit in the discriminatory practices within the department.

23. Plaintiff ANDREA M. KESS alleges that Defendant MICHAEL D. SARLO actively used Defendant CHELSEA TIERNEY to over-supervise KESS in a deliberate attempt to target her, making her work environment more hostile in a not-so-veiled effort to terminate her employment eventually.

24. Plaintiff ANDREA M. KESS alleges that Defendant CHELSEA TIERNEY, under Defendant MICHAEL D. SARLO'S direction, engaged in this over-supervision, believing—albeit falsely—that she was legally obligated to follow SARLO'S direct orders after allegedly consulting with an attorney.

25. Plaintiff ANDREA M. KESS alleges that Defendant MICHAEL D. SARLO'S orders were unlawful, and Defendant CHELSEA TIERNEY'S failure to challenge them or report the mistreatment to higher authorities or outside agencies was a violation of her duties under both the TOWN'S policy and federal, state, and local laws.

26. Plaintiff ANDREA M. KESS alleges that despite Defendant CHELSEA TIERNEY'S personal fear of retaliation, KESS asserts that as a supervisor, TIERNEY had a

legal responsibility to intervene and protect her from such retaliatory actions instead of participating in Defendant MICHAEL D. SARLO'S scheme to undermine her position.

27. Plaintiff ANDREA M. KESS alleges that by over-supervising her and failing to report the abuse, Defendant CHELSEA TIERNEY not only violated the TOWN'S anti-harassment policy but also contributed to the creation of a hostile work environment that endangered KESS'S career and well-being.

GENDER DISCRIMINATION FAILURE TO PROMOTE – DETECTIVE [2018]

28. Plaintiff ANDREA M. KESS alleges that in May or June 2018, now retired Sergeant Barry Johnson [ironically was the only supervisor of color] asked her if she was interested in a detective assignment.

29. Plaintiff ANDREA M. KESS alleges that then Sergeant Barry Johnson told her that he would recommend her.

30. Plaintiff ANDREA M. KESS alleges that Defendant DANIEL TOIA informed her that she was under consideration along with Police Officers Andrew Nimmo [male], and Frank Sokolowski [male].

31. Plaintiff ANDREA M. KESS alleges she was never interviewed for the position.

32. Plaintiff ANDREA M. KESS alleges that only Police Officer Frank Sokolowski [male] was interviewed and ultimately granted the discretionary appointment. According to Defendant DANIEL TOIA, "The ultimate decision was based on 'seniority.' Keep doing what you're doing."

33. Plaintiff ANDREA M. KESS alleges that this discretionary appointment under Defendants' THE TOWN OF EAST HAMPTON; MICHAEL D. SARLO and DANIEL TOIA is

violative of the UGESP, as it was based “solely” upon Police Officer Frank Sokolowski’s male gender.

34. Plaintiff ANDREA M. KESS alleges that even though “seniority” is not a measurable metric of law enforcement activities, Defendants’ THE TOWN OF EAST HAMPTON; MICHAEL D. SARLO and DANIEL TOIA knew that would be the only way to “justify” the discretionary appointment of Police Officer Frank Sokolowski as she outperformed every male applicant.

GENDER DISCRIMINATION FAILURE TO PROMOTE – SERGEANT [2019 – 2021]

35. Plaintiff ANDREA M. KESS alleges that in or around June 2019, she sat for and passed the Promotion to Sergeant, Suffolk County Civil Service examination and placed number one (1) on the Eligibles List with the highest score for candidates appointed to Defendant THE TOWN OF EAST HAMPTON’S police department.

36. Plaintiff ANDREA M. KESS alleges that the certified Eligibles List was active from November 17, 2019, through November 17, 2021.

37. Plaintiff ANDREA M. KESS alleges that during this period, the department had several vacancies due to retirements and other personnel-related decisions.

38. Plaintiff ANDREA M. KESS alleges that despite several vacancies, Defendants’ THE TOWN OF EAST HAMPTON and MICHAEL D. SARLO intentionally failed to promote her to sergeant due to her gender.

39. Plaintiff ANDREA M. KESS alleges that Defendants’ THE TOWN OF EAST HAMPTON and MICHAEL D. SARLO let the Eligibles List expire to avoid promoting her and having two (2) female supervisors simultaneously.

40. Plaintiff ANDREA M. KESS alleges that under Defendant MICHAEL D. SARLO, minimal attempts have been made, if any, to diversify the ranks and units of the Town of East Hampton Police Department.

41. Plaintiff ANDREA M. KESS alleges that the failure to appoint her to an open vacancy by Defendants' THE TOWN OF EAST HAMPTON and MICHAEL D. SARLO is violative of the UGESP, as its decision was based "solely" upon her gender.

GENDER DISCRIMINATION FAILURE TO PROMOTE – DETECTIVE [2022]

42. Plaintiff ANDREA M. KESS alleges that sometime in April 2022, she interviewed for a discretionary appointment to the Detective Division.

43. Plaintiff ANDREA M. KESS alleges that as part of the interviewing process, she appeared before a Review Panel consisting of Defendants' MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; RYAN HOGAN.

44. Plaintiff ANDREA M. KESS alleges that the only female member of the management, Defendant CHELSEA TIERNEY, recommended her for the discretionary appointment.

45. Plaintiff ANDREA M. KESS alleges that despite her optimism, she knew that this Review Panel would never appoint her or any other female officer after this "perfunctory" interview despite her outperforming every candidate in the measurable metrics of arrests, citations, and other law enforcement activities.

46. Plaintiff ANDREA M. KESS alleges that shockingly, but not surprisingly, Defendant RYAN HOGAN told her, "It came down to 'seniority,' and he didn't know anything about the Chief's pick."

47. Plaintiff ANDREA M. KESS alleges that this discretionary appointment under Defendants' THE TOWN OF EAST HAMPTON; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; and RYAN HOGAN is violative of the UGESP, as it was based "solely" upon Police Officer Luke McNamara's male gender.¹

48. Plaintiff ANDREA M. KESS alleges that even though "seniority" is not a measurable metric of law enforcement activities, Defendants' THE TOWN OF EAST HAMPTON; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; and RYAN HOGAN knew that would be the only way to "justify" the discretionary appointment of Police Officer Luke McNamara as she outperformed every male applicant.

49. Plaintiff ANDREA M. KESS alleges that Police Officer Luke McNamara should not have been considered, much less granted this discretionary appointment to the Detective Division, because, in 2015 or so, the department established that he was using his funds to pay for "information" to develop narcotics cases and arrests. Frankly, he should have been fired, but he survived due to the male-centric culture of the department.

HOSTILE WORK ENVIRONMENT [APRIL 3, 2016 – PRESENT]

50. Plaintiff ANDREA M. KESS alleges that over the years, since her date of appointment more pointedly from Early 2018 to present, she and other female officers have been subjected to an incalculable number of sexually offensive comments in the workplace by Defendant DANIEL TOIA, while other supervisors including Defendants' MICHAEL D.

¹ For the record, over the past few years, the TOWN OF EAST HAMPTON, Chief Michael D. Sarlo, the Charging Party Christopher Anderson, and many other employees, including Lieutenant Daniel Toia, are aware that Detective Luke McNamara, is known on Instagram as coolhandlu_rs. In contrast, Detective McNamara openly, while on duty, uses department resources, including posting pictures and videos of the training, tactics, facilities, and equipment and images of police personnel for commercial purposes, and has never been disciplined nor criminally charged with violating New York Penal Law § 195.00 (Official Misconduct) because employees benefit from employment with his privately owned security business.

SARLO; CHRISTOPHER ANDERSON; WAYNE MATA; GREGORY MARTIN and others either participated, condoned, or acquiesced to the abusive conduct.

51. Plaintiff ANDREA M. KESS alleges that she, other female, and male officers have heard Defendant DANIEL TOIA refer to female officers as “girls” and “you’re all fucking crazy.”

52. Plaintiff ANDREA M. KESS alleges that she, other female and male officers have heard Defendant DANIEL TOIA and other male detectives in the Detective Division refer to alleged female victims of sexual assaults as “cum dumpsters” and another said, “I can’t even imagine what her pussy smells like.” Over the years, there have been too many similar comments to recall.

53. Plaintiff ANDREA M. KESS alleges that during Defendant MICHAEL D. SARLO’S tenure more than ten (10) years, he directly participated, condoned or acquiesced to the abusive work environment to the detriment of female officers by failing to recognize them for acts of heroism; failing to recognize female officers for extraordinary police work; failing to grant discretionary appointments or transfers of female officers to the Detective Division, other investigative units, or preferred assignments; failing to promote female officers as police supervisors, etc.

54. Plaintiff ANDREA M. KESS alleges that in the department's history since 1648, only one (1) female officer was granted a discretionary appointment to the Detective Division, and she retired in 2014.

55. Plaintiff ANDREA M. KESS alleges that in the department's history since 1648, only two (2) female officers have been awarded Officer of the Year.

56. Plaintiff ANDREA M. KESS alleges that although from April 3, 2016, through June 20, 2023, she led the department in all measurable metrics of arrests, citations, and other law enforcement activities, she has never been granted a discretionary appointment to the Detective Division, other preferred assignment or awarded Officer of the Year under Defendant MICHAEL D. SARLO.

57. Plaintiff ANDREA M. KESS alleges that during Defendant MICHAEL D. SARLO'S tenure, he and other supervisors have continuously manipulated the personnel files of officers, in favor of the males to the detriment of female officers.

58. Plaintiff ANDREA M. KESS alleges that during Defendant MICHAEL D. SARLO'S tenure, he and other supervisors have intentionally failed to document civilian complaint investigations, as well as other internal investigations for misconduct, or removed such investigations completely, from the personnel files of certain male officers, including Defendant DANIEL TOIA to the detriment of female officers to give the male officers an unfair advantage regarding appointments, transfers, promotional opportunities, etc.

59. Plaintiff ANDREA M. KESS alleges that during Defendant MICHAEL D. SARLO'S tenure, his and other supervisors' discriminatory practices violated public trust and reinforced the male-centric culture that female officers did not serve as equal partners in the department.

The Sex Trafficking Investigation [2018]

60. Plaintiff ANDREA M. KESS alleges that in 2018, she self-initiated a police investigation regarding a suspicious vehicle while patrolling her assigned area.

61. Plaintiff ANDREA M. KESS alleges that her initiative resulted in cultivating a relationship with an alleged victim, which led to a complex sex trafficking operation already

targeted by the Joint Federal Bureau of Investigation [FBI] and Suffolk County Police Department [SCPD] Sex Trafficking/Kidnap Task Force.

62. Plaintiff ANDREA M. KESS alleges that she cultivated this relationship without the support of her supervisors or male officers. In fact, since her date of appointment, April 3, 2016, more pointedly Early 2018, she has not relied upon her supervisors or male officers for support because, on more occasions than she can remember, they intentionally failed to respond and back her up consistently with their tactical training and best law enforcement practices.

63. Plaintiff ANDREA M. KESS alleges that her initiative led to the alleged victim cooperating with the Joint Federal Bureau of Investigation [FBI] and Suffolk County Police Department [SCPD] Sex Trafficking/Kidnap Task Force and the United States Attorney's Office for the Southern District of New York.

64. Plaintiff ANDREA M. KESS alleges that, ultimately, her initiative resulted in the successful prosecution of eleven (11) defendants and saved countless victims. During the investigation and prosecution, she provided crucial evidence to support the case.

65. Plaintiff ANDREA M. KESS alleges that her initiative shockingly, but not surprisingly was minimized by Defendant CHRISTOPHER ANDERSON referring to this sex trafficking case as "Your little prostitution case."

The Dangerous Explosives Investigation [2021]

66. Plaintiff ANDREA M. KESS alleges that her work with agency partner ATF started with another self-initiated investigation after analyzing nine (9) years of more than several hundred complaints about explosions in residential areas.

67. Plaintiff ANDREA M. KESS alleges that after interviewing several witnesses, obtaining statements, and securing spent mortars, she was able to establish “probable cause” against a particular subject.

68. Plaintiff ANDREA M. KESS alleges that she presented her self-initiated investigation to Defendant DANIEL TOIA for enhancement by the Detective Division, including crucial evidence to support the subject storing large amounts of dangerous mortar shells on his property in a residential area. He ridiculed her for wasting so much time on a “fireworks complaint.”

69. Plaintiff ANDREA M. KESS alleges that Defendant CHRISTOPHER ANDERSON supported Defendant DANIEL TOIA, ordering her to “go down to Washburn’s house and tell him to ‘cut it out’” and to “stop wasting your time investigating a simple fireworks violation.” Meanwhile, expressing no concern whatsoever for the “public safety.”

70. Plaintiff ANDREA M. KESS alleges that unbeknownst to Defendants’ CHRISTOPHER ANDERSON and DANIEL TOIA, she contacted the ATF. She knew they had no concern whatsoever about the “public safety.”

71. Plaintiff ANDREA M. KESS alleges that approximately one (1) week later, Defendant DANIEL TOIA chided her, “They [ATF] won’t do shit.” The ATF, in fact, did respond to the department.

72. Plaintiff ANDREA M. KESS alleges that based upon her self-initiated investigation, the ATF and department executed a search warrant at the target residential property and recovered large quantities of dangerous mortar shells.

73. Plaintiff ANDREA M. KESS alleges that, just as with many other cases before this one, Defendant DANIEL TOIA minimized the results of her self-initiated investigation.

More Instances of An Abusive Work Environment [2022]

74. Plaintiff ANDREA M. KESS alleges that over the years, despite outperforming all officers in the measurable metrics of arrests, citations, and other law enforcement activities, many members told her of the department that she was wasting her time vying for a discretionary appointment to the Detective Division because the “guys” do not want a “female” in the back, specifically Defendants’ CHRISTOPHER ANDERSON and DANIEL TOIA.

75. Plaintiff ANDREA M. KESS alleges that inside of the 2022 [Police Department] Annual Review, Defendant MICHAEL D. SARLO included the awards and accolades of all male recipients while failing to publish the two (2) commendations she received, including being awarded a DWI Bar for having the most DWI arrests, as well as, being named Suffolk Top Cop for 2022.

76. Plaintiff ANDREA M. KESS alleges that in June 2022, she reported to Defendant DANIEL TOIA [as he was the only supervisor working during that time] that Defendant RAYMOND RAU had been spreading false rumors about her “fucking” Police Officer Tyler Gilbride and sending him nude photos.

77. Plaintiff ANDREA M. KESS alleges that in response, shockingly but not surprisingly, Defendant DANIEL TOIA asked, “Well, are you? Are you fucking Tyler?” When she responded, “No!” Defendant DANIEL TOIA said, “Well, I always thought you were fucking Wayne.”

The Narcotic Debrief [2022]

78. Plaintiff ANDREA M. KESS alleges that on or about August 23, 2022, while assigned to the Uniformed Patrol Division, she was the recipient of an ongoing campaign of sexually offensive comments and treatment by Defendant DANIEL TOIA.

79. Plaintiff ANDREA M. KESS alleges that Defendant DANIEL TOIA, not her direct supervisor requested to speak with her alone to discuss the narcotics debrief she arranged between a member of the East End Drug Task Force on August 19, 2022, and a witness.

80. Plaintiff ANDREA M. KESS alleges that Defendant DANIEL TOIA “falsely” accused her of misconduct by participating in the narcotics debrief without authorization; however, the witness only agreed to meet with the detective assigned to the East End Drug Task Force in her presence because they built a rapport consistent with law enforcement practices.

81. Plaintiff ANDREA M. KESS alleges that Defendant DANIEL TOIA is aware of such law enforcement practices as a member of the Detective Division but challenged her integrity and competence as a female officer, unlike similarly situated male officers.

82. Plaintiff ANDREA M. KESS alleges that when she objected to Defendant DANIEL TOIA’S abusive treatment, he threatened her with ‘baseless’ disciplinary action as according to him, “she was being insubordinate.”

83. Plaintiff ANDREA M. KESS alleges that Defendant DANIEL TOIA demanded that she write him a memorandum explaining her actions, although she violated no department rules.

84. Plaintiff ANDREA M. KESS alleges that upon completion of the memorandum, she handed it to Defendant DANIEL TOIA.

85. Plaintiff ANDREA M. KESS alleges that on or about August 23, 2022, Defendant GREGORY MARTIN, her direct supervisor, ordered her to report in civilian clothes to perform surveillance activities.

86. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY MARTIN told her he had a conversation with Defendant DANIEL TOIA about the narcotics debrief. Her memorandum was rejected because of her “tone.”

87. Plaintiff ANDREA M. KESS alleges that her “tone” was not violative of any department rules and is nothing more than gender-based discrimination.

88. Plaintiff ANDREA M. KESS alleges that only the female officers in the department are chided for their “tone.”

89. Plaintiff ANDREA M. KESS alleges that instead of Defendant GREGORY MARTIN protecting her from Defendant DANIEL Toia’s abusive conduct as her supervisor consistent with department policy and the law, he participated, condoned, and acquiesced to the abusive conduct consistent with the culture of the department.

90. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY MARTIN changed her assignment back to uniformed patrol.

91. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY MARTIN denied her the opportunity to retrieve her uniform from her home a short distance away. He suggested she “find someone’s old uniform in the locker room and wear that.”

92. Plaintiff ANDREA M. KESS alleges that with respect to the memorandum, the disciplinary action was “yet to be determined.”

93. Plaintiff ANDREA M. KESS alleges that when she told Defendant GREGORY MARTIN there were no female uniforms to wear, he grabbed keys to the storage room inside of Headquarters and directed her to sift through a pile of moldy uniforms and boots to wear.

94. Plaintiff ANDREA M. KESS alleges that out of fear, she selected a moldy uniform and boots to wear. She wore the boots without socks.

95. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY MARTIN ordered her to report to the Sergeant's Office to discuss the memorandum regarding the narcotics debrief.

96. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY MARTIN directed her to re-write the memorandum, although she violated no department rules.

97. Plaintiff ANDREA M. KESS alleges that she then informed Defendant GREGORY MARTIN that he was aware that Defendant DANIEL TOIA and other members of the management team, including Defendant MICHAEL D. SARLO, CHRISTOPHER ANDERSON, and GREGORY SCHAEFER, had mistreated her over the years. This memorandum is yet another version of the mistreatment because no one, including him, can assert that she violated any department rules.

98. Plaintiff ANDREA M. KESS alleges that instead of protecting her as her direct supervisor consistent with department policy and the law, Defendant GREGORY MARTIN participated in, condoned, and acquiesced to conduct consistent with the police department's male-centric culture.

99. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY MARTIN began yelling and told her that her issues were irrelevant to this discussion and that she should just shut her mouth and listen.

100. Plaintiff ANDREA M. KESS alleges that only she and the other female officers are addressed in such a disrespectful manner.

101. Plaintiff ANDREA M. KESS alleges that she told Defendant GREGORY MARTIN about an incident on or about September 8, 2021, where Defendant DANIEL TOIA suggested she use sexual favors to develop criminal investigations.

102. Plaintiff ANDREA M. KESS alleges that she told Defendant GREGORY MARTIN about the abusive comments Defendant DANIEL TOIA made to her inside of the Detectives Division:

- “Everyone knows how you get your information. It’s only because people want to sleep with you. They give you information because they know they can get in your pants. I know about all your relationships. Your information is garbage.”

103. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY MARTIN responded, “None of this has to do with your work ethic. Everyone recognizes that you are one of this department's most competent and hardworking officers.”

104. Plaintiff ANDREA M. KESS alleges that other than platitudes, Defendant GREGORY MARTIN, as a supervisor, failed to protect her consistent with department policy and the law. Instead of reporting Defendant DANIEL TOIA’S abusive conduct, he participated, condoned, and acquiesced to it, consistent with the department's male-centric culture.

105. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY MARTIN ordered her to re-write the memorandum regarding the narcotics debrief. However, she violated no department rules and, upon completion, reported directly to Headquarters.

106. Plaintiff ANDREA M. KESS alleges that she met with Defendant DANIEL TOIA outside the Sergeant’s Office with Defendant WAYNE MATA upon her arrival.

107. Plaintiff ANDREA M. KESS alleges that after handing the memorandum to Defendant DANIEL TOIA, immediately before entering, he pointed while yelling, “You. Get in here!”

108. Plaintiff ANDREA M. KESS alleges that she told Defendant DANIEL TOIA that she didn’t feel comfortable meeting him.

109. Plaintiff ANDREA M. KESS alleges that Defendant DANIEL TOIA ordered Defendant WAYNE MATA to leave the office.

110. Plaintiff ANDREA M. KESS alleges that instead of Defendant WAYNE MATA disregarding Defendant DANIEL TOIA'S "unlawful" order, as a supervisor failed to protect her consistent with department policy and the law, instead of reporting TOIA'S abusive conduct, he participated, condoned, and acquiesced to the abusive conduct consistent with the male-centric culture of the police department leaving her to fend for herself.

111. Plaintiff ANDREA M. KESS alleges that after Defendant WAYNE MATA left the office and shut the door, Defendant DANIEL TOIA quickly got into her face while pointing his finger, yelling, "You're a fucking bitch. Everyone thinks you're a bitch. No one likes you.

- The Chief hates you.
- The Captain can't stand you.
- Detective Sergeant Hogan thinks you're annoying and he doesn't trust you. He literally can't stand you.
- Lieutenant Tierney would complain about you everyday when you were on her squad. She said you take too long on calls to avoid other calls. She said no one liked you including her. She can't stand you at all and still can't stand you. You're annoying.
- Every time you go in the back, the guys are pissed and talk about how annoying it is to listen to you.
- They don't trust you at all and don't want you back there.
- The guys on your squad and other squads think you act like a bitch.
- Maybe if you have a few beers with the guys, you would be more likeable.
- You seem like a smart girl, but you just don't fucking get it do you?
- I read your memo. You sound like a total bitch and make yourself out to be the greatest cop ever.
- You're constantly talking about all the supposed great things you've done and how everyone should be just like you.
- You don't know when to shut your mouth and do what you're told.
- You think you can get away with everything.

- I know exactly what you did. You just wanted to hear the information so you could run out to Montauk, fuck with this investigation. Make a drug collar for a stat and make yourself look like you're this amazing cop.
- Hogan is furious. He's so pissed at you. He said what you did ruined the investigation."

112. Plaintiff ANDREA M. KESS alleges Defendant GREGORY MARTIN eventually entered the Sergeant's Office.

113. Plaintiff ANDREA M. KESS alleges that instead of Defendant GREGORY MARTIN addressing Defendant DANIEL TOIA'S abusive conduct as a supervisor, she failed to protect her in compliance with department policy and the law.

114. Plaintiff ANDREA M. KESS alleges that instead of reporting Defendant DANIEL TOIA'S unlawful conduct, Defendant GREGORY MARTIN participated, condoned, and acquiesced to the conduct consistent with the male-centric culture of the department.

115. Plaintiff ANDREA M. KESS alleges that Defendant DANIEL TOIA then directed Defendant GREGORY MARTIN to reprimand her about the memorandum regarding the narcotics debrief, although she violated no department rules.

116. Plaintiff ANDREA M. KESS alleges that instead of Defendant GREGORY MARTIN disregarding Defendant DANIEL TOIA'S "unlawful" order, he reprimanded her about the memorandum regarding the narcotics debrief, although she violated no department rules.

**THE ANTI-HARASSMENT AND ANTI-SEXUAL HARASSMENT
"INVESTIGATION" [2022 – PRESENT]**

117. Plaintiff ANDREA M. KESS alleges that fed up with the years of the abusive male-centric workplace, she decided to review Defendant THE TOWN OF EAST HAMPTON'S Anti-Harassment and Anti-Sexual Harassment Policy and Complaint Procedure, which is overly restrictive, intentionally designed, and adopted to discourage employees from protecting their

rights and is inconsistent with prevailing federal, state, and local anti-harassment laws and best employment practices.

118. Plaintiff ANDREA M. KESS alleges that according to Section II (A)(2), “All written complaints must be filed as soon as possible and no later than 60 days from the alleged act of unlawful harassment” and does not address an employee deciding to disclose later or on-going harassment.

119. Plaintiff ANDREA M. KESS alleges that an employee would mistakenly believe that any conduct outside of the overly restrictive 60-day time period would preclude their rights.

120. Plaintiff ANDREA M. KESS alleges that on or about September 4, 2022, in the presence of PBA president Joseph Izzo, she informed Defendant GREGORY MARTIN that she wished to file a formal complaint against Defendant DANIEL TOIA regarding his on-going campaign of sexual harassment.

121. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY MARTIN himself had direct knowledge of the years of abuse since he either participated, condoned, or acquiesced to the discriminatory practices; he should not have been part of the intake process. Essentially, she was complaining about abusive behaviors to an abuser, which is inconsistent with Defendant THE TOWN OF East Hampton’s Anti-Harassment and Anti-Sexual Harassment Policy and Complaint Procedure, as well as prevailing federal, state, and local anti-harassment laws and best employment practices.

122. Plaintiff ANDREA M. KESS alleges that she presented Defendant GREGORY MARTIN with Defendant THE TOWN OF EAST HAMPTON’S Anti-Harassment and Anti-Sexual Harassment Policy and Complaint Procedure.

123. Plaintiff ANDREA M. KESS alleges that, not surprisingly, Defendant GREGORY MARTIN was unaware of Defendant THE TOWN OF EAST HAMPTON'S Anti-Harassment and Anti-Sexual Harassment Policy and Complaint Procedure and his legal obligations as a supervisor. Frankly, nor did he care as he's part of the entrenched male-centric culture of the department.

124. Plaintiff ANDREA M. KESS alleges that despite the inherent "conflict," Defendant GREGORY MARTIN interviewed her while taking notes, and he then presumably presented the complaint, including the notes, to Defendant GREGORY SCHAEFER.

125. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY MARTIN told her Defendant GREGORY SCHAEFER would handle the complaint.

126. Plaintiff ANDREA M. KESS alleges Defendant GREGORY SCHAEFER finally interviewed her on or about September 23, 2022.

127. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY SCHAEFER himself had direct knowledge of the years of abuse. Since he either participated, condoned, or acquiesced to the discriminatory practices, he should not have been part of the investigatory and resolution process. Essentially, she was complaining about abusive behaviors to an abuser, which is inconsistent with Defendant THE TOWN OF EAST HAMPTON'S Anti-Harassment and Anti-Sexual Harassment Policy and Complaint Procedure, as well as prevailing federal, state, and local anti-harassment laws and best employment practices.

128. Plaintiff ANDREA M. KESS alleges that since Defendants' MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; WAYNE MATA; GREGORY MARTIN and RAYMOND RAU, and others in the agency are the subjects of her complaints, the investigation and resolution process should have been "conflicted" outside

of the department consistent with prevailing federal, state, and local anti-harassment laws and best employment practices.

129. Plaintiff ANDREA M. KESS alleges that shockingly, but not surprisingly, inconsistent with department policy and the law, Defendant GREGORY SCHAEFER asked, “Why did it take you so long to report the “incident?”

130. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY SCHAEFER “falsely” claimed he tried to call her cellular telephone once but went straight to voicemail.

131. Plaintiff ANDREA M. KESS alleges that shockingly, but not surprisingly, Defendant GREGORY SCHAEFER said, “The complaint was not serious, and he was not going to come in on his off time to interview her.”

132. Plaintiff ANDREA M. KESS alleges that during this interview, she outlined many instances over the years regarding the gender-based hostile treatment up to and including sexually offensive comments and treatment, questioning her integrity and competence, denied training, advancement, and other promotional opportunities and retaliatory investigations and other punitive treatment whenever objecting to such treatment, etc.

133. Plaintiff ANDREA M. KESS alleges that instead of Defendant GREGORY SCHAEFER taking copious notes, he asked, “What is it you’re looking to have done here? Where do you want this to go? What is your end game?”

134. Plaintiff ANDREA M. KESS alleges that shockingly, but not surprisingly, Defendant GREGORY SCHAEFER said, “Well, it’s your word against his [Lieutenant Daniel Toia] at this point. Dan said he didn’t say that. Maybe you misheard him? Maybe you took ‘you’re a bitch’ out of context? Are you only doing this to Dan because you’re upset about being reprimanded? Maybe Dan was trying to talk to you, like cop-to-cop, off the record.”

135. Plaintiff ANDREA M. KESS alleges that shockingly, but not surprisingly, Defendant GREGORY SCHAEFER interviewed Defendant DANIEL TOIA first without interviewing her, reviewing any evidence, or interviewing witnesses. Frankly, nor did he care as he's part of the entrenched male-centric culture of the department.

136. Plaintiff ANDREA M. KESS alleges shockingly, but not surprisingly, that Defendant GREGORY SCHAEFER told her, "He was unaware of any witnesses."

137. Plaintiff ANDREA M. KESS alleges that shockingly, but not surprisingly, Defendant GREGORY SCHAEFER told her, "He did not believe the complaint was serious and thought I just wanted to vent. You know that as cops, we must be able to handle being called names. You must toughen up; don't be so sensitive."

138. Plaintiff ANDREA M. KESS alleges that shockingly but not surprisingly, Defendant GREGORY SCHAEFER told her Defendant GREGORY MARTIN did not tell him this was a "formal complaint" and did not believe it was serious enough to be handled formally.

139. Plaintiff ANDREA M. KESS alleges that shockingly, but not surprisingly, Defendant GREGORY SCHAEFER told her, "You need to take a look at yourself and your behavior and realize that this could be the reason that Lieutenant Toia called you a bitch."

140. Plaintiff ANDREA M. KESS alleges that she pointed out his male-centric conduct to Defendant GREGORY SCHAEFER.

141. Plaintiff ANDREA M. KESS alleges Defendant GREGORY SCHAEFER treats the male officers more favorably than female officers.

142. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY SCHAEFER'S "personal" relationships with male Police Officers Jack Bori, Michael Rodriguez, Lucas Plitt and Defendant RAYMOND RAU enabled them to receive more favorable treatment in the

workplace, including allowing them to disregard their assigned areas of responsibilities, play golf with him, use department computer equipment to shop for golf equipment, watch sporting events instead of covering their assigned areas of responsibilities, engaging in gambling activities and creating pools for sporting events, cooping, etc.

143. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY SCHAEFER told her she's totally overreacting.

144. Plaintiff ANDREA M. KESS alleges that on or about October 4, 2022, after gaining some valuable information about her complaints, she received a department email from Defendant GREGORY SCHAEFER, which indicated that under the Defendant THE TOWN OF EAST HAMPTON'S Anti-Harassment and Anti-Sexual Harassment Policy and Complaint Procedure, the next step for her was to contact Town Personnel Officer Kathleen Rood if she wished to pursue a "formal" complaint.

145. Plaintiff ANDREA M. KESS alleges that shortly after that, she had a conversation with Town Safety Coordinator Edward Michels. He informed her that Defendant GREGORY SCHAEFER did not provide accurate information regarding Defendant THE TOWN OF EAST HAMPTON'S Anti-Harassment and Anti-Sexual Harassment Policy and Complaint Procedure and that any employee has the right to file a formal or informal complaint, verbal or in writing, regarding incidents of harassment, to any department head, regardless of which department the employee is assigned under federal, state, and local law.

146. Plaintiff ANDREA M. KESS alleges that Town Safety Coordinator Edward Michels also told her that all supervisors are aware of this policy or should be, and it is not her responsibility to provide a copy of the procedure to any staff member tasked with investigating an employee complaint.

147. Plaintiff ANDREA M. KESS alleges that she also told Town Safety Coordinator Edward Michels that Defendant GREGORY SCHAEFER should not have been assigned to investigate her allegations because it was inconsistent with department rules and best practices.

148. Plaintiff ANDREA M. KESS alleges that she contacted Defendant GREGORY MARTIN on or about October 13, 2022, after not receiving any updates regarding her complaint.

149. Plaintiff ANDREA M. KESS alleges that on or about October 14, 2022, Defendant GREGORY SCHAEFER met with her inside Station 1, a satellite precinct, to discuss her inquiry.

150. Plaintiff ANDREA M. KESS alleges that during this meeting, she requested for Defendant GREGORY SCHAEFER to investigate and document her complaint. Also, she requested a meeting to “clear the air” with Defendants’ DANIEL TOIA and GREGORY MARTIN in the presence of PBA President Joseph Izzo because she must rely upon these supervisors and others in the department for her safety.

151. Plaintiff ANDREA M. KESS alleges that Defendant GREGORY MARTIN sent her a department email indicating he would facilitate a meeting and “...whereas you indicated you had no interest in bringing this manner to the attention of the East Hampton Town Human Resources Department via a formal complaint against Defendant DANIEL TOIA, upon your availability I will facilitate a meeting to dispose of any concerns of all involved parties.”

152. Plaintiff ANDREA M. KESS alleges that shortly after that, she reminded Defendant GREGORY MARTIN she was not withdrawing her complaint and expected Defendant GREGORY SCHAEFER to follow the Defendant THE TOWN OF EAST HAMPTON’S Anti-Harassment and Anti-Sexual Harassment Policy and Complaint Procedure.

153. Plaintiff ANDREA M. KESS alleges that on or about October 21, 2022, she met with Defendants' DANIEL TOIA and GREGORY MARTIN in the presence of PBA President Joseph Izzo.

154. Plaintiff ANDREA M. KESS alleges that Defendant DANIEL TOIA denied calling her a "bitch" and that she misheard him.

155. Plaintiff ANDREA M. KESS alleges that shockingly, but not surprisingly, Defendant DANIEL TOIA suggested that as a supervisor, he insinuated "concern" about her "mental status" as she is "overly sensitive" and "dramatic."

156. Plaintiff ANDREA M. KESS alleges shockingly, but not surprisingly, that Defendant GREGORY SCHAEFER chimed, "He had felt the same way at times as well."

157. Plaintiff ANDREA M. KESS alleges that shockingly, but not surprisingly, Defendant GREGORY MARTIN said nothing.

158. Plaintiff ANDREA M. KESS alleges that no supervisor, including Defendants' MICHAEL D. SARLO nor CHRISTOPHER ANDERSON, ever referred her for a Fitness for Duty review as they knew there was no legal basis to do so.

159. Plaintiff ANDREA M. KESS alleges that throughout this period, on or about April 5, 2023, Defendant DANIEL TOIA addressed the only female supervisor, Defendant CHELSEA TIERNEY, as a "little girl." She and other female officers have been mistreated for years.

160. Plaintiff ANDREA M. KESS alleges that Defendant CHELSEA TIERNEY told her that she wanted to inform Defendant MICHAEL D. SARLO or CHRISTOPHER ANDERSON about Defendant DANIEL TOIA'S abusive behavior. Still, she knew from their past conduct they could care less.

161. Plaintiff ANDREA M. KESS alleges that while her complaint was “pending,” Defendant CHELSEA TIERNEY asked Defendant GREGORY SCHAEFER about the status of KESS’S complaint.

162. Plaintiff ANDREA M. KESS alleges that Defendant CHELSEA TIERNEY considered filing her complaint against Defendant DANIEL TOIA but decided against it.

163. Plaintiff ANDREA M. KESS alleges Defendant GREGORY SCHAEFER laughed, “Oh, that? That [Charging Party’s complaint] went nowhere, and no, Lieutenant Daniel Toia was not facing any disciplinary action.”

164. Plaintiff ANDREA M. KESS alleges that as of this date, she still has not received the findings of her complaint consistent with Defendant TOWN OF EAST HAMPTON’S Anti-Harassment & Sexual Harassment Policy and Complaint Procedure.

RETALIATION [2018 – PRESENT]

165. Plaintiff ANDREA M. KESS alleges that since April 3, 2016, she has challenged the abusive treatment of her and other female officers, in retaliation, Defendant THE TOWN OF EAST HAMPTON through Defendants’ MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; and GREGORY SCHAEFER intentionally failed to promote her in 2018 and 2022 to the Detective Division and Sergeant between 2019 and 2021, although she outperformed all officers in the measurable metrics of arrests, citations, and other law enforcement activities and there were available vacancies.

RETALIATION POST CHARGE FILING [May 26, 2023 – PRESENT]

166. Plaintiff ANDREA M. KESS alleges that Defendants’ THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE and MICHAEL D. SARLO intentionally refused to take

appropriate steps to lessen/avoid contact between herself and her abusers.

167. Plaintiff ANDREA M. KESS alleges that even after filing these charges with the EEOC, she remained under the direct supervision of Defendants GREGORY MARTIN and DANIEL TOIA, further subjecting her to a hostile work environment despite various options available to address the issue.

168. Plaintiff ANDREA M. KESS alleges that Defendant MICHAEL D. SARLO claimed the “department was in crisis” due to a critical lack of staffing caused by the retirement of Defendant GREGORY SCHAEFER.

169. Plaintiff ANDREA M. KESS alleges that Defendant MICHAEL D. SARLO’S claims of “exigent circumstances” are patently “false,” these continued assignments were used to try and dissuade her and others from asserting their legal rights in the workplace.

170. Plaintiff ANDREA M. KESS alleges that before his retirement on June 29, 2023, Defendant GREGORY SCHAEFER directly supervised her and remained in that assignment well after Defendants’ THE TOWN OF EAST HAMPTON and MICHAEL D. SARLO received notice of the EEOC filing.

171. Plaintiff ANDREA M. KESS alleges that Defendants’ GREGORY MARTIN and DANIEL TOIA directly supervised her and remained in that assignment well after Defendants’ THE TOWN OF EAST HAMPTON and MICHAEL D. SARLO received notice of the EEOC filing.

172. Plaintiff ANDREA M. KESS alleges that Defendant MICHAEL D. SARLO’S reasoning behind the personnel assignments “lacks credibility.”

173. Plaintiff ANDREA M. KESS alleges that Defendant MICHAEL D. SARLO claims that upon Defendant GREGORY SCHAEFER’S retirement, the staffing level fell to a

critical low, which forced him to keep everyone in their current assignments.

174. Plaintiff ANDREA M. KESS alleges that Defendant MICHAEL D. SARLO'S claims are "false."

175. Plaintiff ANDREA M. KESS alleges that Defendant MICHAEL D. SARLO had more than enough administrative options to fill the lieutenant vacancy with the current eligibles list.

176. Plaintiff ANDREA M. KESS alleges that in the past, under Defendant MICHAEL D. SARLO, the department operated with only two lieutenants, and there was no discussion regarding a so-called "critical shortage."

177. Plaintiff ANDREA M. KESS alleges that on or about July 15, 2023, with Defendant MICHAEL D. SARLO'S authorization, Defendant DANIEL TOIA intentionally assigned himself to supervise her directly.

178. Plaintiff ANDREA M. KESS alleges that since Defendants' THE TOWN OF EAST HAMPTON and MICHAEL D. SARLO received notice of the EEOC filing, periodically she has used her leave time to avoid her primary abuser, Defendant DANIEL TOIA.

179. Plaintiff ANDREA M. KESS alleges that since Defendants' THE TOWN OF EAST HAMPTON and MICHAEL D. SARLO received notice of the EEOC filing, Defendants' MICHAEL D. SARLO and DANIEL TOIA have openly discussed the allegations as "false," "mean-spirited," and "spiteful" on numerous occasions with other members of the department.

180. Plaintiff ANDREA M. KESS alleges that Defendants' MICHAEL D. SARLO and DANIEL TOIA have warned other male members of the department that they could be her "next victim."

181. Plaintiff ANDREA M. KESS alleges that Defendants' MICHAEL D. SARLO and

DANIEL TOIA'S continuing conduct is for the sole purpose of trying to dissuade her and others from asserting their legal rights in the workplace.

182. Plaintiff ANDREA M. KESS alleges that Defendant DANIEL TOIA has openly commented to other members of the department that Defendant CHRISTOPHER ANDERSON will not retire to protect the position for him, to preclude her intimate partner Lieutenant Peter Powers and Defendant CHELSEA TIERNEY [the only female supervisor and victim of Lieutenant Daniel Toia's abusive conduct] from obtaining the promotional opportunity and "make life a living hell" for those who have been supportive of her allegations.

183. Plaintiff ANDREA M. KESS alleges that on or about July 13, 2023 [5 days after the New York Post published an article about her legal claims], using Defendant THE TOWN OF EAST HAMPTON'S infrastructure [email through the server], Defendant MICHAEL D. SARLO sent a "high priority" memo to all personnel regarding "department business."

184. Plaintiff ANDREA M. KESS alleges that the first line states "in light of recent events," which is aimed at her for granting the New York Post an interview [her First Amendment right to do so] regarding the EEOC Charge of Discrimination filed by her.

185. Plaintiff ANDREA M. KESS alleges that Defendant MICHAEL D. SARLO made many "false" assertions designed to dissuade her and others from asserting their legal rights in the workplace.

186. Plaintiff ANDREA M. KESS alleges that Defendant MICHAEL D. SARLO "falsely" asserted that she somehow obtained and released so-called "confidential" information regarding the personnel records of other members. Meanwhile, the comparators used were openly discussed throughout the department, and quite frankly, she couldn't use such personnel records because, over the years, personnel records, especially those of the male officers, have

been “sanitized” so as to render them useless.

187. Plaintiff ANDREA M. KESS alleges that Defendant MICHAEL D. SARLO “falsely” claimed she compromised the “investigative integrity” of the department’s criminal investigations. However, if any integrity was impacted, it is because she is exposing the discrimination and serious misconduct within the department, which she contends poses a significant threat to “public safety.”

188. Plaintiff ANDREA M. KESS alleges that Defendant MICHAEL D. SARLO “falsely” referenced the department’s Speech, Expression, social media, and Media Relations policies as if somehow granting the New York Post an interview violated it. Meanwhile, it was her First Amendment right to do so. Here’s the contents of the entire email:

“In light of recent events, I want to remind all employees of the Department and Town policies in place and the importance of understanding both your rights as an individual employee as well as your obligations as a sworn member of this law enforcement agency.”

“All members have a right to file complaints in accordance with State and Federal employment laws, as well as under department and town policies and procedures. The department expects and upholds the principles that all members are treated civilly and respectfully, that the chain of command and supervisory authority will be adhered to, and there will not be any retaliation tolerated. Please see your immediate supervisor should you have any concerns and refer to Lexipol Manual for specific guidance as well.”

“Please keep in mind the East Hampton Town Police Department policies regarding Speech, Expression and Social Media, Media Relations, and the confidentiality of personnel issues as well as investigative integrity of criminal cases handled by this department, and all sworn members of law enforcement.”

“We will continue to protect each member's rights, while defending and ensuring the department's professional standing.”

189. Plaintiff ANDREA M. KESS alleges that Defendant MICHAEL D. SARLO’S email communication was designed to dissuade her and others from asserting their legal rights in the workplace.

190. Plaintiff ANDREA M. KESS alleges that from July through August 2023, Defendant MICHAEL D. SARLO and other management team members started spreading “false” rumors about her abusing the sick leave policy.

191. Plaintiff ANDREA M. KESS alleges that she was contacted by several colleagues who claimed that members of management, including Defendant MICHAEL D. SARLO, “falsely” claimed that she was “feigning” being sick. Meanwhile, she had a legitimate, serious medical condition precluding her from reporting to work.

The Brother of Chief Michael Sarlo Contacting Charging Party’s Former Employer

192. Plaintiff ANDREA M. KESS alleges that on or about August 14, 2023, Mr. Stephen J. Pisacano, the manager of Claudio’s Waterfront in Greenport [charging party’s former employer], contacted her.

193. Plaintiff ANDREA M. KESS alleges that retired Captain Kevin Sarlo² [Defendant MICHAEL D. SARLO’S brother] approached Mr. Pisacano and asked if he would consider testifying on his brother's behalf or, as he suggested, “getting dirt on her.”

194. Plaintiff ANDREA M. KESS alleges that retired Captain Kevin Sarlo told Mr. Pisacano about the allegations made against Defendant MICHAEL D. SARLO and warned “Well, she better prepare herself... she’s in for one hell of a rude awakening for making those allegations” and that “she has a problem doing what she’s told.”

195. Plaintiff ANDREA M. KESS alleges that retired Captain Kevin Sarlo engaged in such conduct at the behest of Defendant MICHAEL D. SARLO; such threats were designed to dissuade her and others from asserting their legal rights in the workplace.

The So-Called ‘Independent Third-Party Investigation’

² He retired from the East Hampton Town Police Department. Before his retirement, he engaged in similar discriminatory practices and serious misconduct, particularly involving female officers.

196. Plaintiff ANDREA M. KESS alleges that the so-called “independent” investigation, conducted by Arthur Riegel, was part of a concerted effort by the Defendants’ THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE to shield the management of the East Hampton Town Police Department, including Defendant MICHAEL D. SARLO, from accountability, rather than to genuinely investigate claims of sexual harassment, hostile work environment, and retaliation.

197. Plaintiff ANDREA M. KESS alleges that the Town Board’s hiring of Riegel on August 24, 2023, was strategically intended to protect the department’s leadership at the expense of the employees and public safety. Throughout the process, Riegel would meet with Defendant MICHAEL D SARLO before and after the interviews of witnesses, clearly biased and inappropriate behavior.

198. Plaintiff ANDREA M. KESS alleges that Riegel, a Hewlett Harbor attorney with decades of experience mediating employment disputes for government, education, and utility sectors, was hired under the guise of conducting an “impartial investigation.” His extensive background raises concerns given that he has frequently been retained by government entities, which KESS alleges makes him ill-suited to probe allegations against a government-managed police department independently.

199. Plaintiff ANDREA M. KESS alleges that retired Sergeant Barry Johnson, who was interviewed as part of the investigation, Riegel, failed to document critical allegations supporting her claims.

200. Plaintiff ANDREA M. KESS alleges that Johnson specifically testified about discriminatory practices within the department, such as Defendant MICHAEL D. SARLO

considering whether female officers were “child-bearing” when making assignment decisions—a practice he described as particularly abhorrent.

201. Plaintiff ANDREA M. KESS alleges that Johnson also raised issues of retaliation and a broader culture of gender discrimination, all of which he feared were either downplayed or ignored by Riegel.

202. Plaintiff ANDREA M. KESS alleges that Johnson and several other employees expressed concerns that their full testimony was not properly recorded, leading them to question the investigation's impartiality.

203. Plaintiff ANDREA M. KESS alleges that Johnson alleged that Riegel misrepresented himself as “counsel” for Defendant TOWN OF EAST HAMPTON, further complicating the investigation's legitimacy.

204. Plaintiff ANDREA M. KESS alleges that Johnson and other employees initially believed Riegel was a representative from the EEOC, adding to the confusion surrounding the true purpose of the inquiry.

205. Plaintiff ANDREA M. KESS alleges that Defendant CHELSEA TIERNEY, another witness, recounted how Riegel criticized her during the interview process, calling her a “weak supervisor” and pressuring her to align with management’s narrative.

206. Plaintiff ANDREA M. KESS alleges numerous current and former employees reached out to her in distress, fearing retaliation if they supported her claims of widespread misconduct and discrimination within the department.

207. Plaintiff ANDREA M. KESS alleges that these employees, while concerned about the hostile working environment, were more afraid to oppose the leadership, believing it could cost them their jobs or hinder future opportunities.

208. Plaintiff ANDREA M. KESS alleges that Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE hiring Riegel and backing what she views as a biased investigation, is complicit in perpetuating these discriminatory practices.

209. Plaintiff ANDREA M. KESS alleges that rather than prioritizing a fair investigation and protecting public safety, the Board's actions defend the department's leadership and dismiss serious concerns of gender discrimination and misconduct that ultimately endanger the well-being of employees and public safety.

210. Plaintiff ANDREA M. KESS alleges that Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU, subjected her to gender discrimination, hostile work environment and retaliation under Title VII and related legal claims.

VIOLATIONS AND CLAIMS ALLEGED

COUNT I GENDER DISCRIMINATION IN VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

211. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 210 and incorporates them by reference as Paragraphs 1 through 210 of Count I of this Complaint.

212. Plaintiff ANDREA M. KESS alleges that Defendant THE TOWN OF EAST HAMPTON engaged in a pattern and practice of gender discrimination in violation of Title VII of the Civil Rights Act of 1964, which prohibits employers from discriminating against

employees based on sex, race, color, national origin, and religion in the terms, conditions, and privileges of employment.

213. Under Title VII, an employer is liable for unlawful discrimination if it engages in or tolerates discriminatory practices based on gender.

214. Plaintiff ANDREA M. KESS alleges that Defendant THE TOWN OF EAST HAMPTON subjected her to unequal treatment, including disparate work conditions, discriminatory promotional practices, and differential assignments compared to male colleagues.

215. Plaintiff ANDREA M. KESS alleges that despite being more qualified and achieving higher performance metrics than her male counterparts, she was repeatedly denied promotions and other career advancement opportunities solely because of her gender.

216. Plaintiff ANDREA M. KESS alleges that the discriminatory practices of Defendant THE TOWN OF EAST HAMPTON deprived her of the opportunity to advance her career.

217. As a result of these actions, Plaintiff ANDREA M. KESS has suffered emotional distress, financial hardship, and significant damage to her professional and personal reputation.

COUNT II
GENDER DISCRIMINATION - FAILURE TO PROMOTE
IN VIOLATION OF
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

218. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 217 and incorporates them by reference as Paragraphs 1 through 217 of Count II of this Complaint.

219. Title VII of the Civil Rights Act of 1964 prohibits discrimination in promotion practices based on gender.

220. Plaintiff ANDREA M. KESS alleges that Defendant THE TOWN OF EAST HAMPTON failed to promote her to the positions of Detective and Sergeant, despite her exceptional qualifications, because of her gender.

221. Plaintiff ANDREA M. KESS alleges that she achieved outstanding performance metrics, including leading the department in arrests, citations, and law enforcement activities.

222. Plaintiff ANDREA M. KESS alleges that she was passed over for promotion in favor of less qualified male officers despite this.

223. Plaintiff ANDREA M. KESS alleges that Defendant THE TOWN OF EAST HAMPTON employed subjective criteria, such as "seniority," that were pretextual and used to justify promoting male officers in violation of her rights under Title VII.

224. Plaintiff further alleges that Defendant THE TOWN OF EAST HAMPTON'S failure to promote her was part of a broader pattern of discriminatory practices that favored male officers and perpetuated a male-centric culture in the police department.

225. As a direct result of Defendant THE TOWN OF EAST HAMPTON'S unlawful conduct, Plaintiff ANDREA M. KESS has experienced emotional distress, financial harm, and damage to her personal and professional standing.

**COUNT III
HOSTILE WORK ENVIRONMENT
IN VIOLATION OF
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

226. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 225 and incorporates them by reference as Paragraphs 1 through 225 of Count III of this Complaint.

227. Title VII of the Civil Rights Act of 1964 prohibits employers from creating or tolerating a hostile work environment based on gender.

228. Plaintiff ANDREA M. KESS alleges that Defendant THE TOWN OF EAST HAMPTON maintained a work environment in which she and other female officers were subjected to repeated instances of offensive, discriminatory, and hostile treatment.

229. Plaintiff ANDREA M. KESS alleges that she was subjected to sexually offensive comments, excessive scrutiny, unwarranted disciplinary actions, and discriminatory treatment, all of which created a hostile and abusive work environment. These actions were not isolated incidents but were part of a pervasive pattern of conduct that unreasonably interfered with her ability to perform her job and created an atmosphere of fear and humiliation.

230. Plaintiff ANDREA M. KESS alleges that Defendant THE TOWN OF EAST HAMPTON'S actions, including failing to address or correct the hostile environment despite knowing about it, violate Title VII, as an employer is obligated to take prompt and effective remedial measures to prevent and address such behavior.

231. As a result of this hostile work environment, Plaintiff ANDREA M. KESS suffered emotional distress, anxiety, and a loss of professional opportunities.

**COUNT IV
RETALIATION
IN VIOLATION OF
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

232. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 231 and incorporates them by reference as Paragraphs 1 through 231 of Count IV of this Complaint.

233. Under Title VII of the Civil Rights Act of 1964, it is unlawful for an employer to retaliate against an employee for opposing discriminatory practices or participating in any discrimination claims proceeding.

234. Plaintiff ANDREA M. KESS alleges that Defendant THE TOWN OF EAST HAMPTON retaliated against her for filing complaints and publishing her grievances via public

sources such as the New York Post, The East Hampton Star, 27East, and The Sanders Firm, P.C. website regarding gender discrimination, hostile work environment, and retaliation.

235. Plaintiff ANDREA M. KESS alleges that after she filed complaints with the EEOC and other internal departments, she was subjected to retaliatory actions, including being denied promotions, unwarranted disciplinary actions, and increased hostility in the workplace.

236. Plaintiff ANDREA M. KESS'S actions in reporting, opposing gender discrimination, and publishing her grievances via public sources such as the New York Post, The East Hampton Star, 27East, and The Sanders Firm, P.C. website were protected under the law, and the Defendant THE TOWN OF EAST HAMPTON'S actions violated her rights under Title VII.

237. As a result of Defendant THE TOWN OF EAST HAMPTON'S unlawful retaliatory actions, Plaintiff ANDREA M. KESS has suffered emotional distress, financial hardship, and damage to her personal and professional reputation.

**COUNT V
GENDER DISCRIMINATION
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983**

238. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 237 and incorporates them by reference as Paragraphs 1 through 237 of Count V of this Complaint.

239. Under 42 U.S.C. § 1983, public officials acting under color of state law are prohibited from depriving individuals of their constitutional rights.

240. Plaintiff ANDREA M. KESS alleges that Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN;

RYAN HOGAN; and RAYMOND RAU, acting under color of law, engaged in gender-based discrimination that deprived her of her constitutional rights to equal protection under the Fourteenth Amendment.

241. Plaintiff contends that Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU treated her differently than her male counterparts, denying her promotions, training opportunities, and equal treatment in the workplace because of her gender. This discriminatory conduct is actionable under 42 U.S.C. § 1983 because it deprived Plaintiff of her equal protection rights guaranteed by the Constitution.

242. As a result of Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU'S actions, Plaintiff ANDREA M. KESS has suffered emotional distress, financial hardship, and significant damage to her professional and personal reputation.

**COUNT VI
GENDER DISCRIMINATION - FAILURE TO PROMOTE
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983**

243. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 242 and incorporates them by reference as Paragraphs 1 through 242 of Count VI of this Complaint.

244. Plaintiff ANDREA M. KESS alleges that Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-

PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; and RYAN HOGAN, acting under color of law, violated her rights under the Equal Protection Clause of the Fourteenth Amendment by discriminating against her based on her gender and failing to promote her to the positions of Detective and Sergeant.

245. Plaintiff contends that Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; and RYAN HOGAN intentionally favored less qualified male officers for promotion, using pretextual criteria such as "seniority" to mask their discriminatory practices.

246. Plaintiff ANDREA M. KESS alleges that Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; and RYAN HOGAN; deprived her of equal treatment under the law by failing to promote Kess despite her qualifications.

247. As a direct result of Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; and RYAN HOGAN'S unlawful conduct, Plaintiff ANDREA M. KESS has experienced emotional distress, financial hardship, and damage to her personal and professional standing.

**COUNT VII
HOSTILE WORK ENVIRONMENT
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983**

248. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 247 and incorporates them by reference as Paragraphs 1 through 247 of Count VII of this Complaint.

249. Under 42 U.S.C. § 1983, public officials acting under color of law cannot subject individuals to a hostile work environment that violates their rights under the Equal Protection Clause of the Fourteenth Amendment.

250. Plaintiff ANDREA M. KESS alleges that Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU created and tolerated a hostile work environment based on her gender.

251. Plaintiff ANDREA M. KESS alleges that Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU'S actions, including repeated sexually offensive comments, excessive supervision, and discriminatory treatment, created an abusive atmosphere that interfered with her ability to perform her job. The hostile work environment was severe and pervasive, depriving Plaintiff ANDREA M. KESS of her constitutional rights.

252. As a result of Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO;

CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU’S unlawful actions, Plaintiff ANDREA M. KESS has suffered emotional distress, anxiety, and damage to her personal and professional reputation.

**COUNT VIII
EQUAL PROTECTION – GENDER DISCRIMINATION
IN VIOLATION OF
THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT AND
42 U.S.C. § 1983**

253. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 252 and incorporates them by reference as Paragraphs 1 through 252 of Count VIII of this Complaint.

254. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution prohibits public officials from discriminating against individuals based on gender.

255. Plaintiff ANDREA M. KESS alleges that under 42 U.S.C. § 1983, individuals may sue public officials for violating their equal protection rights.

256. Plaintiff ANDREA M. KESS alleges that Defendants’ KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU, and others, acting under color of law, engaged in intentional and systematic gender discrimination against her by denying her equal treatment compared to similarly situated male officers.

257. Plaintiff ANDREA M. KESS alleges that Defendants’ KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA;

GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU consistently subjected her to disparate treatment, including denying promotions, opportunities for advancement, and fair treatment in the workplace, solely based on her gender.

258. Despite her qualifications and commendable performance, Plaintiff ANDREA M. KESS was treated less favorably than her male counterparts.

259. The actions of Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU in discriminating against Plaintiff ANDREA M. KESS based on gender violate the Equal Protection Clause and are actionable under 42 U.S.C. § 1983.

260. The male-centric culture fostered by Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU denied Plaintiff ANDREA M. KESS'S constitutional right to equal protection of the law.

261. As a result of Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU'S

discriminatory conduct, Plaintiff ANDREA M. KESS has suffered emotional distress, financial hardship, and damage to her personal and professional reputation.

**COUNT IX
EQUAL PROTECTION – FAILURE TO PROMOTE
BASED ON GENDER DISCRIMINATION
IN VIOLATION OF
THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT AND
42 U.S.C. § 1983**

262. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 261 and incorporates them by reference as Paragraphs 1 through 261 of Count IX of this Complaint.

263. The Equal Protection Clause of the Fourteenth Amendment guarantees that no individual shall be denied equal protection of the laws. Public employers are prohibited from discriminating based on gender in their promotion practices.

264. Plaintiff ANDREA M. KESS alleges that under 42 U.S.C. § 1983, individuals may sue for violations of their constitutional rights when a public employer acts under color of law to deny equal protection.

265. Plaintiff ANDREA M. KESS alleges that Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; and RYAN HOGAN, acting under color of law, denied her equal protection of the law by refusing to promote her to Detective and Sergeant positions because of her gender.

266. Plaintiff ANDREA M. KESS alleges that that despite her superior qualifications, leadership, and performance metrics, Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA

TIERNEY; WAYNE MATA; GREGORY MARTIN; and RYAN HOGAN intentionally passed her over for promotion in favor of less qualified male officers. The stated reasons for denying her promotion, including "seniority," were pretextual and used to mask discriminatory practices.

267. The Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; and RYAN HOGAN'S failure to promote the Plaintiff ANDREA M. KESS was part of a broader pattern of gender-based discrimination and violated her constitutional right to equal protection under the Fourteenth Amendment.

268. Plaintiff ANDREA M. KESS alleges that Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; and RYAN HOGAN'S actions perpetuated a male-dominated culture that denied her equal opportunities.

269. As a direct result of Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; and RYAN HOGAN'S unlawful conduct, Plaintiff ANDREA M. KESS has suffered emotional distress, financial hardship, and damage to her personal and professional standing, in violation of the Equal Protection Clause of the Fourteenth Amendment and 42 U.S.C. § 1983.

**COUNT X
EQUAL PROTECTION – HOSTILE WORK ENVIRONMENT
BASED ON GENDER DISCRIMINATION
IN VIOLATION OF
THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT AND
42 U.S.C. § 1983**

270. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 269 and incorporates them by reference as Paragraphs 1 through 269 of Count X of this Complaint.

271. The Equal Protection Clause of the Fourteenth Amendment prohibits public officials from creating or perpetuating a hostile work environment based on gender.

272. Plaintiff ANDREA M. KESS alleges that under 42 U.S.C. § 1983, public employers can be held liable for maintaining a hostile work environment that deprives individuals of equal protection of the law.

273. Plaintiff ANDREA M. KESS alleges that Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU, acting under color of law, created and tolerated a hostile work environment based on her gender, depriving her of her constitutional right to equal protection.

274. Plaintiff ANDREA M. KESS alleges that she was subjected to pervasive sexually offensive comments, discriminatory treatment, excessive scrutiny, and other hostile conduct.

275. Plaintiff ANDREA M. KESS alleges that Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN;

RYAN HOGAN; and RAYMOND RAU failed to take remedial action despite being aware of the hostile work environment, allowing the abusive atmosphere to continue unabated.

276. Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU failure to address the hostile work environment violated Plaintiff ANDREA M. KESS'S constitutional rights under the Equal Protection Clause and is actionable under 42 U.S.C. § 1983.

277. As a direct result of the hostile work environment fostered by Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU, Plaintiff ANDREA M. KESS has suffered significant harm, in violation of the Equal Protection Clause of the Fourteenth Amendment.

**COUNT XI
RETALIATION
IN VIOLATION OF
THE CIVIL RIGHTS ACT OF 1871, 42 U.S.C. § 1983**

278. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 277 and incorporates them by reference as Paragraphs 1 through 277 of Count XI of this Complaint.

279. 42 U.S.C. § 1983 provides a cause of action for individuals whose constitutional rights are violated by public officials acting under color of law.

280. Plaintiff ANDREA M. KESS alleges that Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA;

GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU retaliated against her for exercising her First Amendment rights and under Title VII, opposing gender discrimination and hostile work environment practices.

281. Plaintiff ANDREA M. KESS alleges that Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU retaliated by subjecting her to adverse actions, such as denying her promotions, unjust disciplinary actions, and increased hostility.

282. The Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU actions were intended to punish Plaintiff ANDREA M. KESS for opposing gender discrimination and publishing her grievances via public sources such as the New York Post, The East Hampton Star, 27East, and The Sanders Firm, P.C. website which were protected under the law.

283. As a result of Defendants' KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU'S

retaliatory actions, Plaintiff ANDREA M. KESS has suffered emotional distress, financial hardship, and damage to her personal and professional reputation.

**COUNT XII
GENDER DISCRIMINATION
IN VIOLATION OF
NEW YORK STATE EXECUTIVE LAW § 296**

284. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 283 and incorporates them by reference as Paragraphs 1 through 283 of Count XII of this Complaint.

285. Under New York State Executive Law § 296, it is unlawful for an employer to discriminate against an employee based on gender in the terms, conditions, or privileges of employment.

286. Plaintiff ANDREA M. KESS alleges that Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU discriminated against her by denying her equal treatment and opportunities in the workplace based on her gender.

287. Plaintiff ANDREA M. KESS contends that Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU repeatedly denied her promotions, assigned her to less favorable duties, and tolerated a workplace culture that subjected her to unequal treatment.

288. As a result of Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU'S actions, Plaintiff ANDREA M. KESS has suffered emotional distress, financial hardship, and damage to her personal and professional reputation.

**COUNT XIII
GENDER DISCRIMINATION - FAILURE TO PROMOTE
IN VIOLATION OF
NEW YORK STATE EXECUTIVE LAW § 296**

289. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 288 and incorporates them by reference as Paragraphs 1 through 288 of Count XIII of this Complaint.

290. Plaintiff ANDREA M. KESS alleges that Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; and RYAN HOGAN discriminated against her based on gender by repeatedly failing to promote her, in violation of New York State Executive Law § 296.

291. Despite her exemplary performance, leadership, and qualifications, Plaintiff ANDREA M. KESS was passed over for promotions to Detective and Sergeant, while less qualified male officers were promoted.

292. Plaintiff ANDREA M. KESS alleges that this failure to promote her was based solely on her gender, making Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA;

GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; and RYAN HOGAN liable for violating the New York State Human Rights Law.

293. As a result of Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; and RYAN HOGAN'S unlawful conduct, Plaintiff ANDREA M. KESS has suffered emotional distress, financial loss, and damage to her personal and professional standing.

**COUNT XIV
HOSTILE WORK ENVIRONMENT
IN VIOLATION OF
NEW YORK STATE EXECUTIVE LAW § 296**

294. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 293 and incorporates them by reference as Paragraphs 1 through 293 of Count XIV of this Complaint.

295. Plaintiff ANDREA M. KESS alleges that Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU created and perpetuated a hostile work environment based on her gender in violation of New York State Executive Law § 296.

296. Plaintiff ANDREA M. KESS alleges that Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE

MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU subjected her to repeated sexually offensive comments, unwarranted criticism, and hostile treatment, fostering a work environment that interfered with her job performance.

297. Plaintiff ANDREA M. KESS alleges that the hostile work environment was pervasive and discriminatory, violating New York State law's protections against workplace discrimination.

298. As a result of this hostile work environment, Plaintiff ANDREA M. KESS has suffered emotional distress, anxiety, and damage to her personal and professional reputation.

**COUNT XV
RETALIATION
IN VIOLATION OF
NEW YORK STATE EXECUTIVE LAW § 296**

299. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 298 and incorporates them by reference as Paragraphs 1 through 298 of Count XV of this Complaint.

300. New York State Executive Law § 296 prohibits employers from retaliating against employees for opposing discriminatory practices or filing complaints.

301. Plaintiff ANDREA M. KESS alleges that Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU retaliated against her for opposing gender discrimination and publishing her grievances via public sources such as the New York Post, The East Hampton Star, 27East, and The Sanders Firm, P.C. website which were protected under the law.

302. After filing her complaints, Plaintiff ANDREA M. KESS was subjected to adverse actions, including being denied promotions and assigned undesirable duties. These actions were intended to punish her for asserting her legal rights under New York State Human Rights Law.

303. As a result of Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU'S retaliatory actions, Plaintiff ANDREA M. KESS has suffered emotional distress, financial hardship, and damage to her personal and professional reputation.

**COUNT XVI
RETALIATION
IN VIOLATION OF
NEW YORK LABOR LAW § 215**

304. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 303 and incorporates them by reference as Paragraphs 1 through 303 of Count XVI of this Complaint.

305. New York Labor Law § 215 prohibits employers from retaliating against employees who complain about or report violations of labor laws.

306. Plaintiff ANDREA M. KESS alleges that Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU retaliated against her for exercising her rights under New York Labor Law.

307. Plaintiff ANDREA M. KESS alleges she engaged in protected activities by opposing illegal employment practices. As a result, Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU subjected her to adverse actions, including denying her promotions and imposing disciplinary actions.

308. Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU actions violate New York Labor Law § 215, and as a result, Plaintiff ANDREA M. KESS has suffered emotional distress, financial hardship, and damage to her personal and professional reputation.

**COUNT XVII
RETALIATION
IN VIOLATION OF
NEW YORK LABOR LAW § 740**

309. Plaintiff ANDREA M. KESS re-alleges Paragraphs 1 through 308 and incorporates them by reference as Paragraphs 1 through 308 of Count XVII of this Complaint.

310. New York Labor Law § 740 prohibits retaliation against employees who report violations of laws that endanger public health or safety.

311. Plaintiff ANDREA M. KESS alleges that Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER

ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU retaliated against her after she reported violations of workplace safety practices and other illegal conduct within the police department.

312. Plaintiff ANDREA M. KESS alleges that she engaged in protected whistleblower activities, and in response, Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU subjected her to adverse actions, including denying her promotions and imposing unwarranted disciplinary measures.

313. As a result of Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU'S retaliatory conduct, Plaintiff ANDREA M. KESS has suffered emotional distress, financial hardship, and damage to her personal and professional reputation.

JURY TRIAL

314. Plaintiff ANDREA M. KESS demands a trial by jury of all issues in this action that are so triable.

PRAYER FOR RELIEF

Wherefore, Plaintiff ANDREA M. KESS demands compensatory and punitive damages from Defendants' THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ; DAVID LYS; CATE ROGERS; THOMAS FLIGHT; IAN CALDER-PIEDMONTE; MICHAEL D. SARLO; CHRISTOPHER ANDERSON; DANIEL TOIA; GREGORY SCHAEFER; CHELSEA TIERNEY; WAYNE MATA; GREGORY MARTIN; RYAN HOGAN; and RAYMOND RAU jointly and severally, in an amount to be determined at trial, plus any al available statutory remedies.

Dated: September 5, 2024
New York, N.Y.

Respectfully submitted,

By: _____/s/ Eric Sanders_____
Eric Sanders

Eric Sanders, Esq.
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