

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X

ANDREA M. KESS

Plaintiff,

SUMMONS

-against-

Index No.:

JURY DEMAND

THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ,  
DAVID LYS, CATE ROGERS, THOMAS FLIGHT, IAN  
CALDER-PIEDMONTE, MICHAEL D. SARLO, CHRISTOPHER  
ANDERSON, THE EAST HAMPTON TOWN POLICE  
BENEVOLENT ASSOCIATION, JOSEPH IZZO, LUKE  
MCNAMARA, TYLER GILBRIDE, MICHAEL RODRIGUEZ,  
MICHAEL COLEMAN, SUSAN VORPAHL, KATHERINE IZZO,  
and NICHOLAS PUPO

Defendants

-----X

To the above-named defendants named above:

You are hereby summoned and required to serve a written answer to the attached Verified Complaint upon the plaintiff's attorney at the address below.

If this Summons is personally delivered to you within the State of New York, you must serve your answer within twenty (20) days after such service, exclusive of the service date.

If this Summons is served upon you in any other manner authorized by law, you must serve your answer within thirty (30) days after service is complete, as provided by the New York Civil Practice Law and Rules.

Should you fail to appear or answer within the applicable period stated above, judgment may be entered against you by default for the relief demanded in the Verified Complaint, without further notice.

This action venue is the Supreme Court of the State of New York, County of Suffolk, located at the JOHN P. COHALAN JR. COURT COMPLEX HON. MARQUETTE L. FLOYD SUPREME COURT BUILDING 400 Carleton Avenue Central Islip, NY 11722.

Dated: June 3, 2026  
New York, N.Y.

Respectfully submitted,

By: s/Eric Sanders  
Attorney for Plaintiff ANDREA M. KESS

**THE SANDERS FIRM, P.C.**  
30 Wall Street, 8<sup>th</sup> Floor  
New York, NY 10005  
(212) 652-2782 (Business Telephone)  
(212) 652-2783 (Facsimile)

Website: <http://www.thesandersfirmpc.com>

DEFENDANT ADDRESSES

Defendants THE TOWN OF EAST HAMPTON, KATHEE BURKE-GONZALEZ, DAVID LYS, CATE ROGERS, THOMAS FLIGHT, and IAN CALDER-PIEDMONTE  
c/o Town Clerk Carole Brennan  
159 Pantigo Road  
East Hampton, NY 11937

Defendants MICHAEL D. SARLO and CHRISTOPHER ANDERSON  
c/o Town Clerk Carole Brennan  
159 Pantigo Road  
East Hampton, NY 11937

Defendants THE EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION, JOSEPH IZZO, LUKE MCNAMARA, TYLER GILBRIDE, MICHAEL RODRIGUEZ, MICHAEL COLEMAN, SUSAN VORPAHL, KATHERINE IZZO, and NICHOLAS PUPO

131 Wainscott Northwest Road  
P.O. Box 909  
Wainscott, NY 11975

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

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ANDREA M. KESS

Plaintiff,

Verified Complaint

-against-

Index No.:

JURY DEMAND

THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ,  
DAVID LYS, CATE ROGERS, THOMAS FLIGHT, IAN  
CALDER-PIEDMONTE, MICHAEL D. SARLO, CHRISTOPHER  
ANDERSON, THE EAST HAMPTON TOWN POLICE  
BENEVOLENT ASSOCIATION, JOSEPH IZZO, LUKE  
MCNAMARA, TYLER GILBRIDE, MICHAEL RODRIGUEZ,  
MICHAEL COLEMAN, SUSAN VORPAHL, KATHERINE IZZO,  
and NICHOLAS PUPO

Defendants

-----X

Plaintiff ANDREA M. KESS, through THE SANDERS FIRM, P.C., files this Verified  
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, THE EAST  
HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION, JOSEPH IZZO, LUKE  
MCNAMARA, TYLER GILBRIDE, MICHAEL RODRIGUEZ, MICHAEL COLEMAN,  
SUSAN VORPAHL, KATHERINE IZZO, and NICHOLAS PUPO, respectfully alleges that:

## INTRODUCTION

This is a retaliation action brought under the New York State Human Rights Law and the Suffolk County Human Rights Law. Plaintiff ANDREA M. KESS was a police officer employed by defendant THE TOWN OF EAST HAMPTON and a dues-paying member of defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION.

After plaintiff opposed gender discrimination, hostile work environment, discriminatory denial of advancement, disparate treatment, and retaliation within the East Hampton Town Police Department, defendants allegedly escalated against her rather than correcting the unlawful practices she challenged.

The retaliation alleged in this action centers on a connected sequence of retaliatory conduct. First, defendant THE TOWN OF EAST HAMPTON, through defendant MICHAEL D. SARLO and/or its agents, submitted a Position Statement to the United States Equal Employment Opportunity Commission in response to plaintiff's original Charge of Discrimination. Plaintiff alleges that the Position Statement was not merely a defensive administrative submission, but a retaliatory instrument containing false, misleading, materially incomplete, and punitive assertions designed to discredit plaintiff, justify prior discriminatory conduct, intimidate witnesses, and create a narrative later used against her.

After plaintiff challenged the Town's Position Statement, filed additional protected complaints, and disclosed evidence in support of her discrimination and retaliation claims, defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION and defendant THE TOWN OF EAST HAMPTON initiated separate but overlapping disciplinary processes against her. plaintiff alleges that those processes were coordinated in timing, structure, and purpose.

Neither the PBA disciplinary process nor the Town disciplinary process accused plaintiff of submitting false, forged, fabricated, or malicious information to the EEOC. Instead, defendants disciplined plaintiff for the act of disclosing, publishing, preserving, and relying upon communications and evidence in connection with her protected discrimination and retaliation activity.

Plaintiff further alleges that defendants' disciplinary rationale was pretextual because similarly situated male officers and union members accused of serious misconduct were allegedly retained, promoted, protected, or disciplined far less harshly. Those comparator allegations include alleged criminal, integrity-related, domestic-violence, intoxication, excessive-force, falsification, firearm-related, public-safety, and off-duty misconduct.

Plaintiff also alleges that sworn testimony and sworn affidavit material in the pending federal action disclose additional previously unknown or uncharged serious misconduct, sexual misconduct, and potential criminal behavior involving male officers or supervisors who, upon information and belief, were retained and not subjected to termination-level discipline. Plaintiff does not assert separate claims on behalf of those witnesses. Plaintiff pleads those incidents because they are relevant to notice, tolerated misconduct, selective enforcement, retaliatory motive, comparator treatment, and pretext.

The PBA disciplinary process resulted in a six-month suspension from union membership rights and participation, impairing plaintiff's access to union protection, participation, and remedial mechanisms. The Town disciplinary process converted plaintiff's protected opposition activity, EEOC-related conduct, and evidentiary disclosures into alleged misconduct, ultimately leading to the termination of her employment.

On April 1, 2025, defendant THE TOWN OF EAST HAMPTON, acting through its Town Board, adopted Resolution 2025-486 and terminated plaintiff's employment effective immediately. Plaintiff alleges that the Position Statement, comparator-based disparate treatment, uncharged serious-misconduct evidence, PBA disciplinary process, Town disciplinary process, union suspension, and termination were not isolated events, but parts of a retaliatory sequence designed to punish plaintiff for opposing discrimination, chill witness participation, discredit her claims, isolate her from union support, and deter others from participating in protected proceedings.

Plaintiff brings this action to redress retaliation, aiding and abetting, interference with protected rights, impairment of remedial access, selective enforcement, pretextual discipline, and related unlawful practices under the New York State Human Rights Law and the Suffolk County Human Rights Law.

### **JURISDICTION AND VENUE**

1. Jurisdiction is proper in this Court pursuant to CPLR §§ 301 and 302 because the claims arise from acts and omissions committed within the State of New York by defendants who reside, work, conduct business, maintain offices, or exercise official authority within the State of New York.

2. Venue is proper in this Court pursuant to CPLR § 503(a) and (c) because plaintiff ANDREA M. KESS resides in Suffolk County, defendant THE TOWN OF EAST HAMPTON is located in Suffolk County, the defendant municipal officials, police officials, labor-organization defendants, and individual defendants are located, work, reside, conduct business, or exercised authority in Suffolk County, and the events giving rise to this action occurred in Suffolk County, primarily within the Town of East Hampton.

3. This action is brought under the New York State Human Rights Law, Executive Law § 296 et seq., including but not limited to Executive Law §§ 296(6) and 296(7), and the Suffolk County Human Rights Law, Suffolk County Code Chapter 528, including but not limited to Suffolk County Code §§ 528-7(A)(6), 528-12(A), 528-12(B), and 528-12(D).

4. Plaintiff asserts these claims directly in this Court. Plaintiff filed her administrative charge with the United States Equal Employment Opportunity Commission. To the extent the EEOC transferred, cross-filed, referred, or otherwise processed the charge through the New York State Division of Human Rights pursuant to inter-agency claims-handling procedures, plaintiff did not independently elect an administrative remedy in lieu of this civil action and did not knowingly waive her right to pursue her New York State Human Rights Law or Suffolk County Human Rights Law claims in a court of competent jurisdiction.

#### **PROCEDURAL REQUIREMENTS**

5. Plaintiff ANDREA M. KESS commenced this action within the applicable statute of limitations for claims asserted under the New York State Human Rights Law and the Suffolk County Human Rights Law.

6. On or about May 25, 2023, plaintiff filed her first Charge of Discrimination with the United States Equal Employment Opportunity Commission, designated as Charge No. 520-2023-04757.

7. On or about September 22, 2023, plaintiff amended Charge No. 520-2023-04757.

8. Charge No. 520-2023-04757, as amended, alleged gender discrimination, hostile work environment, and retaliation arising from plaintiff's employment with defendant THE TOWN OF EAST HAMPTON and the East Hampton Town Police Department.

9. On or about October 26, 2023, defendant THE TOWN OF EAST HAMPTON,

through defendant MICHAEL D. SARLO and/or its agents, submitted a Position Statement to the EEOC in response to plaintiff's Charge of Discrimination.

10. Plaintiff alleges that the October 26, 2023 Position Statement was not merely a defensive administrative submission, but constituted a materially retaliatory act because it contained false, misleading, materially incomplete, and punitive assertions designed to discredit plaintiff, justify prior discriminatory conduct, manufacture post-charge allegations, and create a retaliatory narrative later used in connection with union discipline, departmental charges, and termination.

11. On or about July 17, 2024, plaintiff filed a second Charge of Discrimination with the EEOC, designated as Charge No. 520-2024-06652, alleging additional retaliation arising from defendants' post-charge conduct, including the retaliatory use of the Town's Position Statement and related actions.

12. The EEOC acknowledged receipt of Charge No. 520-2024-06652 on July 17, 2024 and advised that, where a charge is initially filed with the EEOC and is also covered by state or local law, the EEOC may dual-file the charge with the applicable Fair Employment Practices Agency while typically retaining the charge for processing.

13. On or about August 7, 2024, plaintiff filed and/or the EEOC acknowledged a third Charge of Discrimination, designated as Charge No. 520-2024-07213, alleging further retaliation arising from defendants coordinated post-charge conduct.

14. On or about September 5, 2024, plaintiff commenced a federal civil action in the United States District Court for the Eastern District of New York, captioned Andrea M. Kess v. Town of East Hampton, et al., No. 24-cv-6226.

15. The federal action asserted claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 1983, and the New York State Human Rights Law based on gender discrimination,

hostile work environment, retaliation, and related unlawful employment practices.

16. On or about September 15, 2024, plaintiff signed and submitted an Amended Charge of Discrimination, designated as Charge No. 520-2024-7213, naming both defendant THE TOWN OF EAST HAMPTON and defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION. In that amended charge, plaintiff alleged retaliation and continuing hostile work environment arising from coordinated post-charge conduct, including the PBA's service of internal disciplinary charges, the PBA's six-month suspension of plaintiff, the PERB improper-practice charge, and the Town's service of departmental disciplinary charges on or about August 29, 2024. The amended charge alleged that these actions were taken because plaintiff filed EEOC Charge No. 520-2024-06652, disclosed evidence she contended was lawfully obtained, opposed the alleged falsity of the Town's Position Statement, and challenged coordinated efforts by Town and union actors to frustrate her legal claims, undermine her credibility, and dissuade favorable witnesses from opposing discriminatory practices in the workplace.

17. On or about March 7, 2025, defendant THE TOWN OF EAST HAMPTON submitted a Position Statement to the EEOC in response to Charge No. 520-2024-07213.

18. The March 7, 2025 Position Statement confirms that the Town understood plaintiff's charge to allege coordinated retaliation involving the Town, defendant MICHAEL D. SARLO, and defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION relating to disciplinary charges based on plaintiff's protected disclosures.

19. Defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION did not submit a response to Charge No. 520-2024-7213, did not meaningfully deny plaintiff's allegations of coordinated retaliation, did not provide plaintiff with any remedial process, did not

rescind the retaliatory union discipline, and did not restore plaintiff's access to union membership rights, union protection, participation, or other remedial mechanisms after plaintiff alleged that the union discipline was imposed because of her protected discrimination-related activity.

20. On or about March 25, 2025, the United States District Court held a pre-motion conference concerning defendants anticipated Rule 12 motion practice in the federal action, including defendants' arguments directed to the timeliness and sufficiency of plaintiff's federal claims. At the conclusion of the conference, the Court partially denied the anticipated Rule 12 motion, and the federal action has proceeded into discovery.

21. Plaintiff's EEOC filings, the Town's Position Statements, the federal action, and the federal pre-motion conference are alleged in this action to establish protected activity, defendants' notice, retaliatory motive, procedural history, and the sequence of defendants' retaliatory conduct.

22. Plaintiff filed her administrative charges with the EEOC. To the extent the EEOC transferred, dual-filed, referred, or otherwise processed any charge through the New York State Division of Human Rights or any other Fair Employment Practices Agency pursuant to inter-agency claims-handling procedures, plaintiff did not independently elect an administrative remedy in lieu of this civil action and did not knowingly waive her right to pursue her New York State Human Rights Law or Suffolk County Human Rights Law claims in a court of competent jurisdiction.

23. No administrative exhaustion is required before commencing plaintiff's claims under the New York State Human Rights Law and the Suffolk County Human Rights Law in this Court, and no administrative election bars this civil action.

**PLAINTIFF**

24. Plaintiff ANDREA M. KESS is a natural person who resides in Suffolk County, New York.

25. Plaintiff ANDREA M. KESS was employed by defendant THE TOWN OF EAST HAMPTON as a police officer with the East Hampton Town Police Department.

26. Plaintiff was employed by defendant THE TOWN OF EAST HAMPTON from on or about April 3, 2016 until April 1, 2025.

27. At all relevant times, plaintiff was an employee within the meaning of the New York State Human Rights Law and the Suffolk County Human Rights Law.

28. Plaintiff is female and was a member of a protected class under the New York State Human Rights Law and the Suffolk County Human Rights Law.

29. During her employment, plaintiff opposed what she reasonably believed to be unlawful gender discrimination, hostile work environment, retaliation, discriminatory denial of promotional opportunities, disparate treatment, and related unlawful employment practices within the East Hampton Town Police Department.

30. Plaintiff engaged in protected activity by making internal complaints, filing Charges of Discrimination with the United States Equal Employment Opportunity Commission, opposing defendants' allegedly false and retaliatory administrative submissions, objecting to retaliatory union discipline, and pursuing administrative and legal remedies concerning discrimination and retaliation.

31. Plaintiff alleges that, after defendants became aware of her protected activity, defendants subjected her to retaliatory conduct, including retaliatory administrative submissions, coordinated union discipline, departmental disciplinary charges, and termination of employment.

32. Plaintiff brings this action to redress retaliation, aiding and abetting, interference, and related unlawful practices under the New York State Human Rights Law and the Suffolk County Human Rights Law.

**DEFENDANTS**

33. Defendant THE TOWN OF EAST HAMPTON is a municipal corporation located in Suffolk County, New York, and was plaintiff's employer during the relevant period.

34. Defendant THE TOWN OF EAST HAMPTON acted through its Town Board, Police Department, Human Resources function, police command staff, supervisory employees, agents, representatives, and other officials in connection with the conduct alleged herein.

35. Defendant THE TOWN OF EAST HAMPTON is alleged to be liable under the New York State Human Rights Law and the Suffolk County Human Rights Law for retaliation, discriminatory and retaliatory employment practices, failure to prevent retaliation, failure to remediate retaliation, and ratification of retaliatory conduct by its officials, agents, and employees.

36. Defendant KATHEE BURKE-GONZALEZ was, at all relevant times, the Town Supervisor and a member of the East Hampton Town Board.

37. Defendant KATHEE BURKE-GONZALEZ is identified in Resolution 2025-486 as the mover of the resolution adopting Hearing Officer Robert Ponzini's March 20, 2025 Report of Findings and Final Determination and terminating plaintiff's employment effective immediately.

38. Defendant DAVID LYS was, at all relevant times, a member of the East Hampton Town Board and is identified in Resolution 2025-486 as having voted in favor of terminating plaintiff's employment.

39. Defendant CATE ROGERS was, at all relevant times, a member of the East Hampton Town Board and is identified in Resolution 2025-486 as the seconder of the resolution adopting Hearing Officer Robert Ponzini's March 20, 2025 Report of Findings and Final Determination and terminating plaintiff's employment effective immediately.

40. Defendant CATE ROGERS is also identified in Resolution 2025-486 as having voted in favor of terminating plaintiff's employment.

41. Defendant THOMAS FLIGHT was, at all relevant times, a member of the East Hampton Town Board and is identified in Resolution 2025-486 as having voted in favor of terminating plaintiff's employment.

42. Defendant IAN CALDER-PIEDMONTE was, at all relevant times, a member of the East Hampton Town Board and is identified in Resolution 2025-486 as having voted in favor of terminating plaintiff's employment.

43. Plaintiff alleges that the Town Board defendants adopted, ratified, and effectuated the termination of plaintiff's employment after defendants had notice of plaintiff's protected activity, EEOC charges, internal retaliation complaints, allegations concerning the Town's Position Statements, union-related retaliation allegations, and the coordinated disciplinary sequence challenged in this action.

44. Defendant MICHAEL D. SARLO was, at all relevant times, the Chief of Police of the East Hampton Town Police Department and exercised command authority over police operations, personnel matters, discipline, supervisory assignments, internal communications, and responses to plaintiff's discrimination and retaliation complaints.

45. Plaintiff alleges that defendant MICHAEL D. SARLO participated in, directed, approved, encouraged, condoned, or ratified retaliatory conduct, including the Town's Position

Statement submitted to the EEOC, the handling of plaintiff's internal retaliation complaint, the disciplinary process, and the retaliatory sequence that culminated in plaintiff's termination.

46. Defendant CHRISTOPHER ANDERSON was, at all relevant times, a former Police Captain with the East Hampton Town Police Department and acted under color of municipal authority and within the scope of his employment and agency relationship with defendant THE TOWN OF EAST HAMPTON.

47. Defendant CHRISTOPHER ANDERSON preferred disciplinary charges against plaintiff on or about August 29, 2024, which plaintiff alleges were retaliatory and were issued after plaintiff engaged in protected activity, including filing EEOC charges, opposing the Town's Position Statements, objecting to union retaliation, and disclosing evidence in support of her discrimination and retaliation claims.

48. Defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION is a labor organization located in Suffolk County, New York, and was the labor organization of which plaintiff was a dues-paying member during her employment with defendant THE TOWN OF EAST HAMPTON.

49. Plaintiff alleges that defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION is liable under the New York State Human Rights Law and the Suffolk County Human Rights Law because, as plaintiff's labor organization, it retaliated against plaintiff after she opposed discrimination, filed EEOC charges, disclosed evidence in support of her discrimination and retaliation claims, objected to the Town's Position Statements, and challenged coordinated Town and union conduct. plaintiff further alleges that defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION aided and abetted retaliation, interfered with plaintiff's protected rights, disciplined plaintiff because of her protected activity,

and restricted, suspended, or impaired her access to union membership rights, union participation, union protection, and available remedial mechanisms.

50. Defendant JOSEPH IZZO was, at all relevant times, President of defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION and a member of its Board of Trustees.

51. Plaintiff alleges that defendant JOSEPH IZZO received complaints from plaintiff concerning gender discrimination, hostile work environment, retaliation, and disparate treatment beginning as early as 2018, failed to protect plaintiff, discouraged plaintiff from pursuing legal remedies, and participated in or ratified retaliatory union discipline after plaintiff engaged in protected activity.

52. Defendant LUKE MCNAMARA was, at all relevant times, Vice President of defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION and a member of its Board of Trustees.

53. Plaintiff alleges that defendant LUKE MCNAMARA participated in, approved, ratified, or assisted the August 2, 2024 internal union disciplinary charges and related union actions taken against plaintiff after she engaged in protected activity.

54. Defendant TYLER GILBRIDE was, at all relevant times, Treasurer of defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION and a member of its Board of Trustees.

55. Plaintiff alleges that defendant TYLER GILBRIDE participated in, approved, ratified, or assisted the August 2, 2024 internal union disciplinary charges and related union actions taken against plaintiff after she engaged in protected activity.

56. Defendant MICHAEL RODRIGUEZ was, at all relevant times, Secretary of

defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION and a member of its Board of Trustees.

57. Plaintiff alleges that defendant MICHAEL RODRIGUEZ participated in, approved, ratified, or assisted the August 2, 2024 internal union disciplinary charges and related union actions taken against plaintiff after she engaged in protected activity.

58. Defendant MICHAEL COLEMAN was, at all relevant times, S.C.P.C. Delegate of defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION and a member of its Board of Trustees.

59. Plaintiff alleges that defendant MICHAEL COLEMAN participated in, approved, ratified, or assisted the August 2, 2024 internal union disciplinary charges and related union actions taken against plaintiff after she engaged in protected activity.

60. Defendant SUSAN VORPAHL was, at all relevant times, a Trustee and member of the governing body of defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION.

61. Plaintiff alleges that defendant SUSAN VORPAHL participated in, approved, ratified, or assisted the August 13, 2024 membership vote suspending plaintiff from union membership rights and participation for six months after plaintiff engaged in protected activity.

62. Defendant KATHERINE IZZO was, at all relevant times, a Trustee and member of the governing body of defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION.

63. Plaintiff alleges that defendant KATHERINE IZZO participated in, approved, ratified, or assisted the August 13, 2024 membership vote suspending plaintiff from union membership rights and participation for six months after plaintiff engaged in protected activity.

64. Defendant NICHOLAS PUPO was, at all relevant times, a Trustee and member of the governing body of defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION.

65. Plaintiff alleges that defendant NICHOLAS PUPO participated in, approved, ratified, or assisted the August 13, 2024 membership vote suspending plaintiff from union membership rights and participation for six months after plaintiff engaged in protected activity.

66. Plaintiff alleges that the individual defendants directly participated in, aided and abetted, incited, compelled, coerced, approved, ratified, or interfered with plaintiff's protected rights under the New York State Human Rights Law and the Suffolk County Human Rights Law.

### **BACKGROUND**

#### **PLAINTIFF'S ORIGINAL EEOC CHARGE AND DEFENDANTS' NOTICE OF PROTECTED ACTIVITY**

67. On or about May 25, 2023, plaintiff ANDREA M. KESS filed Charge of Discrimination No. 520-2023-04757 with the United States Equal Employment Opportunity Commission.

68. Charge No. 520-2023-04757 alleged that defendant THE TOWN OF EAST HAMPTON subjected plaintiff to gender discrimination, hostile work environment, and retaliation during her employment with the East Hampton Town Police Department.

69. On or about September 22, 2023, plaintiff amended Charge No. 520-2023-04757.

70. Charge No. 520-2023-04757, as amended, alleged that plaintiff and other female officers were subjected to gender-based discriminatory practices, sexually offensive workplace conduct, repeated challenges to their integrity and competence, denial of training, denial of advancement and promotional opportunities, punitive assignments, denial of overtime, excessive supervision, and retaliatory treatment.

71. Through Charge No. 520-2023-04757 and the amended charge, plaintiff opposed what she reasonably believed to be unlawful gender-based discrimination, hostile work environment, retaliation, discriminatory denial of promotional opportunities, disparate treatment, exclusion from employment opportunities, and related unlawful employment practices.

72. Charge No. 520-2023-04757 placed defendant THE TOWN OF EAST HAMPTON, its Police Department, its command staff, its Human Resources function, its municipal decisionmakers, and its agents on notice that plaintiff was engaging in protected activity under federal, state, and local anti-discrimination law.

73. Plaintiff does not reproduce Charge No. 520-2023-04757 or the amended charge in this pleading. plaintiff pleads the charge and amended charge to establish protected activity, defendants' notice, the chronology of retaliation, and the factual predicate for defendants' later retaliatory conduct.

74. After plaintiff filed Charge No. 520-2023-04757, defendant THE TOWN OF EAST HAMPTON, through defendant MICHAEL D. SARLO and/or its agents, submitted a Position Statement to the EEOC on or about October 26, 2023.

75. Plaintiff alleges that the October 26, 2023 Position Statement was not merely a defensive administrative submission. Plaintiff alleges that it became a retaliatory instrument because it contained false, misleading, materially incomplete, and punitive assertions designed to discredit plaintiff, justify prior discriminatory conduct, manufacture post-charge accusations, and create a retaliatory narrative later used in connection with union discipline, departmental charges, and termination.

76. Plaintiff alleges that the October 26, 2023 Position Statement was the first major retaliation event challenged in this action and became part of the causal chain that later included coordinated union discipline, departmental disciplinary charges, and termination of employment.

**SECOND EEOC CHARGE: RETALIATION ARISING FROM  
THE TOWN'S POSITION STATEMENT**

77. On or about July 16, 2024, plaintiff ANDREA M. KESS submitted a formal Complaint of Retaliation to the Human Resources Department of defendant THE TOWN OF EAST HAMPTON, addressed to Kathleen Rood, with a copy to defendant MICHAEL D. SARLO.

78. In the July 16, 2024 Complaint of Retaliation, plaintiff alleged that defendant THE TOWN OF EAST HAMPTON and defendant MICHAEL D. SARLO knowingly submitted a false, deceptive, and retaliatory Position Statement to the United States Equal Employment Opportunity Commission on or about October 26, 2023 in response to plaintiff's original Charge of Discrimination, Charge No. 520-2023-04757.

79. Plaintiff alleged that the Town's October 26, 2023 Position Statement was intended to discredit her EEOC complaint, mislead the EEOC, attack her personal and professional integrity, intimidate plaintiff, punish plaintiff for engaging in protected activity, and deter witnesses from supporting her discrimination and retaliation claims.

80. On or about July 17, 2024, plaintiff filed a second Charge of Discrimination with the United States Equal Employment Opportunity Commission, designated as Charge No. 520-2024-06652.

81. Charge No. 520-2024-06652 named defendant THE TOWN OF EAST HAMPTON as the respondent and alleged retaliation arising from plaintiff's protected activity,

including plaintiff's opposition to the Town's October 26, 2023 Position Statement and the alleged falsity, omissions, and retaliatory purpose of that submission.

82. Charge No. 520-2024-06652 identified retaliation as the basis of discrimination, identified the relevant period as beginning on or about September 22, 2023 and continuing thereafter, and alleged continuing retaliatory conduct by defendant THE TOWN OF EAST HAMPTON.

83. Charge No. 520-2024-06652 was supported by plaintiff's July 16, 2024 Complaint of Retaliation and related materials. Those materials alleged, among other things, that the Town's October 26, 2023 Position Statement falsely attacked plaintiff's personal and professional integrity, omitted material evidence, misrepresented the record, chilled witness participation, and operated as a materially adverse act of retaliation for plaintiff's protected EEOC activity.

84. Charge No. 520-2024-06652 attached, identified, or incorporated plaintiff's July 16, 2024 Complaint of Retaliation, plaintiff's prior EEOC charge materials, the Town's October 26, 2023 Position Statement, EEOC retaliation guidance, the related retaliation charge filed by Peter Powers, and supporting electronic data.

85. Plaintiff does not reproduce the supporting materials in full in this pleading. plaintiff pleads Charge No. 520-2024-06652 and its supporting materials to establish protected activity, defendants' notice, retaliatory motive, failure to remediate, and the causal sequence leading to later union discipline, departmental disciplinary charges, and termination.

86. Through Charge No. 520-2024-06652, plaintiff again placed defendant THE TOWN OF EAST HAMPTON, defendant MICHAEL D. SARLO, the Town's Human

Resources function, police command staff, municipal decisionmakers, and agents on notice that plaintiff alleged retaliation for engaging in protected discrimination-related activity.<sup>1</sup>

87. The EEOC acknowledged receipt of Charge No. 520-2024-06652 on July 17, 2024 and advised that, where a charge is initially filed with the EEOC and is also covered by state or local law, the EEOC may dual-file the charge with the applicable Fair Employment Practices Agency while typically retaining the charge for processing.

88. Plaintiff alleges that Charge No. 520-2024-06652 was protected activity under the New York State Human Rights Law and the Suffolk County Human Rights Law.

89. Plaintiff further alleges that defendants' failure to meaningfully investigate, correct, withdraw, or remediate the allegedly false and retaliatory Position Statement allowed the retaliatory narrative created by the Town to remain in place and later become part of the disciplinary and termination sequence challenged in this action.

### **THIRD EEOC CHARGE: COORDINATED TOWN AND UNION RETALIATION**

90. On or about September 15, 2024, plaintiff ANDREA M. KESS signed and submitted an Amended Charge of Discrimination, designated as Charge No. 520-2024-7213.

91. Charge No. 520-2024-7213 named defendant THE TOWN OF EAST HAMPTON and defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION as respondents.

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<sup>1</sup> Plaintiff has not yet received, located, or fully reviewed any Position Statement submitted by defendant THE TOWN OF EAST HAMPTON in response to EEOC Charge No. 520-2024-06652.

Plaintiff reserves the right to rely upon any such Position Statement, response, correspondence, exhibit, or related submission in this action to the extent it contains admissions, inconsistent explanations, retaliatory statements, additional attacks upon plaintiff's protected activity, or evidence concerning defendants' notice, motive, coordination, pretext, or failure to remediate retaliation.

92. Charge No. 520-2024-7213 alleged retaliation and continuing hostile work environment arising from coordinated post-charge conduct by Town and union actors.

93. Charge No. 520-2024-7213 alleged that plaintiff, as a union member, had complained to defendant JOSEPH IZZO concerning gender discrimination and that defendant JOSEPH IZZO failed to protect plaintiff, discouraged plaintiff from filing legal claims against the Town and police officials, and failed to support plaintiff after she pursued EEOC relief.

94. Charge No. 520-2024-7213 further alleged that after plaintiff filed Charge No. 520-2024-06652 on July 17, 2024, and disclosed evidence concerning the Town's Position Statement, the Town's alleged discriminatory practices, and alleged union-related participation or inaction, Town and union actors engaged in coordinated retaliation.

95. Charge No. 520-2024-7213 identified the PBA's internal union disciplinary charges, plaintiff's six-month union suspension, plaintiff's PERB improper-practice charge, and the Town's departmental disciplinary charges as part of the coordinated retaliation plaintiff challenged.

96. Plaintiff pleads Charge No. 520-2024-7213 to establish protected activity, defendants' notice, retaliatory motive, the coordinated nature of the Town and union disciplinary sequence, and the causal connection between plaintiff's protected activity, union discipline, departmental charges, and termination.

97. Defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION did not submit a response to Charge No. 520-2024-7213, did not meaningfully deny plaintiff's allegations of coordinated retaliation, did not provide plaintiff with any remedial process, did not rescind the retaliatory union discipline, and did not restore plaintiff's access to union membership rights, union participation, union protection, or other remedial mechanisms.

98. Plaintiff alleges that Charge No. 520-2024-7213 was protected activity under the New York State Human Rights Law and the Suffolk County Human Rights Law.

### **THE TOWN'S DISCIPLINARY PROCESS**

99. On or about August 29, 2024, defendant CHRISTOPHER ANDERSON, as Captain of Police of the East Hampton Town Police Department, preferred departmental disciplinary charges against plaintiff ANDREA M. KESS.

100. The Town disciplinary charges were brought under Town Law § 155, the Town's rules of practice, and East Hampton Town Police Department rules and procedures.

101. Plaintiff alleges that the Town disciplinary charges were not a neutral disciplinary response, but a retaliatory response to plaintiff's protected activity, including her EEOC charges, her July 16, 2024 Complaint of Retaliation, her opposition to the Town's October 26, 2023 Position Statement, and her preservation and disclosure of evidence in support of discrimination and retaliation claims.

102. The Town disciplinary charges specifically referenced plaintiff's July 17, 2024 protected activity and alleged that plaintiff facilitated the publication of her internal retaliation complaint and related materials on a website maintained by her counsel, Eric Sanders, Esq. and/or The Sanders Firm, P.C.

103. Plaintiff alleges that this allegation is significant because the Town did not merely discipline plaintiff for ordinary workplace misconduct. Instead, the Town expressly identified the publication of plaintiff's discrimination-related complaint, retaliation allegations, and supporting materials as conduct forming the basis for discipline.

104. Plaintiff alleges that the Town's reliance upon plaintiff's EEOC-related postings, protected opposition activity, and counsel-publication activity demonstrates retaliatory motive

because the disciplinary charges targeted the manner in which plaintiff opposed discrimination, documented retaliation, supported her administrative filings, and communicated evidence concerning alleged unlawful employment practices.

105. The Town disciplinary charges characterized plaintiff's protected opposition activity and supporting evidentiary disclosures as misconduct involving alleged confidential information, alleged informant-related information, alleged surreptitious recordings, alleged improper publication, and alleged conduct unbecoming.

106. Plaintiff alleges that the Town attempted to recharacterize protected discrimination-related activity as misconduct by labeling plaintiff's disclosures as violations of departmental confidentiality rules, informant-integrity rules, surreptitious-recording rules, and conduct-unbecoming standards.

107. Plaintiff further alleges that the Town disciplinary charges were temporally and substantively connected to Charge No. 520-2024-06652 because the charges arose shortly after plaintiff filed that charge and challenged the Town's alleged falsity, omissions, and retaliatory purpose in the October 26, 2023 Position Statement.

108. Plaintiff alleges that the Town's specific reference to the publication of her complaint and related materials shows that the disciplinary process was causally connected to her protected activity and was designed to punish, chill, and deter plaintiff and other witnesses from opposing discrimination, supporting EEOC charges, or disclosing evidence concerning retaliation and hostile work environment.

109. On or about September 1, 2024, plaintiff submitted an answer to the Town disciplinary charges and requested a hearing to contest the charges.

110. In her answer, plaintiff denied the charges, asserted that the charges were retaliatory, and contended that the disciplinary proceeding was being used to punish her for exposing discrimination, retaliation, and misconduct within the East Hampton Town Police Department.

111. Plaintiff also asserted that the Town disciplinary charges were legally defective because they relied upon alleged confidentiality theories, disciplinary-record theories, and publication theories that plaintiff contends were inconsistent with governing law, public-record principles, protected activity, and anti-retaliation protections.

112. On or about October 3, 2024, the East Hampton Town Board adopted Resolution 2024-1257 appointing Robert J. Ponzini, Esq. as the hearing officer in plaintiff's disciplinary proceeding.

113. Resolution 2024-1257 directed Hearing Officer Ponzini to submit findings and recommendations to the Town Board regarding the disciplinary charges.

114. Resolution 2024-1257 further provided that Hearing Officer Ponzini would be compensated at the rate of \$2,300 per day, plus reasonable expenses, and would receive legal defense and indemnification rights on the same basis as Town employees.

115. Plaintiff alleges that the Town Board's appointment structure retained final disciplinary control with the Town Board because Hearing Officer Ponzini was directed to submit findings and recommendations to the Town Board rather than enter a final independent determination.

116. On or about November 18, 2024, plaintiff, through counsel, objected to procedural and substantive deficiencies in the Town disciplinary process, including the unilateral

appointment of the hearing officer, the lack of discovery, the lack of witness disclosure, and the alleged failure to provide plaintiff a meaningful opportunity to defend herself.

117. On or about November 19, 2024, counsel for the Town rejected plaintiff's objections and asserted, among other things, that the Town had properly selected the hearing officer and that the statutory procedure governing the disciplinary matter did not afford plaintiff the discovery rights she requested.

118. On or about November 27, 2024, plaintiff, through counsel, requested an adjournment of the December 4, 2024 disciplinary hearing because plaintiff's counsel was required to appear for federal jury service in the United States District Court for the Southern District of New York.

119. Plaintiff alleges that the Town's handling of the disciplinary process, including its treatment of plaintiff's objections, discovery requests, and adjournment request, further demonstrates that the process was designed to advance a retaliatory disciplinary record rather than provide a fair and neutral review of the charges.

120. The disciplinary hearing began on December 4, 2024 before Hearing Officer Ponzini.

121. At the December 4, 2024 hearing, defendant CHRISTOPHER ANDERSON was identified as the charging party, the Town's resource person for the hearing, and a witness expected to testify in the proceeding.

122. At the December 4, 2024 hearing, the disciplinary charges signed by defendant CHRISTOPHER ANDERSON and dated August 29, 2024 were marked into evidence.

123. At the December 4, 2024 hearing, plaintiff's September 1, 2024 answer to the disciplinary charges was also marked into evidence.

124. Plaintiff alleges that the dual role of defendant CHRISTOPHER ANDERSON as charging party, Town resource person, and expected witness further demonstrates that the disciplinary process was structured to advance the Town's retaliatory theory rather than neutrally test the charges.

125. Plaintiff alleges that the Town disciplinary process was hostile in tone, structure, and administration.

126. Plaintiff alleges that the hostility was not incidental, but part of the retaliatory character of the proceeding because the process targeted plaintiff's protected discrimination-related activity, treated her protected disclosures as misconduct, and attempted to convert her EEOC-related opposition into a disciplinary record.

127. Plaintiff further alleges that the hearing process included hostile and punitive conduct directed toward plaintiff and her counsel, including personal attacks, threats of sanctions, threats of default, and efforts to characterize plaintiff's defense of her protected activity as further misconduct.

128. Plaintiff alleges that this hostile process was designed to intimidate plaintiff, punish plaintiff for continuing to oppose discrimination and retaliation, discredit plaintiff's legal claims, and deter other witnesses from supporting plaintiff's discrimination and retaliation allegations.

129. Plaintiff alleges that the hostile administration of the disciplinary proceeding is evidence of retaliatory motive, pretext, and the absence of a neutral remedial process.

130. Plaintiff further alleges that defendants' hostile treatment of plaintiff during the disciplinary process contrasts with defendants' more favorable treatment of similarly situated male officers and union members who had not engaged in comparable protected activity,

including male officers and supervisors accused of serious misconduct, sexual misconduct, domestic-violence-related misconduct, firearm-related misconduct, intoxication, falsification, excessive force, integrity-related misconduct, and potential criminal behavior.

131. The disciplinary hearing continued on February 5, 2025.

132. Plaintiff alleges that the Town disciplinary process failed to meaningfully separate legitimate workplace discipline from plaintiff's protected activity, including plaintiff's right to oppose discrimination, challenge the Town's Position Statement, preserve evidence, file EEOC charges, object to retaliation, and pursue legal and administrative remedies.

133. Plaintiff alleges that the Town disciplinary process accepted, advanced, or credited the retaliatory premise that plaintiff's protected discrimination-related conduct could be treated as punishable misconduct.

134. Plaintiff further alleges that the Town enforced its disciplinary rules against plaintiff more harshly than against similarly situated male officers and union members who had not engaged in comparable protected activity, including male officers and supervisors who were allegedly retained, promoted, protected, or disciplined far less harshly despite misconduct that was comparable to or more serious than the conduct defendants attributed to plaintiff.

135. On or about March 20, 2025, Hearing Officer Ponzini prepared a Report of Findings and Final Determination, which was presented to the East Hampton Town Board.

136. Plaintiff alleges that Hearing Officer Ponzini's March 20, 2025 report adopted, credited, or relied upon the retaliatory theory advanced by Town actors after plaintiff engaged in protected activity.

137. On April 1, 2025, defendant THE TOWN OF EAST HAMPTON, acting through its Town Board, adopted Resolution 2025-486.

138. Through Resolution 2025-486, the Town Board adopted the findings and recommendations set forth in Hearing Officer Ponzini's March 20, 2025 report and terminated plaintiff's employment effective immediately.

139. Resolution 2025-486 was adopted unanimously, with defendant KATHEE BURKE-GONZALEZ as mover, defendant CATE ROGERS as seconder, and votes in favor recorded for defendants THOMAS FLIGHT, DAVID LYS, CATE ROGERS, IAN CALDER-PIEDMONTE, and KATHEE BURKE-GONZALEZ.

140. Plaintiff alleges that the Town disciplinary process and Resolution 2025-486 were part of the same retaliatory sequence that began after plaintiff engaged in protected activity and continued through the Town's Position Statements, plaintiff's retaliation complaints, the Town disciplinary charges, and plaintiff's termination.

141. Plaintiff alleges that the Town's asserted disciplinary reasons were pretextual because the charges followed plaintiff's protected activity, expressly referenced plaintiff's complaint-publication activity, relied upon conduct connected to plaintiff's opposition to discrimination and retaliation, overlapped with matters raised in plaintiff's EEOC and administrative filings, and culminated in termination after defendants had notice of plaintiff's protected activity and retaliation allegations. Plaintiff further alleges that the comparator treatment and uncharged serious-misconduct evidence identified below demonstrate selective enforcement, tolerated male misconduct, retaliatory motive, and pretext.

### **COMPARATOR TREATMENT AND PRETEXT**

142. Plaintiff alleges that defendants' stated reasons for disciplining, suspending, and terminating her were pretextual.

143. Plaintiff further alleges that similarly situated male officers and union members were retained, promoted, protected, or disciplined far less harshly despite alleged misconduct that was comparable to or more serious than the conduct defendants attributed to plaintiff.

144. Plaintiff alleges that defendants' materially different treatment of male officers and union members demonstrates selective enforcement, retaliatory motive, and pretext because plaintiff was disciplined, suspended from union membership, and terminated for conduct tied to protected discrimination-related activity, while male comparators accused of serious misconduct were not subjected to comparable consequences.

145. Plaintiff identifies the following comparators based upon presently available information, public records where available, plaintiff's knowledge, and information and belief, and reserves the right to supplement this chart after discovery:

Comparator	Position / Status	Alleged Misconduct or Issue	Alleged Outcome / Treatment	Comparator Significance
Luke McNamara <sup>2</sup>	Male police officer / Detective / PBA Vice President	Allegedly falsified documents, paid informant and lied while on probation; later promoted to Detective.	Retained and promoted.	Shows alleged tolerance of serious integrity-related misconduct by male officer while plaintiff was later terminated for protected disclosure activity.

<sup>2</sup> For the record, over the past few years, defendants TOWN OF EAST HAMPTON, MICHAEL D. SARLO, CHRISTOPHER ANDERSON, and many other employees, including Lieutenant Daniel Toia, are aware that defendant LUKE MCNAMARA, is known on Instagram as coolhandlu\_rs.

In contrast, defendant LUKE 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.

Comparator	Position / Status	Alleged Misconduct or Issue	Alleged Outcome / Treatment	Comparator Significance
Arthur Scalzo and Andrew Nimmo	Male police officers; Scalzo later promoted to Detective; Nimmo was allegedly on probation at the time	Allegedly involved in an off-duty physical altercation with a civilian at a local bar. EHTPD allegedly responded and generated a report that did not identify Scalzo or Nimmo. The incident allegedly became known only after the civilian complained that Scalzo and Nimmo jumped him in a bathroom. An internal affairs investigation was allegedly opened.	Scalzo and Nimmo were retained.  Upon information and belief, Scalzo was later promoted to Detective, Nimmo remained employed, and it is unknown whether either male officer received discipline.	Shows alleged favorable treatment of male officers accused of serious off-duty misconduct involving violence, omission from an official police report, and later civilian complaint, while plaintiff was terminated for protected discrimination-related activity and evidentiary disclosures.
Ryan Balnis	Male police officer	Allegedly intoxicated while on duty during approximately 2017–2018.	Retained. No suspension, termination, or resignation.  Predetermined discipline allegedly offered in lieu of hearing consisting of loss of accrued leave time totaling nine (9) eight-hour days.	Shows alleged lesser discipline for serious on-duty intoxication by a male officer, while plaintiff was terminated for conduct tied to protected discrimination-related activity, EEOC-related disclosures, and opposition to retaliation.
Thomas Strong	Male police officer	Allegedly failed to secure firearms after a family member of an emotionally disturbed/suicidal person reported that firearms were inside the residence. Instead, Strong allegedly purchased the firearms,	Retained. No suspension, termination, or resignation.  Predetermined discipline allegedly offered in lieu of hearing consisting of loss of accrued leave	Shows alleged lesser discipline for serious firearm-related misconduct, failure to safeguard weapons in an emotionally disturbed person context, and improper personal purchase of firearms, while plaintiff was terminated for conduct

Comparator	Position / Status	Alleged Misconduct or Issue	Alleged Outcome / Treatment	Comparator Significance
		including an AR-15, from the family member. The incident generated a call for service. Approximate time frame: 2018–2019.	time totaling fifteen (15) eight-hour days.	tied to protected discrimination-related activity, EEOC-related disclosures, and opposition to retaliation.
Joseph Izzo	Male police officer / PBA President	Approximate time frame: 2016–2017. In or about 2016, Izzo allegedly faced discipline for insubordination, disabling ICVS during a mandatory recording, and making a false communication, record, or statement. Chief Sarlo allegedly proposed discipline of four days for insubordination, four days for disabling ICVS during mandatory recording, and four days for making a false communication, record, or statement. In or about August–October 2017, Izzo allegedly violated department rules governing non-lethal force weapons by continuing or misusing the Air Taser after a person had been safely restrained, conduct described by Sarlo as excessive use of force.	Retained. No suspension, termination, or resignation.  Predetermined discipline allegedly offered in lieu of hearing consisting of loss of accrued leave time totaling twelve (12) eight-hour days for the 2016 charges. For the 2017 excessive-force/Taser matter, discipline allegedly consisted of forty-eight (48) hours of accrued leave time, mandatory Verbal Judo training, mandatory Taser refresher training on personal time, and use of a payback day for auxiliary patrol-related duties.	Shows alleged lesser discipline for serious misconduct involving insubordination, disabling required recording equipment, false official communications or records, and excessive force, while plaintiff was terminated for conduct tied to protected discrimination-related activity, EEOC-related disclosures, and opposition to retaliation.

Comparator	Position / Status	Alleged Misconduct or Issue	Alleged Outcome / Treatment	Comparator Significance
Wayne Mata	Male police officer / Sergeant	Approximate time frame: July 2022. Allegedly involved in a physical domestic incident, arrested by EHTPD, and subject to an order of protection. The matter was reportedly treated as a substantiated off-duty harassment complaint.	Retained. No suspension, termination, or resignation.  Predetermined discipline allegedly offered in lieu of hearing consisting of loss of an unspecified amount of accrued leave time.	Shows alleged lesser discipline for serious off-duty domestic-violence/harassment-related misconduct by a male supervisor, while plaintiff was terminated for conduct tied to protected discrimination-related activity, EEOC-related disclosures, and opposition to retaliation.
Daniel Toia	Male police officer / Lieutenant	Approximate time frame: 2022–2023. Alleged physical domestic incident documented by Suffolk County Police Department domestic incident report, including allegations that Toia broke P.O. Toia’s iPhone and threatened to shoot her in the head. Also associated with complaint allegations involving discrimination and sexual harassment.	Retained. No suspension, termination, or resignation. No disciplinary action known to plaintiff at this time.	Shows alleged favorable treatment of a male supervisor accused of serious domestic-violence-related misconduct, threats involving firearm violence, property destruction, discrimination, and sexual harassment, while plaintiff was terminated for conduct tied to protected discrimination-related activity, EEOC-related disclosures, and opposition to retaliation.
Ross Hamilton	Male police officer	Allegedly advised a DWI arrestee to refuse an Intoxilyzer test during processing by passing a handwritten note; matter allegedly referred to the Suffolk County District Attorney; internal affairs investigation allegedly initiated;	Not terminated and remains employed, upon information and belief.	Shows alleged leniency for conduct directly implicating law-enforcement integrity, criminal-process interference, and truthfulness concerns.

Comparator	Position / Status	Alleged Misconduct or Issue	Alleged Outcome / Treatment	Comparator Significance
		video surveillance allegedly confirmed the conduct; officer allegedly retained counsel and refused to be interviewed by SCDA investigators.		
Luis Morales	Male police officer	Allegedly arrested for DWI by Southampton Town Police on or about April 29, 2025 after striking a pole, causing property damage and power outages; allegedly had a prior DWI arrest before being hired; allegedly subject to an interlock restriction; allegedly placed on paid administrative leave while case was pending.	Town allegedly reached a continued-employment agreement; alleged discipline limited to a thirty-day unpaid period; retained as police officer, upon information and belief.	Shows alleged extreme disparity where male officer accused of repeat DWI-related misconduct was retained while plaintiff was terminated for protected discrimination-related activity and evidentiary disclosures.
Katherine Izzo	Female police officer / PBA Trustee	Allegedly docked leave time for failing to identify Scalzo and Nimmo in the report concerning the bar altercation.	Penalized with leave forfeiture, while male officers involved in the alleged altercation were allegedly retained and, upon information and belief, not comparably punished.	Shows alleged selective discipline within the same incident: a female officer was allegedly penalized for reporting-related conduct, while the male officers allegedly involved in the underlying altercation were not subjected to comparable discipline.

146. Plaintiff alleges that these comparators are relevant because defendants treated plaintiff's protected activity, EEOC-related disclosures, and opposition to discrimination as terminable misconduct, while male officers and union members accused of alleged criminal,

integrity-related, public-safety, excessive-force, domestic-violence, firearm, intoxication, falsification, or off-duty misconduct were retained, promoted, or disciplined far less harshly.

147. Plaintiff alleges that discovery is necessary to obtain the complete disciplinary files, internal affairs records, command-level communications, Town Board records, settlement agreements, continued-employment agreements, personnel actions, promotion records, and disciplinary outcomes concerning these comparators.

148. Plaintiff further alleges that defendants possess or control the comparator records necessary to test defendants asserted rationale, determine whether similarly situated male officers and union members were treated more favorably, and establish pretext, retaliatory motive, and selective enforcement.

**UNCHARGED SERIOUS MISCONDUCT, SEXUAL MISCONDUCT, AND POTENTIAL CRIMINAL-BEHAVIOR ALLEGATIONS**

149. Plaintiff identifies the following additional incidents based upon sworn testimony, sworn affidavit material, plaintiff’s knowledge, public records where available, and information and belief. Plaintiff alleges that these incidents are relevant to comparator treatment, notice, tolerated misconduct, selective enforcement, retaliatory motive, and pretext. Plaintiff does not allege that all incidents resulted in departmental findings; rather, plaintiff alleges that defendants’ treatment of these alleged incidents contrasts with defendants’ decision to suspend plaintiff from union membership rights and terminate her employment for conduct tied to protected discrimination-related activity.

<b>Officer / Comparator</b>	<b>Source of Information</b>	<b>Alleged Serious Misconduct or Criminal Behavior</b>	<b>Known or Alleged Department / Union Response</b>	<b>Relevance to Pretext and Selective Enforcement</b>
Wayne Mata	Source: Supplemental	Stavola-Devaney states that, in 2017,	Retained, upon information and	Shows alleged tolerance or non-

Officer / Comparator	Source of Information	Alleged Serious Misconduct or Criminal Behavior	Known or Alleged Department / Union Response	Relevance to Pretext and Selective Enforcement
	<p>Affidavit of Jessie Stavola-Devaney, submitted in Andrea M. Kess v. The Town of East Hampton, et al., E.D.N.Y. Case No. 2:24-cv-06226, including paragraph 14; follow-up testimony to be obtained, reviewed, and supplemented as necessary.</p>	<p>after a Southampton Kiwanis Club Officer of the Year event in Riverhead, she rode back to East Hampton with Sergeant Wayne Mata and P.O. Sarah Mortensen. Stavola-Devaney states that, during the ride, Mata followed her, sat with her, placed his hand on her thigh under her dress, and moved his hand toward her vagina. She states that she immediately pulled his hand away, moved as far away from him as she could, and squeezed her legs shut for the remainder of the ride. Stavola-Devaney further states that she did not confront or report Mata because she feared retaliation.</p> <p>Upon information and belief, during follow-up testimony not yet fully reviewed for this pleading, Stavola-Devaney provided</p>	<p>belief. No termination-level discipline known to plaintiff at this time.</p> <p>Plaintiff reserves the right to supplement after discovery concerning any internal affairs investigation, discipline, counseling, command review, notice to supervisors, or failure to investigate.</p>	<p>termination treatment of a male supervisor accused in sworn affidavit testimony of serious sexual misconduct and conduct that may constitute criminal sexual contact. It also shows fear-based non-reporting, which plaintiff alleges is probative of the Department's retaliatory culture and the futility or danger of reporting male misconduct, while plaintiff was terminated for protected discrimination-related activity and EEOC-related disclosures.</p>

Officer / Comparator	Source of Information	Alleged Serious Misconduct or Criminal Behavior	Known or Alleged Department / Union Response	Relevance to Pretext and Selective Enforcement
		<p>additional detail during follow-up testimony concerning contact with the outside of her vagina and/or labia; plaintiff reserves the right to supplement this allegation after the follow-up transcript is reviewed.</p>		
Daniel Toia	<p>Source: Supplemental Affidavit of Jessie Stavola-Devaney, submitted in Andrea M. Kess v. The Town of East Hampton, et al., E.D.N.Y. Case No. 2:24-cv-06226, including paragraphs 10-12; Deposition of Jessie Stavola-Devaney, taken May 7, 2025, in the same action.</p>	<p>Stavola-Devaney states that she confided in Officer Kim Notel about an incident involving Daniel Toia at the PBA Christmas party. Notel allegedly told her that Toia was known for aggressive behavior and described him as “fucking nuts.” Stavola-Devaney further states that when she asked why Toia was permitted to behave that way, Notel responded, “I don’t know, he’s part of the club.” Stavola-Devaney states that Notel explained “the club” meant the all-male “Boy’s Club,” a term used to describe the discriminatory,</p>	<p>Retained, upon information and belief. No termination-level discipline known to plaintiff at this time.</p> <p>Plaintiff reserves the right to supplement after discovery concerning complaints, command notice, internal affairs files, discipline, counseling, remedial action, or failure to remediate.</p>	<p>Shows alleged notice of aggressive and hostile conduct by a male officer/supervisor, alleged “Boy’s Club” protection, fear-based avoidance by a female officer, and tolerated male misconduct, while plaintiff was terminated for protected opposition activity and EEOC-related evidentiary disclosures.</p>

Officer / Comparator	Source of Information	Alleged Serious Misconduct or Criminal Behavior	Known or Alleged Department / Union Response	Relevance to Pretext and Selective Enforcement
		<p>hostile, toxic, male-dominated culture of the Department, and that if a person was part of the “Boy’s Club,” that person was “untouchable.” Stavola-Devaney further states that she avoided Toia because of his anger and aggression, became uncomfortable, nervous, and physically scared around him, and refused to be alone in a room with him.</p> <p>Plaintiff’s retaliation materials also describe Toia’s alleged hostile, sexually degrading, and aggressive conduct toward plaintiff.</p>		
Daniel Roman	Source: Supplemental Affidavit of Jessie Stavola-Devaney, submitted in Andrea M. Kess v. The Town of East Hampton, et al., E.D.N.Y. Case No. 2:24-cv-06226, including paragraph 13;	Stavola-Devaney states that Sergeant Daniel Roman had the nickname “Romance Roman” and that, since her deposition, she recalled that Roman also had a second nickname, “Danny Romeo.” In sworn deposition	Retained, upon information and belief. No termination-level discipline known to plaintiff at this time.  Plaintiff reserves the right to	Shows alleged tolerance or non-termination treatment of a male officer/supervisor accused in sworn testimony of sexual misconduct that the witness understood to constitute criminal conduct, while plaintiff was terminated for

Officer / Comparator	Source of Information	Alleged Serious Misconduct or Criminal Behavior	Known or Alleged Department / Union Response	Relevance to Pretext and Selective Enforcement
	Deposition of Jessie Stavola-Devaney, taken May 7, 2025, in the same action.	testimony, Stavola-Devaney testified that, at a PBA Christmas party, Roman placed his arm around her waist and grabbed her buttocks outside her dress; she froze, left the event, and later told other officers. She further testified that, based on her police training and experience, she understood the conduct to constitute a crime under the Penal Law.	supplement after discovery concerning whether the Town, Police Department, supervisors, or PBA actors received notice, investigated, disciplined, or failed to act.	conduct tied to protected discrimination-related activity, EEOC-related disclosures, and opposition to retaliation.

150. Plaintiff alleges that these sworn allegations are relevant not because plaintiff seeks to litigate separate claims on behalf of Stavola-Devaney, but because they demonstrate defendants’ notice of serious male misconduct, tolerated misconduct within the Department, disparate disciplinary treatment, selective enforcement, retaliatory motive, and pretext

**THE PBA DISCIPLINARY PROCESS**

151. At all relevant times, plaintiff ANDREA M. KESS was a dues-paying member of defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION.

152. Defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION was the labor organization representing police officers employed by defendant THE TOWN OF EAST HAMPTON, including plaintiff.

153. The East Hampton Town Police Benevolent Association bylaws identify the organization's purposes as including assisting police officers and public-safety dispatchers and protecting members in matters concerning employment-related conditions.

154. The PBA bylaws further provide that disciplinary action against a member may include suspension from membership or removal from membership.

155. The PBA bylaws provide that, when disciplinary action is considered against a member, the Executive Board may present charges to the membership and seek disciplinary action, including suspension or removal, by a two-thirds vote of members present.

156. On or about August 2, 2024, defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION, through its Executive Board, served plaintiff with a Notice of Disciplinary Action and Statement of Charges.

157. The PBA Notice advised plaintiff that the Executive Board had determined that plaintiff engaged in acts against the interests of the Association.

158. The PBA Notice further advised plaintiff that the proposed disciplinary action could be contested at a special meeting of the membership scheduled for August 13, 2024 at 5:30 p.m. at East Hampton Town Police Department headquarters.

159. The PBA Notice identified defendant JOSEPH IZZO as President, defendant LUKE MCNAMARA as Vice President, defendant TYLER GILBRIDE as Treasurer, defendant MICHAEL RODRIGUEZ as Secretary, defendant MICHAEL COLEMAN as S.C.P.C. Delegate, and defendants SUSAN VORPAHL, KATHERINE IZZO, and NICHOLAS PUPO as Trustees.

160. The PBA Statement of Charges alleged that plaintiff violated Article XI, Section 2 of the PBA bylaws by engaging in acts against the interests of the Association.

161. The PBA Statement of Charges demanded that plaintiff be suspended from union membership for six months.

162. The PBA charges specifically alleged that plaintiff acted against the interests of the PBA by publishing or causing to be published recordings, transcripts, text messages, or statements in connection with EEOC filings.

163. The PBA charges alleged, among other things, that plaintiff published a recording of PBA President JOSEPH IZZO without his consent in an EEOC filing.

164. The PBA charges alleged that plaintiff published text messages she received from Detective Arthur Scalzo without his consent in an EEOC filing.

165. The PBA charges alleged that plaintiff surreptitiously recorded Police Officer Devin Toia and published that recording without consent in an EEOC filing.

166. The PBA charges alleged that plaintiff published text messages she received from Police Officer Thomas Strong and Police Officer Sarah Van Asco without consent in an EEOC filing.

167. The PBA charges further alleged that plaintiff made statements in an EEOC filing that diminished PBA Vice President LUKE MCNAMARA'S career and career achievements in an attempt to establish that plaintiff should have been appointed to detective rather than Detective McNamara.

168. The PBA charges also alleged that plaintiff made statements in an EEOC filing concerning Public Safety Dispatcher Katelyn Davis Anderson.

169. Plaintiff alleges that the PBA charges did not merely address internal union governance. Rather, the PBA expressly identified plaintiff's EEOC filings, protected disclosures, evidentiary submissions, and opposition activity as the alleged misconduct.

170. Plaintiff alleges that the PBA disciplinary process was retaliatory because it targeted the substance and means of plaintiff's protected discrimination-related activity, including her EEOC filings, disclosure of evidence supporting those filings, and opposition to the Town's alleged discriminatory and retaliatory practices.

171. Plaintiff further alleges that the PBA disciplinary process was designed to punish plaintiff, isolate plaintiff from union support, chill witness participation, deter other members from supporting plaintiff's discrimination and retaliation claims, and impair plaintiff's access to union protection and remedial mechanisms.

172. On or about August 12, 2024, plaintiff submitted a written response to the PBA Executive Board concerning the disciplinary charges and the August 13, 2024 special meeting.

173. In her August 12, 2024 response, plaintiff stated that she had filed an EEOC Charge of Retaliation against the PBA in response to the disciplinary charges and actions taken against her.

174. Plaintiff further advised the PBA that the disciplinary actions taken against her in response to her EEOC filing against the East Hampton Town Police Department violated her legally protected rights and constituted retaliation.

175. Plaintiff advised the PBA that she would not participate in the August 13, 2024 special meeting because she viewed the meeting as retaliatory and as a continuation of unlawful conduct arising from her protected activity.

176. Plaintiff also advised the PBA that the meeting was scheduled to occur at East Hampton Town Police Department headquarters, a location maintained by defendant THE TOWN OF EAST HAMPTON and connected to the municipal actors implicated in plaintiff's retaliation allegations.

177. Plaintiff demanded that the PBA disclose to the membership that she had filed charges of retaliation against the PBA and inform the membership of potential liability for participating in retaliatory action.

178. Plaintiff alleges that defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION and its Executive Board proceeded with the disciplinary process despite actual notice that plaintiff alleged the process was retaliatory and legally prohibited.

179. On or about August 13, 2024, defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION held the special membership meeting concerning the disciplinary charges against plaintiff.

180. Plaintiff alleges that the August 13, 2024 meeting was held at East Hampton Town Police Department headquarters, a facility maintained by defendant THE TOWN OF EAST HAMPTON.

181. Plaintiff alleges that, at or after the August 13, 2024 meeting, defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION suspended plaintiff from union membership rights and participation for six months.

182. Plaintiff alleges that the suspension restricted, impaired, or interfered with plaintiff's access to union membership rights, union participation, union protection, internal remedial channels, and collective support mechanisms.

183. Plaintiff alleges that the PBA disciplinary charges and suspension were materially adverse because they would dissuade a reasonable employee and union member from filing discrimination charges, disclosing evidence, supporting an EEOC charge, opposing discriminatory practices, or participating in protected proceedings.

184. Plaintiff alleges that defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION did not meaningfully investigate plaintiff's retaliation allegations before proceeding with discipline.

185. Plaintiff alleges that defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION did not provide a neutral remedial process after plaintiff objected that the charges were retaliatory.

186. Plaintiff alleges that defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION did not rescind the disciplinary charges, did not rescind the six-month suspension, and did not restore plaintiff's access to union membership rights, union participation, union protection, or remedial mechanisms.

187. Plaintiff alleges that the PBA disciplinary process was part of the retaliatory sequence following plaintiff's protected activity, including her original EEOC charge, amended EEOC charge, opposition to the Town's October 26, 2023 Position Statement, July 16, 2024 Complaint of Retaliation, and July 17, 2024 EEOC Charge No. 520-2024-06652.

188. Plaintiff alleges that the PBA disciplinary process was materially harsher than the treatment afforded to male officers and union members identified in the comparator and uncharged serious-misconduct sections above, including officers accused of criminal, integrity-related, domestic-violence, sexual-misconduct, intoxication, excessive-force, falsification,

firearm-related, aggressive, or other serious misconduct who were allegedly retained, promoted, protected, ignored, or disciplined far less harshly.

189. Plaintiff alleges that these disparities further support the inference that the PBA disciplinary charges and suspension were not neutral union-governance measures, but retaliatory acts directed at plaintiff because she engaged in protected discrimination-related activity, while male officers and union members accused of serious misconduct, sexual misconduct, aggressive conduct, domestic-violence-related misconduct, potential criminal behavior, and other non-protected misconduct were allegedly retained, protected, ignored, or treated far less harshly.

190. Plaintiff alleges that the PBA disciplinary process violated plaintiff's rights under the New York State Human Rights Law and the Suffolk County Human Rights Law because it punished plaintiff for opposing discrimination, participating in protected proceedings, disclosing evidence in support of discrimination and retaliation claims, and challenging unlawful employment practices.

191. Plaintiff further alleges that the individual PBA defendants participated in, approved, ratified, aided and abetted, or interfered with plaintiff's protected rights by initiating, signing, supporting, presenting, voting upon, or enforcing the retaliatory union disciplinary charges and suspension.

#### **COORDINATED RETALIATORY DISCIPLINE BY THE TOWN AND THE PBA**

192. Plaintiff alleges that the Town disciplinary process and the PBA disciplinary process were separate in form but coordinated in substance.

193. Plaintiff alleges that both processes arose after plaintiff engaged in protected activity, including filing EEOC charges, opposing the Town's October 26, 2023 Position Statement, filing the July 16, 2024 Complaint of Retaliation, preserving and disclosing evidence,

objecting to retaliation, and challenging alleged discrimination, hostile work environment, and retaliatory practices within the East Hampton Town Police Department.

194. Plaintiff alleges that the PBA disciplinary charges and the Town disciplinary charges relied upon the same core retaliatory theory: that plaintiff's disclosure, publication, preservation, and use of communications and evidence in connection with EEOC-related activity and discrimination-related opposition could be treated as punishable misconduct.

195. Plaintiff alleges that the timing of the PBA disciplinary charges, PBA suspension, PERB charge, and Town disciplinary charges supports an inference of coordination, retaliation, and pretext.

196. The PBA disciplinary charges were dated on or about August 2, 2024 and expressly relied upon plaintiff's EEOC filings, publication of recordings, publication of text messages, and statements made in EEOC filings as the basis for proposed discipline.

197. The PBA disciplinary charges sought a six-month suspension from union membership and alleged that plaintiff acted against the interests of the Association by disclosing or publishing communications and statements in connection with EEOC-related activity.

198. On or about August 12, 2024, plaintiff notified defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION and its Executive Board that she viewed the PBA disciplinary charges and proposed August 13, 2024 special meeting as retaliatory and violative of her protected rights.

199. On or about August 13, 2024, defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION proceeded with the special meeting at East Hampton Town Police Department headquarters, a facility maintained by defendant THE TOWN OF EAST HAMPTON.

200. Plaintiff alleges that defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION suspended plaintiff from union membership rights and participation for six months.

201. Plaintiff alleges that she first became aware of the suspension after receiving or learning of a generalized communication sent to the PBA membership, and that no direct remedial communication was issued to plaintiff by the PBA or its Executive Board.

202. On or about August 27, 2024, plaintiff filed an Improper Practice Charge with the New York State Public Employment Relations Board alleging that the PBA disciplinary action was issued in coordination with the Town for the purpose of retaliating against plaintiff for engaging in legally protected activity, including filing EEOC charges and exposing alleged internal misconduct.

203. On or about August 29, 2024, defendant THE TOWN OF EAST HAMPTON, through defendant CHRISTOPHER ANDERSON and under the command authority, direction, approval, or ratification of defendant MICHAEL D. SARLO, served plaintiff with formal departmental disciplinary charges.

204. Plaintiff alleges that the Town disciplinary charges and the PBA disciplinary charges were similar in timing, structure, and retaliatory purpose because both targeted plaintiff's EEOC-related activity, protected disclosures, publication of supporting materials, and opposition to alleged discrimination and retaliation.

205. Plaintiff alleges that neither the Town disciplinary charges nor the PBA disciplinary charges accused plaintiff of submitting false, forged, fabricated, or malicious information to the EEOC.

206. Plaintiff further alleges that neither the Town disciplinary process nor the PBA disciplinary process presented plaintiff's EEOC filings as false, forged, fabricated, or malicious.

207. Instead, plaintiff alleges that both disciplinary processes treated plaintiff's act of disclosing, publishing, preserving, and relying upon communications and evidence in connection with discrimination, retaliation, and EEOC-related activity as the punishable conduct.

208. Plaintiff alleges that this distinction is material because defendants punished plaintiff for the act of opposing discrimination and supporting her protected claims, not because plaintiff submitted knowingly false evidence or fabricated allegations.

209. Plaintiff alleges that the absence of any charge that plaintiff submitted false, forged, fabricated, or malicious evidence to the EEOC demonstrates that defendants asserted disciplinary rationale was pretextual and that the real target of discipline was plaintiff's protected activity itself.

210. Plaintiff alleges that the comparator treatment and uncharged serious-misconduct evidence identified above further support the inference that the Town and PBA disciplinary actions were not neutral enforcement measures, but selective and retaliatory actions directed at plaintiff because she engaged in protected discrimination-related activity.

211. Plaintiff alleges that similarly situated male officers and union members accused of criminal, integrity-related, domestic-violence, sexual-misconduct, intoxication, excessive-force, falsification, firearm-related, aggressive, public-safety, or other serious misconduct were allegedly retained, promoted, protected, ignored, or disciplined far less harshly, while plaintiff was suspended from union rights and terminated for protected opposition activity and EEOC-related disclosures.

212. Plaintiff alleges that the retaliatory PBA disciplinary action was intended to discredit plaintiff's legal claims, chill her protected opposition activity, dissuade other union members from supporting or testifying on her behalf, and isolate plaintiff from union protection during ongoing administrative, legal, and disciplinary proceedings.

213. Plaintiff alleges that the retaliatory Town disciplinary action was intended to convert plaintiff's protected EEOC-related activity into workplace misconduct, create a disciplinary record against plaintiff, and support termination of her employment.

214. Upon information and belief, defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION, its Executive Board, and participating union officials communicated, coordinated, shared information, or acted in concert with Town officials, police command staff, and/or defendant MICHAEL D. SARLO concerning plaintiff's protected activity, the PBA charges, the Town charges, and the disciplinary sequence challenged in this action.

215. Plaintiff alleges that the location of the PBA special meeting at East Hampton Town Police Department headquarters further supports the inference that the PBA disciplinary process was not separate from the Town's retaliatory response, but occurred with the knowledge, permission, cooperation, or endorsement of Town actors.

216. Plaintiff alleges that the coordinated actions of the PBA and the Town, including the internal union disciplinary charges, six-month union suspension, departmental disciplinary charges, and later termination process, constitute unlawful retaliation, aiding and abetting, interference, and impairment of protected remedial access under the New York State Human Rights Law and the Suffolk County Human Rights Law.

217. Plaintiff alleges that the coordinated disciplinary sequence was materially adverse because it would dissuade a reasonable employee and union member from filing discrimination charges, opposing hostile work environment, disclosing evidence, supporting another employee's discrimination claims, or participating in protected administrative and legal proceedings.

218. Plaintiff alleges that the coordinated disciplinary sequence forms the bridge between the Town's retaliatory Position Statement, the comparator-based and uncharged serious-misconduct evidence of pretext, and the eventual termination of plaintiff's employment.

### **CONCLUSION**

219. This action does not arise from ordinary workplace discipline, isolated union disagreement, or a neutral employment decision. It arises from a retaliatory sequence that began after plaintiff opposed discrimination and continued through administrative submissions, union discipline, departmental charges, comparator-based selective enforcement, uncharged serious-misconduct evidence, and termination.

220. Plaintiff alleges that defendants did not discipline her because she submitted false, forged, fabricated, or malicious information to the EEOC. Instead, defendants punished her because she opposed discrimination, challenged the Town's Position Statements, preserved and disclosed evidence, pursued administrative remedies, objected to union retaliation, and continued asserting protected rights under federal, state and local law.

221. The Town's Position Statement, the PBA disciplinary process, the Town disciplinary process, the six-month union suspension, the comparator-based evidence of disparate disciplinary treatment, the uncharged serious-misconduct evidence, and the termination resolution were not separate accidents. Plaintiff alleges that they were connected acts of retaliation designed to discredit her claims, isolate her from union protection, deter favorable

witnesses, chill protected participation, and convert protected opposition activity into punishable misconduct.

222. Plaintiff further alleges that defendants' asserted disciplinary rationale was pretextual because similarly situated male officers and union members accused of criminal, integrity-related, domestic-violence, sexual-misconduct, intoxication, excessive-force, falsification, firearm-related, aggressive, public-safety, and other serious misconduct were allegedly retained, promoted, protected, ignored, or disciplined far less harshly, while plaintiff was suspended from union membership rights and terminated for conduct tied directly to protected discrimination-related activity.

223. Plaintiff therefore seeks relief under the New York State Human Rights Law and the Suffolk County Human Rights Law for retaliation, aiding and abetting, interference with protected rights, impairment of remedial access, selective enforcement, tolerated misconduct, pretextual discipline, and all resulting damages.

**VIOLATIONS AND CLAIMS ALLEGED**

**COUNT I  
RETALIATION  
IN VIOLATION OF THE NEW YORK STATE HUMAN RIGHTS LAW  
N.Y. Executive Law § 296(7)  
Against All Defendants**

224. Plaintiff repeats and realleges each preceding allegation as though fully set forth herein.

225. Plaintiff engaged in protected activity under the New York State Human Rights Law by opposing gender discrimination, hostile work environment, retaliation, disparate treatment, discriminatory denial of advancement, and related unlawful employment practices.

226. Defendants knew of plaintiff's protected activity.

227. Defendant THE TOWN OF EAST HAMPTON retaliated against plaintiff through its Position Statements, failure to investigate or remediate retaliation, departmental disciplinary charges, disciplinary process, selective enforcement of disciplinary rules, and termination of employment.

228. The Town Board defendants, KATHEE BURKE-GONZALEZ, DAVID LYS, CATE ROGERS, THOMAS FLIGHT, and IAN CALDER-PIEDMONTE, retaliated against plaintiff by adopting, approving, ratifying, or effectuating Resolution 2025-486 after notice of plaintiff's protected activity and retaliation allegations.

229. Defendants MICHAEL D. SARLO and CHRISTOPHER ANDERSON retaliated against plaintiff by participating in, directing, approving, ratifying, or advancing the Town's retaliatory Position Statements, disciplinary charges, disciplinary process, selective enforcement, and termination sequence.

230. Defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION retaliated against plaintiff through union disciplinary charges and a six-month suspension based upon plaintiff's EEOC-related activity, protected disclosures, evidentiary submissions, and opposition to discrimination and retaliation.

231. The PBA individual defendants, JOSEPH IZZO, LUKE MCNAMARA, TYLER GILBRIDE, MICHAEL RODRIGUEZ, MICHAEL COLEMAN, SUSAN VORPAHL, KATHERINE IZZO, and NICHOLAS PUPO, retaliated against plaintiff by participating in, approving, ratifying, supporting, voting upon, enforcing, or failing to rescind the PBA disciplinary charges and six-month suspension.

232. Defendants' retaliatory conduct was materially adverse because it would dissuade a reasonable employee, police officer, union member, or witness from opposing discrimination,

filing EEOC charges, disclosing evidence, supporting protected claims, objecting to retaliation, or participating in administrative and legal proceedings.

233. Defendants' asserted reasons were pretextual because the retaliatory conduct followed plaintiff's protected activity, expressly referenced plaintiff's EEOC-related filings and disclosures, overlapped across the Town and PBA disciplinary processes, departed from defendants' treatment of similarly situated male officers and union members, departed from defendants' treatment of male officers and supervisors accused of serious misconduct, sexual misconduct, domestic-violence-related misconduct, potential criminal behavior, and other non-protected misconduct, and culminated in union suspension and termination.

234. Plaintiff's protected activity was a motivating factor and cause of defendants' retaliatory actions.

235. As a direct and proximate result of defendants' retaliation, plaintiff suffered economic damages, lost wages, lost benefits, lost promotional and employment opportunities, pension-related harm, reputational injury, emotional distress, humiliation, loss of professional standing, impairment of union rights, and other damages.

236. Defendants are liable for retaliation in violation of Executive Law § 296(7).

**COUNT II**  
**AIDING AND ABETTING RETALIATION**  
**IN VIOLATION OF THE NEW YORK STATE HUMAN RIGHTS LAW**  
**N.Y. Executive Law § 296(6)**  
**Against All Defendants Except Defendant THE TOWN OF EAST HAMPTON**

237. Plaintiff repeats and realleges each preceding allegation as though fully set forth herein.

238. The New York State Human Rights Law prohibits any person from aiding, abetting, inciting, compelling, or coercing acts forbidden by the statute.

239. Defendants KATHEE BURKE-GONZALEZ, DAVID LYS, CATE ROGERS, THOMAS FLIGHT, and IAN CALDER-PIEDMONTE aided and abetted retaliation by adopting, approving, ratifying, or effectuating Resolution 2025-486 after plaintiff engaged in protected activity and after plaintiff placed Town officials on notice of retaliation, comparator-based disciplinary disparities, uncharged serious-misconduct evidence, and objections to the retaliatory disciplinary process.

240. Defendants MICHAEL D. SARLO and CHRISTOPHER ANDERSON aided and abetted retaliation by participating in, directing, approving, ratifying, or advancing the Town's retaliatory Position Statements, disciplinary charges, disciplinary process, selective enforcement, and termination sequence.

241. Defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION aided and abetted retaliation by initiating, presenting, supporting, and enforcing union disciplinary charges and a six-month suspension based upon plaintiff's protected activity, EEOC-related disclosures, evidentiary submissions, and opposition to discrimination and retaliation.

242. Defendants JOSEPH IZZO, LUKE MCNAMARA, TYLER GILBRIDE, MICHAEL RODRIGUEZ, MICHAEL COLEMAN, SUSAN VORPAHL, KATHERINE IZZO, and NICHOLAS PUPO aided and abetted retaliation by participating in, approving, ratifying, supporting, voting upon, enforcing, or failing to rescind the PBA disciplinary charges and six-month suspension after plaintiff engaged in protected activity.

243. Defendants acted knowingly and intentionally, with actual or constructive knowledge of plaintiff's protected activity, plaintiff's retaliation allegations, the retaliatory nature of the challenged conduct, the materially different treatment afforded to similarly situated male officers and union members, and the alleged tolerated or less severe treatment of male

officers and supervisors accused of serious misconduct, sexual misconduct, domestic-violence-related misconduct, potential criminal behavior, and other non-protected misconduct.

244. As a direct and proximate result of defendants' aiding and abetting retaliation, plaintiff suffered economic damages, lost wages, lost benefits, lost promotional and employment opportunities, pension-related harm, reputational injury, emotional distress, humiliation, loss of professional standing, impairment of union rights, and other damages.

245. Defendants are liable for aiding and abetting retaliation in violation of Executive Law § 296(6).

**COUNT III  
RETALIATION  
IN VIOLATION OF THE SUFFOLK COUNTY HUMAN RIGHTS LAW  
Suffolk County Code §§ 528-7(A)(6) and 528-12(B)  
Against All Defendants**

246. Plaintiff repeats and realleges each preceding allegation as though fully set forth herein.

247. The Suffolk County Human Rights Law prohibits retaliation against any person because that person opposed practices forbidden by the statute, filed a complaint, testified, assisted, participated in protected proceedings, or otherwise exercised rights protected by law.

248. Plaintiff engaged in protected activity under the Suffolk County Human Rights Law by opposing gender discrimination, hostile work environment, retaliation, disparate treatment, discriminatory denial of advancement, and related unlawful employment practices.

249. Defendants knew of plaintiff's protected activity.

250. Defendant THE TOWN OF EAST HAMPTON retaliated against plaintiff through its Position Statements, failure to investigate or remediate retaliation, departmental disciplinary

charges, disciplinary process, selective enforcement of disciplinary rules, and termination of employment.

251. The Town Board defendants, KATHEE BURKE-GONZALEZ, DAVID LYS, CATE ROGERS, THOMAS FLIGHT, and IAN CALDER-PIEDMONTE, retaliated against plaintiff by adopting, approving, ratifying, or effectuating Resolution 2025-486 after notice of plaintiff's protected activity and retaliation allegations.

252. Defendants MICHAEL D. SARLO and CHRISTOPHER ANDERSON retaliated against plaintiff by participating in, directing, approving, ratifying, or advancing the Town's retaliatory Position Statements, disciplinary charges, disciplinary process, selective enforcement, and termination sequence.

253. Defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION retaliated against plaintiff through union disciplinary charges and a six-month suspension based upon plaintiff's EEOC-related activity, protected disclosures, evidentiary submissions, and opposition to discrimination and retaliation.

254. The PBA individual defendants, JOSEPH IZZO, LUKE MCNAMARA, TYLER GILBRIDE, MICHAEL RODRIGUEZ, MICHAEL COLEMAN, SUSAN VORPAHL, KATHERINE IZZO, and NICHOLAS PUPO, retaliated against plaintiff by participating in, approving, ratifying, supporting, voting upon, enforcing, or failing to rescind the PBA disciplinary charges and six-month suspension.

255. Defendants' retaliatory conduct was materially adverse because it would dissuade a reasonable employee, police officer, union member, or witness from opposing discrimination, filing EEOC charges, disclosing evidence, supporting protected claims, objecting to retaliation, or participating in administrative and legal proceedings.

256. Defendants' asserted reasons were pretextual because the retaliatory conduct followed plaintiff's protected activity, expressly referenced plaintiff's EEOC-related filings and disclosures, overlapped across the Town and PBA disciplinary processes, departed from defendants' treatment of similarly situated male officers and union members, departed from defendants' treatment of male officers and supervisors accused of serious misconduct, sexual misconduct, domestic-violence-related misconduct, potential criminal behavior, and other non-protected misconduct, impaired plaintiff's access to union protection and remedial mechanisms, and culminated in union suspension and termination.

257. Plaintiff's protected activity was a motivating factor and cause of defendants' retaliatory actions.

258. As a direct and proximate result of defendants' retaliation, plaintiff suffered economic damages, lost wages, lost benefits, lost promotional and employment opportunities, pension-related harm, reputational injury, emotional distress, humiliation, loss of professional standing, impairment of union rights, and other damages.

259. Defendants are liable for retaliation in violation of the Suffolk County Human Rights Law.

**COUNT IV  
AIDING, ABETTING, AND INTERFERENCE  
IN VIOLATION OF THE SUFFOLK COUNTY HUMAN RIGHTS LAW  
Suffolk County Code § 528-12(A), (B), and (D)  
Against All Defendants Except Defendant THE TOWN OF EAST HAMPTON**

260. Plaintiff repeats and realleges each preceding allegation as though fully set forth herein.

261. The Suffolk County Human Rights Law prohibits any person from aiding, abetting, inciting, compelling, or coercing acts forbidden by the statute.

262. The Suffolk County Human Rights Law also prohibits retaliation and interference with protected rights.

263. Defendants KATHEE BURKE-GONZALEZ, DAVID LYS, CATE ROGERS, THOMAS FLIGHT, and IAN CALDER-PIEDMONTE aided, abetted, ratified, and effectuated retaliation by adopting Resolution 2025-486 after plaintiff engaged in protected activity and after plaintiff placed Town officials on notice of retaliation, comparator-based disciplinary disparities, uncharged serious-misconduct evidence, and objections to the retaliatory disciplinary process.

264. Defendants MICHAEL D. SARLO and CHRISTOPHER ANDERSON aided, abetted, participated in, directed, approved, ratified, or advanced retaliation by participating in the Town's retaliatory Position Statements, disciplinary charges, disciplinary process, selective enforcement, and termination sequence.

265. Defendant EAST HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION aided, abetted, participated in, approved, ratified, and interfered with plaintiff's protected rights by initiating, presenting, supporting, and enforcing union disciplinary charges and a six-month suspension based upon plaintiff's protected activity, EEOC-related disclosures, evidentiary submissions, and opposition to discrimination and retaliation.

266. Defendants JOSEPH IZZO, LUKE MCNAMARA, TYLER GILBRIDE, MICHAEL RODRIGUEZ, MICHAEL COLEMAN, SUSAN VORPAHL, KATHERINE IZZO, and NICHOLAS PUPO aided, abetted, participated in, approved, ratified, supported, voted upon, enforced, or failed to rescind the PBA disciplinary charges and six-month suspension after plaintiff engaged in protected activity.

267. Defendants' conduct interfered with plaintiff's protected rights by impairing her access to union membership rights, union participation, union protection, remedial mechanisms, witness support, and protected administrative and legal proceedings.

268. Defendants acted knowingly and intentionally, with actual or constructive knowledge of plaintiff's protected activity, plaintiff's retaliation allegations, the retaliatory nature of the challenged conduct, the materially different treatment afforded to similarly situated male officers and union members, and the alleged tolerated or less severe treatment of male officers and supervisors accused of serious misconduct, sexual misconduct, domestic-violence-related misconduct, potential criminal behavior, and other non-protected misconduct.

269. As a direct and proximate result of defendants' aiding, abetting, retaliation, and interference, plaintiff suffered economic damages, lost wages, lost benefits, lost promotional and employment opportunities, pension-related harm, reputational injury, emotional distress, humiliation, loss of professional standing, impairment of union rights, and other damages.

270. Defendants are liable for aiding, abetting, retaliation, and interference in violation of the Suffolk County Human Rights Law.

### **JURY TRIAL**

271. 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 respectfully requests that this Court enter judgment in her favor and against defendants THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ, DAVID LYS, CATE ROGERS, THOMAS FLIGHT, IAN CALDER-PIEDMONTE, MICHAEL D. SARLO, CHRISTOPHER ANDERSON, THE EAST

HAMPTON TOWN POLICE BENEVOLENT ASSOCIATION, JOSEPH IZZO, LUKE MCNAMARA, TYLER GILBRIDE, MICHAEL RODRIGUEZ, MICHAEL COLEMAN, SUSAN VORPAHL, KATHERINE IZZO, and NICHOLAS PUPO, and grant the following relief:

- A. On all claims brought under the New York State Human Rights Law, Executive Law § 296, an award of compensatory damages against defendants, jointly and severally where permitted by law, in an amount to be determined at trial;
- B. On all claims brought under the Suffolk County Human Rights Law, Suffolk County Code Chapter 528, an award of compensatory damages against defendants, jointly and severally where permitted by law, in an amount to be determined at trial;
- C. An award of back pay, front pay, lost benefits, lost pension-related compensation, lost promotional and employment opportunities, and all other economic damages caused by defendants' unlawful conduct;
- D. An award of damages for emotional distress, humiliation, reputational injury, loss of professional standing, impairment of union rights, and other non-economic injuries caused by defendants' unlawful conduct;
- E. A declaratory judgment that defendants' conduct violated plaintiff's rights under the New York State Human Rights Law and the Suffolk County Human Rights Law;
- F. Equitable relief, including reinstatement where appropriate, restoration of employment-related benefits, expungement or correction of retaliatory disciplinary records, restoration of union membership rights and participation, and

any other equitable relief necessary to remedy the effects of defendants' retaliatory conduct;

G. An award of reasonable attorneys' fees, expert fees, costs, and disbursements to the fullest extent permitted by the New York State Human Rights Law, the Suffolk County Human Rights Law, and any other applicable law;

H. Prejudgment and post-judgment interest at the maximum rate permitted by law; and

I. Such other and further relief as this Court deems just, equitable, and proper.

Dated: June 3, 2026  
New York, N.Y.

Respectfully submitted,

By: s/Eric Sanders  
Attorney for Plaintiff ANDREA M. KESS

**THE SANDERS FIRM, P.C.**  
30 Wall Street, 8<sup>th</sup> Floor  
New York, NY 10005  
(212) 652-2782 (Business Telephone)  
(212) 652-2783 (Facsimile)

Website: <http://www.thesandersfirmpc.com>

**ATTORNEY VERIFICATION**

STATE OF NEW YORK

ss:

COUNTY OF WESTCHESTER

ERIC SANDERS, ESQ., affirms as follows:

I am an attorney admitted to practice in the State of New York courts. As the attorney for the plaintiff in the action, I am familiar with all the facts and circumstances.

The Verified Complaint is true to the knowledge of the affirmant, except for those matters stated to be alleged upon information and belief, and he believes those matters to be factual.

The affirmant further states that this verification is made by the affirmant and not by the Plaintiff because the Plaintiff is not within the county of Westchester, where the affirmant maintains his office.

The undersigned attorney affirms that the previous statements are true under the penalties of perjury and Rule 2106 CPLR.

Dated: June 3, 2026  
New York, N.Y.

Respectfully submitted,

By: s/Eric Sanders  
Attorney for Plaintiff ANDREA M. KESS

**THE SANDERS FIRM, P.C.**  
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

INDEX NO.:

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ANDREA M. KESS

Plaintiff,

-against-

THE TOWN OF EAST HAMPTON; KATHEE BURKE-GONZALEZ,  
DAVID LYS, CATE ROGERS, THOMAS FLIGHT, IAN  
CALDER-PIEDMONTE, MICHAEL D. SARLO, CHRISTOPHER  
ANDERSON, THE EAST HAMPTON TOWN POLICE  
BENEVOLENT ASSOCIATION, JOSEPH IZZO, LUKE  
MCNAMARA, TYLER GILBRIDE, MICHAEL RODRIGUEZ,  
MICHAEL COLEMAN, SUSAN VORPAHL, KATHERINE IZZO,  
and NICHOLAS PUPO

Defendants

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**SUMMONS WITH VERIFIED COMPLAINT**

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*Duly submitted by:*

By: s/Eric Sanders  
Attorney for Plaintiff ANDREA M. KESS

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