

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 1:22-cv-00318

SHALONE ARDREY, an individual,

Plaintiff,

v.

THE CITY OF FLORENCE, a municipal corporation; and
MICHAEL PATTERSON, an individual,

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiff Shalone Ardrey (“Ms. Ardrey” or “Plaintiff”), by and through counsel, Leventhal Lewis Kuhn Taylor Swan PC, submits her Complaint and Jury Demand (“Complaint”) against the City of Florence and Michael Patterson as follows:

PARTIES

1. Ms. Ardrey is an individual who is domiciled in the State of Colorado.
2. Defendant City of Florence (the “City”) is a statutory city within the State of Colorado.
3. Defendant Michael Patterson (“Mr. Patterson”) is an individual who is domiciled in the State of Colorado.
4. The City and Mr. Patterson are referred to collectively as “the Defendants.”

JURISDICTION AND VENUE

5. This Court has original federal question jurisdiction pursuant to 28 U.S.C. § 1331 because this action is brought, in part, under Title VII of the Civil Rights Act of 1964 (“Title VII”).

6. This Court has supplemental jurisdiction over Ms. Ardrey’s state law claims pursuant to 28 U.S.C. § 1367 because they are so related to the Title VII claims that they form part of the same case or controversy.

7. This Court has personal jurisdiction over the City because, among other things, the action arises out of events that occurred in the State of Colorado.

8. This Court has personal jurisdiction over Mr. Patterson because, among other things, the action arises out of events that occurred in the State of Colorado.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because the unlawful conduct complained of herein arose and occurred in the District of Colorado.

10. Plaintiff exhausted her administrative remedies by timely filing a Complaint of Discrimination with the Colorado Civil Rights Division (“CCRD”) (and by extension the Equal Employment Opportunity Commission) and filing this action within 90 days of receipt of a right to sue. A copy of the Notice of Early Right to Sue is attached hereto as **Exhibit 1**.

GENERAL ALLEGATIONS

11. On or about May 12, 2021, Ms. Ardrey began working for the City. Ms. Ardrey’s most recent job title was City Planning Technician.

12. Since late 2011, Mr. Patterson was employed as the Florence City Manager.

13. From the beginning of Ms. Ardrey’s employment up to and until she was constructively discharged on August 25, 2021, Ms. Ardrey reported to Sean Garrett (“Mr. Garrett”)

who in turn reported to Mr. Patterson.

14. Mr. Patterson was finally terminated on or about August 31, 2021.

Mr. Patterson has a history of inappropriate behavior predating his employment by the City.

15. Mr. Patterson previously worked as the City Manager of the City of Redmond, Oregon.

16. During his employment by the City of Redmond, Oregon, Mr. Patterson was charged with one count of felony fourth-degree assault and one count of misdemeanor fourth-degree assault against a woman with whom he was in a romantic relationship. *See* https://www.oregonlive.com/news/2008/12/former_redmond_city_manager_se.html.

The City knew of Mr. Patterson's misconduct and hired him nonetheless.

17. In or around 2011, prior to hiring Mr. Patterson, the City performed a background check that contained information about Mr. Patterson's misconduct. The City knew about Mr. Patterson's history of misconduct before the City hired him.

18. Evidence of Mr. Patterson's behavior and related complaints and charges are and were readily available with a simple internet search. *See Kevin S. Curtis v. City of Redmond and Michael Patterson*; Case No. CV-01525-TC (D. Ore.).

The City was aware of serious allegations against Mr. Patterson but allowed him to maintain his employment.

19. In recent statements, the City attempts to assert that Mr. Patterson's conduct took City government by surprise. *See* <https://theflorencecitizen.com/2022/01/21/city-council-releases-new-statement-regarding-former-city-manager/>. This is false.

20. In or around late 2019, Tammy Kibler ("Ms. Kibler"), another employee of the City, was sexually harassed by Mr. Patterson and then Police Chief Mike DeLaurentis ("Mr.

DeLaurentis”).

21. Ms. Kibler brought this harassment to the attention of the City. Ms. Kibler was terminated in retaliation for reporting this sexual harassment.

22. In or around November 2019, the City settled the claim brought by Ms. Kibler. *See id.*

23. Ms. Kibler was far from the only woman to be sexually harassed by Mr. Patterson. On information and belief, claims had been made against Mr. Patterson prior to 2019 of which the City was aware.

24. Even after the City was made aware of Mr. Patterson’s practice of abusing women, the City did not implement any supervisory protocol over him in an attempt to prevent his predatory behavior. The City allowed Mr. Patterson’s abusive behavior to continue.

25. Mr. Patterson did not experience any tangible adverse employment action after his abuse was brought to light. In fact, he was promoted, given pay raises, and hidden perks.

26. Matthew Krob (“Mr. Krob”) is the Florence City Attorney. He has held this position for a number of years, including during the pendency of Ms. Kibler’s complaint.

27. Mr. Krob failed to adequately address, much less prevent, future abuse after Ms. Kibler’s and others’ complaints.

28. Mr. Krob’s loyalty was to Mr. Patterson. As a further violation of his duty to the City, Mr. Krob secretly fed Mr. Patterson information about and reports made against Mr. Patterson. Perhaps this is unsurprising as Mr. Krob and Mr. Patterson often socialized outside of work.

29. Since Mr. Krob was aware that Mr. Patterson was the primary decisionmaker on

whether Mr. Krob kept his contract, Mr. Krob's primary focus was protecting Mr. Patterson.

30. Mr. Krob is not alone. The City enabled Mr. Patterson's system of abuse. Mr. Patterson's abuse occurred during working hours at City Hall. In fact, at Mr. Patterson's request, the City paid for and installed blinds in his office so as to allow him to engage in predatory behavior in his office.

31. As Mr. Patterson was a supervisor in City government (in fact, as City Manager, he was the highest-ranking non-elected supervisor), the City is strictly liable for Mr. Patterson's abuse.

32. The City did not take reasonable care to prevent and correct promptly any of Mr. Patterson's behavior.

33. The City failed to provide corrective opportunities or take reasonable steps to prevent further illegal conduct on the part of Mr. Patterson.

34. During his employment, Mr. Patterson had a pattern and practice of sexually abusing and harassing female employees. Ms. Ardrey is just one of many victims of Mr. Patterson's harassment and the City's knowing failure to respond.

Ms. Ardrey was sexually harassed by Mr. Patterson.

35. During Ms. Ardrey's employment with the City, Mr. Patterson sexually harassed her via countless text messages and verbal comments.

36. The text messages ran the gamut from fantasizing about Ms. Ardrey to explicitly asking her to have sex with him.

37. As just one example, Mr. Patterson sent Ms. Ardrey a text message saying "I think of you in many ways. As a friend as a great worker and in a way that is not very professional."

38. Mr. Patterson sent Ms. Ardrey a message saying “Well, every night when I go to sleep you are there” in Mr. Patterson’s mind.

39. Mr. Patterson asked Ms. Ardrey to have a threesome with him and his fiancé, Linda. He stated: “Linda thought you were very sexy when she met you last weekend. While she has never been with a woman she gets turned on by a woman every once in awhile. Suffice it to say you got her all excited and made for a very nice night.”

40. Despite Ms. Ardrey’s insistence that she did not want to have a relationship with him, Mr. Patterson would send messages saying, for example, “I just need to kiss you and get it over with” and “I want to lick you.”

41. These messages were sent from Mr. Patterson’s City-funded cellular phone and many were sent during working hours while both Mr. Patterson and Ms. Ardrey were working at City Hall.

42. As an example of the degree to which he pursued Ms. Ardrey, Mr. Patterson even offered for her to live in his basement.

43. Ms. Ardrey explicitly told Mr. Patterson to stop this behavior. He refused.

44. After Ms. Ardrey repeatedly refused Mr. Patterson’s advances his predatory behavior continued, Ms. Ardrey had no reasonable alternative but to resign on August 25, 2021.

45. City officials who worked alongside Ms. Ardrey and Mr. Patterson knew of his abusive behavior for months. They did nothing.

46. Mr. Garrett, Ms. Ardrey’s supervisor, and the former planning director and current interim city manager, knew of the abuse Ms. Ardrey and other female employees were experiencing. Other than occasionally attempting to make sure Ms. Ardrey was not left alone with

Mr. Patterson, Mr. Garrett did not take significant steps to protect Ms. Ardrey or any of Mr. Patterson's other victims.

47. Mr. Garrett did not believe that Mr. Krob, the police chief, or the members of the City Council could be trusted. Until Ms. Ardrey resigned, Mr. Garrett did not report the abuse he knew she was suffering. Shockingly, Mr. Garrett is now the prime candidate to replace Mr. Patterson as the permanent city manager.

48. Since Ms. Ardrey's claims have been made, Mr. Garrett has repeatedly exclaimed that Mr. Patterson's victims of sexual harassment and sexual assault need to "move on" and "get over it."

49. Lori Cobler ("Ms. Cobler"), the budget director and human resources director, also knew of the abuse Ms. Ardrey and other female employees were experiencing from Mr. Patterson. Ms. Cobler knew of the pattern of abuse for several months. She failed to help Ms. Ardrey or any of Mr. Patterson's other victims and failed to come forward.

50. Shane Prickett, the current Florence Police Chief ("Chief Prickett") has known for years of Mr. Patterson's predatory behavior. In fact, Mr. Patterson targeted Mr. Prickett's wife. Evidence of this and other abuse is kept on cellular phones used for city business.

51. Despite actual knowledge of the abuse, Chief Prickett did nothing. He was more interested in rising through the ranks to become police chief than protecting women, including his own wife.

52. On November 3, 2021, Mr. Patterson was charged with four criminal offenses: two counts of stalking – emotional distress (Colo. Rev. Stat. § 18-3-602(1)(c)), sexual contact – no consent (Colo. Rev. Stat. § 18-3-404(1)(a)), and providing alcohol to minors (Colo. Rev. Stat.

§ 44-3-901(1)(b)). Some of these criminal offenses are felonies.

In or around September 2021, Ms. Ardrey retained counsel to represent her in her claims against Defendants.

53. Ms. Ardrey hoped to remedy this situation and continue her employment with the City. When counsel was first retained, they were in communication with Mr. Krob.

54. Counsel sent Mr. Krob a letter on September 7, 2021 wherein Counsel outlined the harassment Ms. Ardrey had suffered at the hands of Mr. Patterson. Mr. Krob was initially responsive.

55. Mr. Krob then abruptly ceased all communication with counsel.

56. Despite counsel's repeated attempts to contact him and resolve this matter, Mr. Krob failed to address the City's significant liability. He let the pattern of abuse fester.

57. On October 29, 2021, Ms. Ardrey, through counsel, sent the requisite Colorado Governmental Immunity Act ("CGIA") Notice to Mr. Krob. Mr. Krob ignored it.

58. Ms. Ardrey's attorneys filed the requisite Complaint of Discrimination with the CCRD on November 8, 2021. Mr. Krob ignored it.

59. On January 20, 2022, Ms. Ardrey received a notice of right to sue from the CCRD.

60. On January 20, 2022, Counsel emailed Mr. Krob to confirm that he was authorized to accept service of process on behalf of the City. Mr. Krob ignored it.

61. Counsel has sent nearly a dozen evidence preservation demand letters to Mr. Krob. Other than a brief mention on January 28, 2022 stating that he will "address them individually," Mr. Krob ignored them.

62. On information and belief, the City has already failed to preserve and protect the relevant evidence (despite express requests therefor) for which spoliation sanctions will be sought.

The City has a pattern and practice of condoning inappropriate, sexually harassing behavior.

63. On information and belief, newly elected Mayor Paul Villagrana (“Mayor Villagrana”) makes sexually inappropriate comments about City employees. On one occasion, Mayor Villagrana stated that he enjoys watching Jessica Hill, a City employee and yet another one of Mr. Patterson’s victims, walk in front of him and often asks her to get coffee just so that he can do so.

64. City residents are understandably upset. They feel that their City officials have deceived them and refused to address serious abuse. The residents are correct.

65. Mr. Patterson’s abuse and the City’s apathetic response thereto has been a frequent topic of discussion at City Council meetings. Mr. Krob’s failure to respond to the allegations by Ms. Ardrey and other victims of Mr. Patterson’s abuse has likewise been a topic of discussion at City Council meetings.

66. City Council members themselves are upset by the way the abuse has been handled by certain City officials, including Mr. Krob. By way of example, on January 3, 2022, Councilmember Allen Knisley stated on record that “Matt [Krob] has misled us several times.” See <https://theflorencecitizen.com/2022/01/05/city-council-meeting-1-3-22/>.

FIRST CLAIM FOR RELIEF
Discrimination Under Title VII of the Civil Rights Act of 1964
(42 U.S.C. § 2000e-2(a))
Against All Defendants

67. Ms. Ardrey incorporates by reference all preceding paragraphs of this Complaint.

68. At all relevant times, the City was an employer within the meaning of Title VII.

69. 42 U.S.C. § 2000e-2(a) provides that: “It shall be an unlawful employment practice for an employer (1) to fail or refuse to hire or to discharge any individual, or otherwise to

discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.”

70. Ms. Ardrey is a member of a group of persons protected under Title VII. Namely, she is a female.

71. Ms. Ardrey was competent and qualified for her position of City Planning Technician.

72. Ms. Ardrey suffered adverse employment action in the form, among other things, of constructive discharge.

73. The disparity in treatment between Ms. Ardrey and her male coworkers is based, at least in part, on Ms. Ardrey's sex.

SECOND CLAIM FOR RELIEF
Sexual Harassment Under Title VII of the Civil Rights Act of 1964
(42 U.S.C. § 2000e-2(a))
Against All Defendants

74. Plaintiff incorporates by reference all preceding paragraphs of this Complaint.

75. At all relevant times, the City was an employer within the meaning of Title VII.

76. 42 U.S.C. § 2000e-2(a) provides that: “It shall be an unlawful employment practice for an employer (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national

origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.”

77. Ms. Ardrey is a member of a group of persons protected under Title VII. Namely, she is a female.

78. Ms. Ardrey was sexually harassed by Mr. Patterson.

79. The harassment Ms. Ardrey experienced was based, at least in part, on Ms. Ardrey's sex.

80. The harassment was unwelcomed.

81. The harassment was severe and pervasive.

82. Ms. Ardrey has suffered damages from this harassment.

THIRD CLAIM FOR RELIEF
Colorado Anti-Discrimination Act
Against All Defendants

83. Plaintiff incorporates by reference all preceding paragraphs of this Complaint.

84. Ms. Ardrey is a protected person under Colo. Rev. Stat. § 24-34-402 because of her status as a female.

85. In violation of the Colorado Anti-Discrimination Act, Defendants discriminated against Ms. Ardrey as set forth in the preceding paragraphs of this Complaint.

86. Defendants' unlawful conduct in constructively terminating Ms. Ardrey actually and proximately caused losses and injuries to Ms. Ardrey, including loss of income, in an amount to be proven at trial.

FOURTH CLAIM FOR RELIEF
Wrongful Termination in Violation of Public Policy
Against the City

87. Plaintiff incorporates by reference all preceding paragraphs of this Complaint.

88. During the course and scope of Ms. Ardrey's employment, she raised with Mr. Patterson—her supervisor's supervisor and the ultimate decisionmaker as to her employment—and to other City managers concerns about the intolerable working conditions she was expected to endure. Among other things, such protected activity included reports that she was facing disturbing misconduct by a man the City knew was a sexual predator.

89. Such protected activity was an exercise of Ms. Ardrey's important work-related rights and privileges and a clear mandate of Colorado public policy; *i.e.*, to be free from being a victim of severe and pervasive sexual harassment.

90. Mr. Patterson's repeated sexual misconduct made Ms. Ardrey's working conditions so objectively intolerable that no reasonable person in Ms. Ardrey's position would be expected to bear them. Mr. Patterson deliberately made Ms. Ardrey's working conditions intolerable; the City allowed Ms. Ardrey's working conditions to become intolerable.

91. As a result of the intolerable working conditions she faced, Ms. Ardrey had no reasonable alternative but to resign. She in fact resigned.

92. Defendants were aware, or reasonably should have been aware, that Ms. Ardrey engaged in this protected activity.

93. Ms. Ardrey has suffered damage as a result of her unlawful discharge.

FIFTH CLAIM FOR RELIEF
Outrageous Conduct/Intentional Infliction of Emotional Distress
Against All Defendants

94. Plaintiff incorporates by reference all preceding paragraphs of this Complaint.

95. Defendants engaged in extreme and outrageous conduct by, among other things, subjecting Ms. Ardrey to sexual harassment and the inability to complete her job duties. Such conduct includes, but is not limited to, the specific instances described above.

96. Defendants engaged in such conduct recklessly or with the intent to cause Ms. Ardrey severe emotional distress.

97. Ms. Ardrey has suffered damage as a result of Defendants' outrageous conduct in an amount to be proven at trial for which Defendants are liable.

SIXTH CLAIM FOR RELIEF
Negligent Hiring
Against the City

98. Plaintiff incorporates by reference all preceding paragraphs of this Complaint.

99. Mr. Patterson was an employee of the City at the time he was harassing Ms. Ardrey.

100. The City owed its employees, including Ms. Ardrey, a duty of care.

101. The City breached its duty of care when it hired Mr. Patterson despite the fact that the City knew or should have known that Mr. Patterson had a history of abusing and sexually harassing women.

102. Ms. Ardrey has been damaged as a result of the City's negligence.

103. The City's decision to hire Mr. Patterson caused Ms. Ardrey's injury.

104. Ms. Ardrey has been damaged as a result of the City's negligence in an amount to be proven at trial for which the City is liable.

SEVENTH CLAIM FOR RELIEF

Negligent Supervision
Against the City

105. Plaintiff incorporates by reference all preceding paragraphs of this Complaint.
106. Mr. Patterson was an employee of the City at the time he was harassing Ms. Ardrey.
107. The City had a duty to supervise Mr. Patterson.
108. The City did not supervise, or negligently supervised, Mr. Patterson.
109. The City's negligence caused Mr. Ardrey's injury.
110. Ms. Ardrey has been damaged as a result of the City's negligence in an amount to be proven at trial for which the City is liable.

EIGHTH CLAIM FOR RELIEF

Negligent Retention
Against the City

111. Plaintiff incorporates by reference all preceding paragraphs of this Complaint.
112. Mr. Patterson was an employee of the City at the time he was harassing Ms. Ardrey.
113. The City owed a duty of care to its employees, including Ms. Ardrey.
114. The City breached that duty by retaining Mr. Patterson even though the City knew or should have known of Mr. Patterson's dangerous sexual practices.
115. The City had actual knowledge of Mr. Patterson's practice of sexual harassment after the City settled claims with Ms. Kibler in or around 2019.
116. The City's breach caused Ms. Ardrey's injuries.
117. Ms. Ardrey has been damaged as a result of the City's negligence in an amount to be proven at trial for which the City is liable.

PRAYER FOR RELIEF

WHEREFORE, Ms. Ardrey requests this Court grant the following relief:

1. Judgment in her favor on her claims for relief;
2. Nominal, pecuniary, actual, and compensatory damages;
3. Costs and expenses of this action along with attorneys' and experts' fees; and
4. Punitive and/or exemplary damages.

DEMAND FOR JURY TRIAL

Ms. Ardrey hereby demands a jury trial on all issues so triable.

Respectfully submitted this 4th day of February, 2022.

LEVENTHAL | LEWIS
KUHN TAYLOR SWAN PC

/s/ Andrew E. Swan

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