

after the filing of the Plaintiff's original Federal Complaint, hereinafter stated, and the present, the Defendant, through its Chief of Police, and other supervising officers with the Bartlesville Police Department, have continued to ignore their own policy and procedures, their contract with the F. O. P. No. 117 and its terms, particularly to the detriment of the Plaintiff and to the benefit of white male officers, and thereby created a hostile work environment.

5. That a copy of an inappropriate e-mail was sent to Plaintiff by the Chief of Police which made fun of hostile work environment complaints.
6. That upon hiring a new officer, who in fact was female, the Chief of Police in front of those standing in the squad room, including a female officer, announced that he had hired a female and sarcastically stated "and this one is a sharp one", implying that other female officers currently working at the Bartlesville Police Department were not intelligent.
7. That photographs of City employees were posted in plain view in the police station and allowed to remain despite being offensive in that they ridiculed African-Americans; displayed a swastika on one white male's forehead; depicted a female officer with devil horns and a goatee; and included one photograph of an officer with the words, "Ha, ha, Pollock" next to his face. These remained posted with the knowledge of Defendant's supervisors until Plaintiff took them down.
8. That at a sensitivity training class held for City employees, the Chief of Police made a written announcement that all single women are to call a particular Bartlesville Police Officer who at the time was separated from his wife.

9. That a white male lieutenant discussed his penis without any provocation at shift change at the Bartlesville Police Department, such discussion taking place in front of the Plaintiff and another female police officer.
10. That Plaintiff timely filed a written complaint with the Equal Employment Opportunity Commission (EEOC) and received a right to sue letter, a copy of which is attached and marked as "Exhibit A". All conditions precedent to the institution of this lawsuit have been fulfilled.

**SECOND CAUSE OF ACTION
TITLE VII OF CIVIL RIGHTS ACT
DISCRIMINATION**

11. That Plaintiff, Elizabeth J. Mitchell, hereby adopts and realleges as if fully set forth all allegations contained in paragraphs 1 through 10.
12. That the Defendant, City of Bartlesville, through the above described actions in the setting in which they occurred, were directed at the Plaintiff as a result of her gender.
13. That Plaintiff was advised by her Captain that he had an indication she had been speeding down a county road on her way to work. The Captain lectured the Plaintiff about the public perception of police officers and her responsibilities. When it was determined by the Plaintiff that in fact it had been a white male officer who had been speeding down the county road, Plaintiff's Captain was advised and he did nothing further with the white male officer who was actually at fault.
14. That Plaintiff was attending a meeting with other officers when one of the white male officers present said there were new facial hair regulations pertaining to mustaches

and goatees. Immediately after reading the regulations he then turned to the Plaintiff and stated, "Sergeant Mitchell, this applies to you too."

15. That Plaintiff submitted a complaint to her superiors when a white male Sergeant referred to Plaintiff in a derogatory manner. That the matter was never thoroughly investigated and in fact the white male Sergeant was promoted over the Plaintiff despite the investigation still pending.
16. That when a white male Sergeant with less education and experience than the Plaintiff was being tested for a promotion, he was coached before the test by his supervisor, also a white male. That the same supervisor then sat on the review board for the Sergeant and the Plaintiff. After testing, the supervisor made a written recommendation that the Sergeant be promoted over the Plaintiff to a position he knew he was to vacate within days upon his own retirement.

**THIRD CAUSE OF ACTION
TITLE VII OF CIVIL RIGHTS ACT
RETALIATORY PRACTICES**

17. That Plaintiff, Elizabeth J. Mitchell, hereby adopts and realleges as if fully set forth all allegations contained in paragraphs 1 through 16.
18. That as a direct result of the Plaintiff repeatedly bringing these conditions to the attention of her immediate supervisor or the Chief of Police, she was and continues to be the victim of retaliation.
19. That in retaliation for her attempts to correct the work environment, and specifically the filing of an EEOC complaint and the filing of her lawsuit, Case No. 11 CV-367-

GKF-TLW, in the Federal Court of the Northern District of Oklahoma, the Plaintiff has been subjected to new criticism, harassment from co-workers and has been the victim of selective enforcement of Defendant's policies and procedures.

20. That the City Manager told the Chief of Police that all those involved in the tort claim against the City were "troublemakers and needed to be gotten rid of."
21. That the Plaintiff was forcibly transferred to another shift and her former position on the shift was given to a white male Sergeant with less seniority. Plaintiff was then advised by the white male Captain that the transfer had nothing to do with her Federal complaint but was because the Sergeant with less seniority than the Plaintiff was not doing his job correctly. That Sergeant has since been promoted.
22. That the Plaintiff filed a complaint stating that a representative of the City spoke to an attorney representing the family of a suicide victim. The City representative told the attorney that Plaintiff had been dispatched to the scene before the victim killed herself and that it was the Plaintiff's fault that the victim died because the Plaintiff had mental health issues stemming from filing a complaint against the City. No thorough investigation was conducted into the Plaintiff's complaint.
23. That Plaintiff was required to appear for a disciplinary hearing before the Director of Human Resources, Chief of Police, and the City Attorney for the purpose of questioning Plaintiff's ability to do her job based upon what the City Attorney said he had read in the local newspaper about the allegations in the Federal complaint. Specifically, the City Attorney wished to question the Plaintiff as to the filing of the

- action against the City on the basis that the hostile work environment affected her ability to do her job effectively.
24. That Plaintiff was subpoenaed to State District Court and did in fact appear; however, when Plaintiff was accused by a white male officer of failing to appear in District Court in response the Chief of Police investigated the Plaintiff's appearance and upon finding the allegation was untrue did nothing to discipline the white male officer for the false allegation.
 25. That Plaintiff was accused of conducting personal business on department computers when in fact the Plaintiff had come in on her time off to write work memorandums to her supervisors. That the Plaintiff was confronted, on camera, in the lobby of the police department, by the Assistant Chief of Police, her Captain, and the Director of Human Resources. Even though it was determined that Plaintiff was in fact truthful she was still censored in a public place contrary to General Orders. That once again, the officer, who made falsely accusations against the Plaintiff to her superiors was not investigated and not disciplined.
 26. That Plaintiff has on more than one occasion learned of other officers utilizing the department computers for personal business (such as Facebook, computer games, and pornography) including an incident where pictures of various male City officials were circulated with their faces superimposed on the bodies of provocatively posed females.
 27. That Plaintiff has reason to believe that her departmental use of police computers is being tracked and that no other Bartlesville police officer has been tracked in a

similar fashion, such selective surveillance being a direct result of Plaintiff's filing against the City and in retaliation therefore.

WHEREFORE, Plaintiff prays that this Court enter judgment in her favor and adjudge that:

1. Plaintiff is entitled to more than Five Hundred Thousand Dollars (\$500,000.00) in actual damages and more than Five Hundred Thousand Dollars (\$500,000.00) in punitive damages from Defendant, City of Bartlesville, on each cause of action.
2. That Plaintiff is entitled to costs and reasonable attorney fees pursuant to 42 U.S.C. 1983; and
3. That Plaintiff is entitled to such other and further relief as this Court may deem equitable and proper.

THE LAW CENTER OF AKERS & ESSER

/S/ Johnny P. Akers

Johnny P. Akers, OBA#10711
Frederick S. Esser, OBA#2761
Law Center of Akers and Esser
401 S. Dewey, Suite 214
Bartlesville, Oklahoma 74003
Telephone: 918.336.1818
Fax: 918.338.0888
Attorneys for the Plaintiff

VERIFICATION

STATE OF OKLAHOMA)
)ss:
COUNTY OF WASHINGTON)

Elizabeth J. Mitchell, of lawful age and being first duly sworn, states that she has read the foregoing Petition, that she is familiar with the contents thereof, and that the allegations set forth therein are true and correct.

Elizabeth J. Mitchell
Elizabeth J. Mitchell

Subscribed and sworn to before me this 20th day of November, 2011.

Shona Reel

Shona Reel, Notary Public
Commission #2008931
Expires 06/14/14



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Elizabeth J. Mitchell**
P.O. Box # 3233
Bartlesville, OK 74006

From: **Oklahoma City Area Office**
215 Dean A. McGee Avenue
Suite 524
Oklahoma City, OK 73102

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
564-2012-00109	Sherri Anderson-Beasley, Federal Investigator	(405) 231-5854

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice**. Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



Holly Waldron Cole,
Area Office Director

102011

 (Date Mailed)

Enclosures(s)

cc: **Shellie McGill, H R Manager**
CITY OF BARTLESVILLE POLICE DEPARTMENT
100 E. Hensley Blyd
Bartlesville, OK 74003