

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION

4 LACEY L. POLDERDYKE

5 Plaintiffs

Hon.
Case No:

6
7 v.

8 WAYNE COUNTY, RAFAEL WASHINGTON,
9 MICHAEL TURNER and ROBERT DUNLAP

10 Defendants
11 _____/

12 **BOYLANLAW, P.C.**

13 By: Karie H. Boylan (P55468)

14 Attorney for Plaintiff

15 410 W. University, Suite 201

Rochester, Michigan 48307

16 Phone: (855) 926-9526

17 Fax: (855) 326-9526

E-Mail: karie@boylanlaw.net
18 _____/

19 **PLAINTIFF’S COMPLAINT & JURY DEMAND**

20 Plaintiff states:

21
22 **JURISDICTION AND PARTIES**

23 1. This is an action for discrimination actionable under Title VI of the
24 Civil Rights Act of 1964 and the Michigan Elliott-Larsen Civil Rights Act, retaliation
25 actionable under the Michigan Whistleblowers’ Protection Act, MCL 15.361 et seq,
26 and Intentional Infliction of Emotional Distress.
27
28

- 1 2. All parties reside in Wayne County.
- 2 3. All events giving rise to litigation occurred in Wayne County.
- 3
- 4 4. Defendants are being sued in their individual and official capacities.
- 5 5. The amount in controversy exceeds \$25,000.00 exclusive of interest,
- 6 costs, and attorney fees.
- 7
- 8 6. Defendant Wayne County is a Michigan Municipal Corporation.
- 9 7. The Sheriff's Office is an operational subunit of Wayne County and a
- 10 paramilitary organization with a \$144,143,656.00 operating budget (fiscal year 2015-
- 11 2016). The Sheriff's Office employs more than five hundred (500) individuals. Its
- 12 highest ranking positions, in order of priority, are: Sheriff, Undersheriff, Chief,
- 13 Deputy Chief. Its lowest ranking position is Deputy.
- 14
- 15 8. Plaintiff Lacey L. Polderdyke is a Sheriff's Deputy.
- 16
- 17 9. Defendant Michael Turner is the Sheriff's Chief of Staff.
- 18
- 19 10. Defendant Robert Dunlap is the Sheriff's Chief of Jails and Courts.
- 20
- 21 11. Defendant Rafael Washington is the Sheriff's Deputy Chief of Courts.
- 22 12. Defendants Turner, Dunlap and Washington are supervisors with
- 23 authority to undertake tangible employment actions affecting Deputy Polderdyke and
- 24 authority to direct her daily work activities.
- 25

BACKGROUND FACTS

- 26
- 27 13. Deputy Polderdyke was hired by Wayne County in 2008.
- 28

1 14. Defendant Washington was a high ranking officer with the Detroit
2 Police Department before Sheriff Napoleon appointed him to his current position.
3

4 15. From 2012 through 2015, Deputy Polderdyke was assigned to the
5 Sheriff's Office Electronic Monitoring Unit ("Tether") which is based out of Jail
6 Division III (the Dickerson facility in Hamtramck).
7

8 16. Sometime in 2014, Defendant Washington's office was relocated from
9 Sheriff's headquarters in Detroit to the Dickerson facility in Hamtramck.
10

11 17. Rumors circulating among Wayne County employees include:

12 (a) Defendant Washington was transferred to Hamtramck because he
13 slapped Undersheriff Daniel Pfannes' Secretary on the buttocks and
14 said something about her appearance.

15 (b) A different female Deputy was transferred from a position she
16 liked to a position she did not like because she rebuffed and/or
17 reported Defendant Washington's unwelcome sexual advances.

18 (c) Defendant Washington routinely summoned a different female
19 Deputy to his office by texting her: "Please cum here".

20 18. Defendant Washington has a reputation of being a womanizing "man
21 whore" who preys upon subordinate female employees.
22

23 19. After he was transferred to Hamtramck, Defendant Washington
24 summoned Deputy Polderdyke to his office. Deputy Polderdyke brought another
25 female Deputy with her. Once they arrived, Defendant Washington told Deputy
26 Polderdyke to massage his neck because it was bothering him. Rather than risk
27 retaliation, she briefly rubbed the right side of his neck/shoulder then left the office.
28

1 20. Deputy Polderdyke did not report the shoulder rubbing incident
2 because she knew Defendants would retaliate.
3

4 21. In December of 2015, Deputy Polderdyke resigned from Wayne
5 County and accepted a position as a Police Officer for a different municipality.
6 Before she left, Defendant Washington told her to call him once she got settled into
7 her new position and that he was going to “need a whole day with [her]”.
8

9 22. March 2015, Deputy Polderdyke returned to work for Wayne County.
10

11 23. On March 9, 2016, Defendant Washington told Deputy Polderdyke she
12 should have called him when she decided to return to work for the Sheriff’s Office
13 because he could “looked out for her”.
14

15 24. At the time Deputy Polderdyke resigned from Wayne County in
16 December of 2015, she was a Courtroom Deputy assigned to the Courts division.
17

18 25. Once she received notification of her official return to work date,
19 Deputy Polderdyke texted Defendant Washington asking that her name be added to
20 the list of Deputies waiting for a position to open up in the Courts. He texted back
21 that he would add her name to the list after he got his massage. She texted back that
22 he should attend the Deputy’s training regarding “quid pro quo” sexual harassment.
23 He texted her: “That section is for you”. She texted: “A lot of good its doing for
24 me”. He texted: “Right, do what you have to do, you know”.
25
26

27 26. Deputy Polderdyke saved the text messages:
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



27. On March 10, 2016, Deputy Polderdyke showed the text messages to a Sheriff's Office Commanding Officer. A Prosecutor's Office employee was present.

28. On March 29, 2016, at 7:34 p.m., Defendant Turner called Deputy Polderdyke on her personal cell phone. She called him back. He said he and Defendant Washington had been told she saved the offensive text messages. Defendant Turner said he was calling her that night to make sure she did not "do anything stupid."

1 29. On April 19, 2016, the Commander of Courts notified Deputy
2 Polderdyke there was a vacancy in the Courts and she was going to fill it.
3

4 30. After April 19 and before May 13, 2016, the Sheriff and Undersheriff
5 learned Defendant Washington had been harassing Deputy Polderdyke and she had
6 saved some incriminating text messages. Rumor has it, when Undersheriff Pfannes
7 found out he said: “That’s the third strike for Washington”.
8

9 31. On May 13, 2016, Deputy Polderdyke’s long term boyfriend, also a
10 Deputy, was ordered to Defendant Dunlap’s office.
11

12 32. Defendants Dunlap and Washington were in the office when he arrived.
13 They asked the boyfriend whether he knew anything about the text messages
14 Defendant Washington sent Plaintiff. The boyfriend admitted he knew about the
15 text messages and showed them the messages. Defendants made copies of the
16 messages and told the boyfriend that he “need[ed] to make it right”.
17
18

19 33. Immediately after the boyfriend left the office, Defendant Washington
20 called Deputy Polderdyke and said: “these messages are coming up again ... you
21 need to make this problem go away”.
22

23 34. In retaliation for her actions, Defendants refused to return Deputy
24 Polderdyke to her position in the Courts. Defendants went so far as to deny a
25 Judge’s request that Plaintiff Polderdyke be assigned to her courtroom. Defendants
26 did assign less qualified Deputies, with less seniority, to courtroom vacancies.
27
28

1 35. Deputy Polderdyke is a member of the Sheriff's Office Honor Guard.

2 36. On July 8, 2016, Deputy Polderdyke learned she would be responsible
3
4 for coordinating slain Dallas Police Officer Michael Kroll's funeral. In preparation,
5 there were several meetings with representatives from public and private agencies.

6 37. Defendants Dunlap and Washington attended several of the meetings.

7
8 38. At the July 12 and 13, 2016 meetings, Defendant Dunlap ordered
9 Deputy Polderdyke to sit in a chair in between Defendants Dunlap and Washington.

10 39. During some meetings, Defendant Washington would move his chair
11 close enough to Deputy Polderdyke so that his thigh almost touched hers. Every
12 time he did that, she quickly moved away.
13

14 40. At a July 15, 2016, meeting Defendant Washington squeezed between
15 the wall and a room full of people, walked past several open seats, and sat in the chair
16 next to Deputy Polderdyke. He moved the chair at an angle so that he was facing
17 her, and not the presenters. Defendant Washington tried to talk to Deputy
18 Polderdyke during the meeting. Once she realized Defendant Washington was not
19 talking about business related, Deputy Polderdyke turned her head away from him.
20
21

22 41. As they were leaving, Defendants Dunlap and Washington confronted
23 Deputy Polderdyke and berated her about having a "negative attitude" and not being
24 a "team player". Several eyewitnesses to the incident wrote letters to the Sheriff
25 complaining of the manner in which Defendants treated Deputy Polderdyke.
26
27
28

1 42. On July 16, 2016, Deputy Polderdyke was advised by a representative of
2 Signature Flight Services that, due to Defendant Dunlap's inappropriate,
3 counterproductive and disruptive behavior, he would not be allowed into the Airport
4 Operations Area (AOA/tarmac) for anything related to Officer Krol's burial.
5

6 43. Other than warn Plaintiff she needed to "not do anything stupid" and
7 make the text messages "go away", Defendants did nothing to investigate, prevent or
8 correct the aforementioned harassing behavior.
9

10 44. After Plaintiff Polderdyke's attorney served Defendants with a retention
11 and preservation letter, Defendant County hired a private attorney who conducted an
12 purported investigation that was just as harassing, threatening and intimidating as
13 Defendant Dunlap and Turner's threatening phone calls.
14

15 45. Plaintiff Polderdyke filed a charge with the Equal Employment
16 Opportunity Commission regarding Defendants' conduct.
17

18 46. On April 12, 2017, the Justice Department issued a "right to sue" letter.
19

20 **Michigan Elliott-Larsen Civil Rights Act, MCL 37.2101 et seq**

21 **Count I: Quid Pro Quo Harassment**

22 **Count II: Hostile Environment Harassment**

23 **Count III: Retaliatory Harassment**

24 47. Plaintiff incorporates the preceding paragraphs by reference.

25 48. Plaintiff is an employee, and Defendants were employers, covered by
26 and within the meaning of the Michigan Elliott-Larsen Civil Rights Act, MCL
27 37.2101 et seq.
28

1 49. While working for Defendant County, Deputy Polderdyke suffered quid
2 pro quo harassment, hostile environment harassment, and retaliatory harassment.

3
4 50. This sexual harassment has included, but is not limited to, unwelcome
5 sexual advances, requests for sexual favors and other verbal and physical conduct or
6 communication of a sexual nature.

7
8 51. Defendants refused to reassign Deputy Polderdyke to the Courts
9 because she rejected Defendant Washington's advances, saved his text messages and
10 reported Defendants violations of law to her attorney and the EEOC.

11
12 52. Defendants Dunlap and Washington punished, berated and publicly
13 humiliated Deputy Polderdyke during preparatory meetings in retaliation for her
14 rejecting Defendant Washington's advances and saving his text messages.

15
16 53. Defendants' conduct during and after preparatory meetings, their phone
17 calls telling Deputy Polderdyke "don't be stupid" and "you need to make this go
18 away", threatened her boyfriend that he needed to talk to her and "make it right",
19 created a hostile work environment in that the harassment was so severe or pervasive
20 that submitting to it became a term and condition of her employment.

21
22 54. Defendant County and its agents have retaliated against Deputy
23 Polderdyke for opposing violations of the Elliott-Larsen Civil Rights Act.

24
25 55. As a direct and proximate result of the Defendants' unlawful actions
26 Deputy Polderdyke has suffered injuries and damages, including, but not limited to,
27
28

1 potential loss of earnings and earning capacity; loss of career opportunities; loss of
2 reputation and esteem in the community; mental and emotional distress; and loss of
3 the ordinary pleasures of life.
4

5 **Title VII of the Civil Rights Act of 1964, 42 USC 2000e et seq**

6 **Count IV: Quid Pro Quo Harassment**

7 **Count V: Hostile Environment Harassment**

8 **Count VI: Retaliatory Harassment**

9 56. Plaintiff incorporates the preceding paragraphs by reference.

10 57. Plaintiff is an employee and Defendants are employers, covered by and
11 within the meaning of Title VII of the Civil Rights Act of 1964, 42 USC 2000e et seq.
12

13 58. The aforementioned conduct constitutes quid pro quo, hostile
14 environment and retaliatory harassment in violation of 42 USC 2000e et seq.

15 59. As a direct and proximate result of the Defendants' unlawful actions
16 Deputy Polderdyke has suffered injuries and damages, including, but not limited to,
17 potential loss of earnings and earning capacity; loss of career opportunities; loss of
18 reputation and esteem in the community; mental and emotional distress; and loss of
19 the ordinary pleasures of life.
20
21

22 **Count VII: Whistleblowers' Protection Act, MCL 15.361 et seq**

23 60. Plaintiff incorporates the preceding paragraphs by reference.

24 61. Defendants violated the Whistleblower's Protection Act when they
25 discriminated against Deputy Polderdyke regarding the terms, benefits, conditions,
26 and privileges of their employment because she reported violations or suspected
27
28

1 violations of a law, regulation, or rule of the State of Michigan and opposed practices
2 made illegal by the laws, regulation, or rules of the State of Michigan.

3
4 62. As a direct and proximate result of Defendants' unlawful actions as
5 described, Deputy Polderdyke has sustained injuries and damages, including, but not
6 limited to, loss of earnings; loss of career opportunities; mental and emotional
7 distress; loss of reputation and esteem in the community; and a loss of the ordinary
8 pleasures of everyday life, including the opportunity to pursue gainful occupation of
9 choice.
10
11

12 **Count VIII: Intentional Infliction of Emotional Distress**

13 63. The preceding paragraphs are incorporated by reference.

14
15 64. Defendants Dunlap and Washington's conduct and interactions with
16 Deputies Polderdyke during preparations for Officer Kroll's funeral constitutes
17 intentional infliction of emotional distress.
18

19 65. Defendants' failure to assign Deputy Polderdyke to any of the court
20 positions that opened up after she returned to work for Wayne County constitutes
21 intentional infliction of emotional distress.
22

23 66. As a direct and proximate result of the Defendants' unlawful actions as
24 described, Plaintiff Polderdyke has suffered injuries and damages, including, but not
25 limited to, potential loss of earnings and earning capacity; loss of career
26
27
28

1 opportunities; loss of reputation and esteem in the community; mental and emotional
2 distress; and loss of the ordinary pleasures of life.

3
4 WHEREFORE, Plaintiff requests that the court enter judgment against
5 Defendants as follows:

6 1. Legal relief

- 7
8 a. Compensatory damages;
9
10 b. Exemplary damages;
11
12 c. Judgment for lost wages, past and future; and
13
14 d. An award of interest, costs, and reasonable attorney fees.

15 2. Equitable relief

- 16 a. An order reinstating Plaintiff to the position she would have held
17 had there been no discrimination or retaliation;
18
19 b. An injunction prohibiting any further acts of retaliation or
20 discrimination; and
21
22 c. Whatever other equitable relief appears appropriate.

23 Respectfully submitted,

24 /s/ Karie H. Boylan

25 **BOYLANLAW, P.C.**

26 By: Karie H. Boylan (P55468)

27 Attorney for Plaintiffs

28 410 W. University, Suite 201

Rochester, Michigan 48307

Phone: (855) 926-9526

Fax: (855) 326-9526

Date: May 11, 2017

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION

4 LACEY L. POLDERDYKE

5 Plaintiffs

Hon.
Case No:

6
7 v.

8 WAYNE COUNTY, RAFAEL WASHINGTON,
9 MICHAEL TURNER and ROBERT DUNLAP

10 Defendants

11
12 **BOYLANLAW, P.C.**

13 By: Karie H. Boylan (P55468)

14 Attorney for Plaintiff

15 410 W. University, Suite 201

16 Rochester, Michigan 48307

17 Phone: (855) 926-9526

18 Fax: (855) 326-9526

19 E-Mail: karie@boylanlaw.net

20 **PLAINTIFF'S JURY DEMAND**

21 Plaintiff herein requests trial by jury of all issues so triable.

22 Respectfully submitted,

23 /s/ Karie H. Boylan

24 **BOYLANLAW, P.C.**

25 By: Karie H. Boylan (P55468)

26 Attorney for Plaintiffs

27 410 W. University, Suite 201

28 Rochester, Michigan 48307

Phone: (855) 926-9526

Fax: (855) 326-9526

Date: May 11, 2017