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IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>TRACY WHITE, Plaintiff, vs. STATE OF IOWA and IOWA DEPARTMENT OF HUMAN SERVICES, Defendants.</p>	<p>Case No. _____ PETITION and JURY DEMAND</p>
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COMES NOW the Plaintiff, Tracy White, and for her cause of action states the following:

INTRODUCTION

1. This is an action under the Iowa Civil Rights Act, challenging Defendants' discrimination, harassment, and retaliation against the Plaintiff.
2. Plaintiff Tracy White is a resident of Polk County, Iowa.
3. Defendant Department of Human Services and the State of Iowa do business in Polk County, Iowa.
4. The acts about which Plaintiff complains occurred in Polk County, Iowa.

PROCEDURAL REQUIREMENTS

5. On February 18, 2019, within 300 days of the acts of which she complains, Plaintiff filed charges of employment discrimination against Defendants with the Iowa Civil Rights Commission and the Equal Employment Opportunity Commission.
6. On August 20, 2019, less than 90 days prior to the filing of this Petition, the Iowa Civil Rights Commission issued a right to sue letter with respect to Plaintiff's charges.

FACTUAL BACKGROUND

7. Plaintiff Tracy White is a female employee of Defendants State of Iowa and Iowa Department of Human Services (“DHS”).

8. Defendants hired Tracy as a Social Worker Case Manager in approximately August 2000.

9. Defendants promoted Tracy multiple times, most recently in 2008 to Social Work Administrator, a job in which she manages Social Work Supervisors.

10. For approximately the last eight years, Des Moines Service Area Manager Michael McInroy supervised Tracy.

11. For four of those years, McInroy supervised Tracy in her Social Work Administrator position.

12. Throughout Tracy’s time as a Social Work Administrator at DHS, McInroy behaved in lewd, inappropriate, and demeaning ways, which have been enabled by others in DHS leadership positions.

13. For example, in January 2017, a co-worker named Jennifer Ware approached McInroy and Tracy, looked at Tracy, and said, “Oh my God, I had a nightmare about you!”

14. McInroy interjected, “Oh, was she wearing black leather and whipping you in your nightmare, too?”

15. The sexual implications of McInroy’s statement made Tracy and Ware incredibly uncomfortable.

16. Also in January 2017, a female Income Maintenance Supervisor who had resigned asked to have an exit interview with McInroy, but he refused to meet with her.

17. This female employee submitted a written exit interview to her supervisor, who contacted Tracy to ensure that this employee’s concerns were addressed.

18. Tracy reviewed this employee's written exit interview, in which the Income Maintenance Supervisor complained how hard it was to work with McInroy, as well as DHS Business Manager Pauline Rutherford and Community Liaison Darin Thompson. She complained that Rutherford was inappropriate, unprofessional, and disrespectful; and that McInroy repeatedly criticized her as "too emotional" and degraded her as a strong female supervisor.

19. A young, attractive female social worker in Des Moines would sometimes come to work in a tight, short, red dress.

20. In a leadership meeting, the team discussed the need to tell the social worker to stop wearing this particular dress to work.

21. McInroy said that he and Social Work Supervisor Chad Hargin were walking behind the social worker and McInroy could not decide if he should pray she dropped her pencil or pray that she did not.

22. McInroy's implication was that that he had mixed feelings about whether he wanted to see the social worker to bend over in front of him in such a short, tight dress.

23. In December 2016, DHS terminated Social Work Supervisor Beth Avery.

24. Avery filed a grievance against McInroy, alleging he had discriminated against her because she was a woman and a lesbian.

25. In approximately April 2017, Tracy met with McInroy's supervisor, Division Administrator Vern Armstrong, for approximately three hours.

26. Tracy told Armstrong that a number of issues raised in Avery's grievance were accurate. For instance, Tracy reported that:

- a. McInroy had difficulty working with strong women.
- b. She routinely heard McInroy make comments about Avery and her sexuality.

- c. McInroy said he did not want to picture Avery having sex with her partner, a DHS child protective worker.
- d. McInroy resisted promoting Avery's partner.
- e. McInroy consistently made it clear that he did not want to meet with Avery if he could help it.
- f. McInroy often referred to Avery and other female Child Protective Supervisors in Polk County as "assholes."

27. Tracy also told Armstrong that McInroy had made inappropriate sexual comments back in January about Tracy being in black leather and whipping him.

28. Tracy also complained about McInroy's disparate treatment of her compared to a peer.

29. Armstrong took no action in response to Tracy's complaints, and the sexual harassment continued.

30. McInroy seemed preoccupied with the appearance of women.

31. During leadership management team meetings, McInroy often discussed his opinions about the attractiveness of particular female professionals.

32. For example, two women were interviewed for a promotion to a supervisor position.

33. McInroy insisted that he wanted to promote the younger, more attractive employee, even though the other candidate had a stellar reputation and deserved the promotion.

34. McInroy told Tracy that the younger, attractive employee had "really sexy shoes," and that she should want to promote this woman "because you're a shoe person."

35. McInroy also referred to the more qualified female employee as "dowdy" and suggested this was a negative factor that should be considered in making the promotional decision.

36. Tracy explained that she did not find anything in the supervisory job description about footwear or appearance being qualifiers.

37. McInroy did not make similar comments regarding the physical appearance of male employees.

38. Darin Thompson reported to McInroy.

39. Thompson had a history of making disgusting, lewd comments in the workplace.

40. For example, on a work trip with Rutherford and another DHS supervisor, Thompson talked in detail about how people sweat while they are having sex and that sweat drips down their back and pools around their anus.

41. Thompson said he called that fluid “the nectar of the gods.”

42. Approximately five years ago, staff and supervisors in the Story County office came to Tracy to complain how uncomfortable they felt because Thompson was behaving inappropriately with a young, attractive female subordinate.

43. The female staff member called Thompson “Daddy” in the office.

44. On one occasion, the female staff member returned to a meeting after going to the bathroom. Thompson asked her, “Have you washed your hands young lady? Do you need a spanking?”

45. The female staff member complained to Tracy that Thompson stared at her, made her feel uncomfortable, and never discouraged her from calling him “Daddy.”

46. Tracy sat down with Thompson, told him he was making people uncomfortable, and instructed him to stop.

47. In September 2017, after a leadership team meeting where McInroy lied about important issues, Tracy met with Armstrong again.

48. Tracy reported she did not feel safe meeting alone with McInroy because of his dishonesty and because of the hostile work environment he had created.

49. Armstrong scheduled a meeting for he and Tracy to meet with Bureau Chief of Refugee Services Chad Dahm in order to formulate a plan to protect Tracy from having to meet alone with McInroy.

50. During this meeting, Tracy repeated McInroy's sexual comment from January in which he said she was dressed in black leather and whipping him.

51. Armstrong laughed and said, "You need to stop telling me that story. I have heard it enough and it makes me uncomfortable."

52. Tracy explained that she wanted Dahm to have a full understanding of her experience and asked both men to imagine how uncomfortable McInroy's comment had made *her* feel.

53. In November 2017, Tracy complained to the Iowa Department of Administrative Services ("DAS") about the hostile work environment at DHS.

54. DAS refused to investigate Tracy's complaints and told her that any investigation had to be performed by DHS.

55. In September 2017, December 2017, June 2018, and July 2018, Tracy met with DHS Director Jerry Foxhoven.

56. In these meetings, Tracy complained about the rampant sexual harassment, discrimination, and hostile work environment in the Des Moines Service Area.

57. At the July 2018 meeting, Tracy asked Foxhoven if he wanted to hear the truth about McInroy or if he wanted plausible deniability.

58. Foxhoven said that he wanted "the opposite of plausible deniability," and asked Tracy to continue documenting her concerns in emails to both Armstrong and himself.

59. Foxhoven admitted that a number of supervisory staff had met with him to express similar concerns about McInroy.

60. Foxhoven acknowledged that "something had to change" at DHS.

61. Tracy told him she was nervous about reporting McInroy to an elected official in order to protect her job.

62. Foxhoven assured Tracy that she did not need to go to the Ombudsman and that she would not lose her job; that *he* was her protection.

63. When Tracy and Foxhoven met in October 2017, he told Tracy that he considered her to be a whistleblower.

64. Foxhoven told Tracy that he had spoken with Armstrong and CFO Jean Slaybaugh that told them that Tracy “needed to be treated well.”

65. However, nothing changed at DHS as a result of Tracy’s meetings with Foxhoven.

66. In June 2018 a female Child Protective Worker complained to her supervisor about sexual harassment within DHS. The supervisor reported it to Tracy.

67. The Child Protective Worker had already resigned from DHS, but complained that an IT Technician emailed her, “I’m going to miss my eye candy.”

68. Tracy informed the IT Technician’s boss, Pauline Rutherford, about this complaint against the IT Technician, but Rutherford took no action for several days.

69. Meanwhile, the IT Technician continued to hang around the work area of the Child Protective Worker and make her uncomfortable.

70. DHS leadership discussed the complaint during a management meeting.

71. At the close of that meeting, Rutherford told a story about how warm it had been one of the outer county offices.

72. Rutherford started singing, “Get Low,” by Lil Jon, including the lyrics, “To the window, to the wall (to dat wall) / To the sweat drop down my balls (MY BALLS).”

73. McInroy was present and did nothing to end this conversation or point out how inappropriate it was.

74. In November 2017, Tracy learned that DHS was finally investigating McInroy, and she was interviewed as part of the investigation.

75. Once again, Tracy expressed her profound discomfort with McInroy's sexual comments, sexual behavior, and the sexually hostile work environment he allowed at DHS.

76. Tracy told the interviewers about McInroy's comment about her wearing black leather and whipping him.

77. On February 1, 2018, Vern Armstrong and Jean Slaybaugh asked Tracy to meet with them. Tracy asked Chad Dahm to accompany her.

78. They told Tracy that McInroy was the Service Area Manager and that Tracy needed to comply with his directives.

79. Armstrong and Slaybaugh acknowledged that the DHS leadership team was dysfunctional, but told Tracy that if she could not comply with McInroy's directives or meet with him alone, then she would have to move to a different job.

80. They asked Tracy if she would be willing to take a demotion or leave the child welfare practice. She said no.

81. The message that Armstrong and Slaybaugh conveyed was that Tracy would lose her job unless she put up with McInroy's conduct.

82. Slaybaugh and Armstrong required Tracy to work with a "life coach."

83. The life coach required Tracy to meet in a joint session with McInroy in June 2018. At that meeting, McInroy told Tracy that the reason she gets only "Angry Mike" is because she did not come to him asking for advice.

84. Later in individual sessions, Tracy explained to the life coach how she did not feel safe alone with McInroy because of his inappropriate sexual comments, his dishonesty, and the aggressive manner in which he treated her.

85. The life coach asked Tracy to consider what *Tracy* could do to make McInroy “better.”

86. However, Tracy did not have the power or the responsibility to stop her boss from sexually harassing herself and others in the workplace.

87. On September 6, 2018, Matt Madsen and Pam Alger from DHS interviewed Tracy about McInroy and sexual harassment within DHS.

88. During this interview, Tracy reported that complaints had been made in the summer of 2018 about Darin Thompson’s sexually explicit comments.

89. Tracy also told the interviewers about Rutherford singing a sexual song in a management meeting in front of McInroy and other DHS employees.

90. *In October 2018*, Tracy received an email asking her to contact Matt Madsen.

91. Madsen told Tracy he was following up on some of the concerns she had reported to DHS *in November 2017*. He wanted the name of the supervisor who had witnessed McInroy’s comment to Tracy about black leather and whipping.

92. Tracy provided him Jennifer Ware’s name.

93. In October 2018, Madsen interviewed Ware.

94. Ware confirmed Tracy’s account of McInroy’s January 2017 comments about Tracy whipping him while dressed in black leather.

95. Ware also recounted a supervisors meeting where McInroy told a female Social Worker Supervisor who was wearing a plaid shirt that she looked like a “sexy lumberjack.”

96. Ware told Madsen how McInroy described female Polk County child protective supervisors as “difficult” and a bunch of “assholes.”

97. In mid-November 2018, Supervisor Maureen Barton met with Foxhoven and reported that McInroy had been overtly hostile towards Tracy at a meeting on November 5.

98. Foxhoven said he was in the process of trying to move Tracy out of the Des Moines Service Area and create a new position for her. Foxhoven said moving Tracy was necessary because she and McInroy “buted heads.”

99. Foxhoven asked Barton if she thought moving Tracy to a new department would improve the situation, and she said no.

100. Barton told Director Foxhoven that McInroy was toxic and that moving Tracy would do nothing to improve the hostile work environment that Tracy and other DHS employees continued to experience.

101. Each time Tracy met with Armstrong, Foxhoven, and when she was interviewed by DHS and DAS, she reported multiple examples of the sexually hostile work environment.

102. On December 31, 2018, Tracy received a memo from Armstrong, claiming that DHS had completed investigations into her complaints. Armstrong said the Attorney General’s office had found no code violations but that “appropriate action” had been taken. Armstrong refused to tell Tracy what, if anything, had been done.

103. Armstrong’s memo warned Tracy that, going forward, she was not to bring up any “specific interactions” with the life coach, and that Tracy need to be focused on “general communication interactions.”

104. On approximately January 16, 2019, Tracy emailed Governor Kim Reynolds, begging for help regarding the hostile work environment at DHS.

105. That same week, DAS re-interviewed Tracy for approximately 3 hours.

106. On January 25, 2019, Tracy received an email from Armstrong announcing that McInroy was “presently out of the office,” and that another DHS employee would be the Acting Service Area Manager.

107. Upon information and belief, in approximately February 2019, DHS terminated McInroy.

108. Michael McInroy was an employee and agent of the State of Iowa and the Iowa Department of Human Services, acting at all material times within the scope of his employment and agency.

109. Kristin Walker was an employee and agent of the State of Iowa and the Iowa Department of Human Services, acting at all material times within the scope of her employment and agency.

110. Darin Thompson was an employee and agent of the State of Iowa and the Iowa Department of Human Services, acting at all material times within the scope of his employment and agency.

111. Pauline Rutherford was an employee and agent of the State of Iowa and the Iowa Department of Human Services, acting at all material times within the scope of her employment and agency.

112. Vern Armstrong was an employee and agent of the State of Iowa and the Iowa Department of Human Services, acting at all material times within the scope of his employment and agency.

113. Jean Slaybaugh was an employee and agent of the State of Iowa and the Iowa Department of Human Services, acting at all material times within the scope of his employment and agency.

114. Jerry Foxhoven was an employee and agent of the State of Iowa and the Iowa Department of Human Services, acting at all material times within the scope of his employment and agency.

COUNT I
VIOLATIONS OF THE IOWA CIVIL RIGHTS ACT
DISCRIMINATION and HARASSMENT

115. Plaintiff repleads paragraphs 1 through 114 as if fully set forth herein.

116. Defendants discriminated against Plaintiff in violation of the Iowa Civil Rights Act.

117. Plaintiff suffered harassment in violation of the Iowa Civil Rights Act.

118. Plaintiff's gender was a motivating factor in the discrimination and harassment.

119. Defendants knew or should have known about harassment in the workplace.

120. Defendants failed to take prompt and appropriate action reasonably calculated to end the harassment.

121. As a result of Defendants' acts and omissions, Plaintiff has in the past and will in the future suffer injuries and damages including, but not limited to, mental and emotional distress, fear, anguish, humiliation, betrayal, stress, medical expenses, lost enjoyment of life, lost wages and employment benefits.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, in an amount which will fully and fairly compensate her for his injuries and damages, for appropriate equitable relief, for prejudgment and postjudgment interest, for attorney fees, including litigation expenses, for the costs of this action, and for such other relief as may be just in the circumstances and consistent with the purpose of the Iowa Civil Rights Act.

JURY DEMAND

COMES NOW the Plaintiff and requests a trial by jury.

/s/ Paige Fiedler
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