

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK
Buffalo Division**

JACQUELINE KRETZMON,

Plaintiff,

v.

Case No. _____

ERIE COUNTY, SHERIFF'S OFFICE,

Defendants.

COMPLAINT

Plaintiff Jacqueline Kretzmon ("Plaintiff" or "Kretzmon") alleges as follows:

PARTIES

1. The Plaintiff, Jacqueline Kretzmon, is a natural person with a place of residence at 60 Andres Place, Cheektowaga, NY 14225.
2. Defendant, Erie County Sheriffs Office, is located at 10 Delaware Ave., Buffalo, NY 14202.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 and as conferred by 42 U.S.C. §§ 2000e-3(a) (amended 1972, 1978, and by the Civil Rights Act of 1991, Pub. L. No. 102-166) and 42 U.S.C. §1983.
4. Defendants are subject to the jurisdiction of this Court and venue is proper in this District pursuant to 28 U.S.C. § 1391 (b) as the acts and omissions giving rise to the claims in this complaint occurred within the Western District of New York.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

5. Lt. Kretzman has exhausted administrative remedies prerequisite to bringing this claim as follows:
6. On August 19, 2010, Lt. Kretzman filed a charge of discrimination with the New York Division of Human Rights (DHR) and the Equal Employment Opportunity Commission (EEOC), alleging unlawful discriminatory practice relating to employment because of age, opposed discrimination/retaliation, sexual orientation, and sex. The DHR assigned the case number as 10143037. The DHR cross filed the Complaint with the EEOC as Federal Charge No. 16GA004604.
7. More than sixty days have passed since Lt. Kretzman submitted her Complaint to the DHR on August 19, 2010. The DHR found no grounds for probable cause and the EEOC adopted the charges of the DHR on June 2, 2011. Lt. Kretzman had 90 days from the date of the EEOC decision to file suit in federal court, making this filing timely.

FACTUAL BACKGROUND

8. Lt. Jacqueline Kretzman, Plaintiff, was hired by the Defendant on April 30, 1990 and currently holds the position of Lieutenant in charge of Records and Booking at the Erie County Holding Center.
9. In November 2007, Lt. Jacqueline Kretzman engaged in protected activity when she filed a complaint with the New York State Division of Human Rights (DHR) against her employer, the Erie County Sheriff's Department, for sexual harassment, employment discrimination, and retaliation. Chief Reardon was named as a "bad actor" in Lt. Kretzman's complaint. The DHR case number was 10119254.

10. The DHR case was disposed of through a private settlement in 2008, which required, among other things, that Chief Reardon not be in Lt. Kretzmon's chain of command.
11. In addition, the settlement agreement stated that Defendant would investigate and prosecute, if warranted, the sexually demeaning statements Lt. Kretzmon's co-worker made about her. Specifically, Officer Doxbeck, in the presence of Kathy McLaughlin, referred to Lt. Kretzmon as a "carpet muncher." Defendant failed to investigate Officer Doxbeck, in violation of the Defendant's contract with Lt. Kretzmon. On information and belief, Doxbeck was moved into Lt. Kretzmon's area after Chief Reardon was reassigned to supervise Lt. Kretzmon.
12. Since Lt. Kretzmon filed her complaint, she has been subjected to continuous low-grade harassment which has increased in scope and magnitude since the beginning of 2009.
13. Chief Reardon is now in Lt. Kretzmon's chain of command.
14. Defendant breached the contracted settlement agreement by placing Chief Reardon back into Lt. Kretzmon's chain of command on February 6, 2009 and allowing him to issue direct orders to Lt. Kretzmon on a continual basis since that date.
15. On February 11, 2009 Lt. Kretzmon engaged in protected activity, notifying Defendant that reassigning Chief Reardon to a position where he was directly in Lt. Kretzmon's chain of command was a breach of the 2008 settlement agreement.
16. That day, Chief Reardon entered the office where Lt. Kretzmon was with her three Sergeants. Chief Reardon spoke to one of Lt. Kretzmon's Sergeants, Sgt. Harris, in front of her. Chief Reardon gave Sgt. Harris instructions about how to handle inmate transfers, a task that Lt. Kretzmon had already completed.

17. On February 24, 2009, Lt. Kretzmon again engaged in protected activity, sending a letter notifying Defendant that Lt. Kretzmon's supervisors seemed to be unaware or unheeding of her settlement contract with the Defendant and the limitations that agreement placed upon her and Chief Reardon. Kristin Klein Wheaton, attorney for Defendant, sent an email stating that Lt. Kretzmon would not be supervised by Chief Reardon. When Lt. Kretzmon questioned what "supervised" meant, Ms. Wheaton clarified via email the next day that she referred to "the provisions relating to Reardon not being in Kretzmon's chain of command."
18. Chief Reardon was not removed from Lt. Kretzmon's chain of command. Rather, he remained above her in her chain of command, continually giving her direct orders.
19. From February 27 until March 2, 2009, Lt. Kretzmon went on vacation. When she returned from vacation on March 3, she found a note, written to her that told her to go to Professional Standards Division (PSD) and to bring a union representative. Lt. Kretzmon did not know what the PSD would be about, but chose to not bring a union representative. At the PSD, Lt. Kretzmon was questioned about the way three officers had handled an inmate allegedly raping another inmate.
20. Because the deputies in charge of these inmates had neglected to properly report the incident, Lt. Kretzmon did not learn of the incident until 10 days later, January 26, 2009, when the inmate's lawyer showed up and explained what had happened. When Lt. Kretzmon did learn of the incident, she immediately began a proper investigation. She stayed at work until 4 a.m. that day, filling out reports. She made a point to copy Deputy Superintendent Leary on her reports. Lt. Kretzmon also gave Deputy Superintendent

Leary a written statement, explaining that the investigation into the incident was not finished, and asking Deputy Superintendent Leary to continue the investigation.

21. The PSD investigators interrupted Lt. Kretzmon's retelling of the facts of the incident to tell her that the investigation was coming down on her. PSD Investigator Giglio said to Lt. Kretzmon, "They are throwing you under the bus. Do you see the headlights?"
22. On Friday, March 13, 2009, Defendant's Undersheriff Doyle temporarily assigned Lt. Kretzmon to Day Watch, in charge of Records and Booking.
23. On Tuesday, May 12, 2009, Lt. Kretzmon again engaged in protected activity, explaining to Ms. Wheaton, via email, that Lt. Kretzmon's supervisor, Jail Deputy Superintendent Koch, seemed to be unaware of Lt. Kretzmon's Settlement Agreement and that Chief Reardon seemed to be "testing the waters under the new administration, and seeing how far he can push things with" Lt. Kretzmon.
24. On July 15, 2009 Lt. Kretzmon faced a disciplinary hearing for the alleged rape of the inmate in February 2009.
25. On information and belief, neither the Deputy nor the Sergeant who failed to report the incident was given disciplinary hearings.
26. From June 2008 through March 2009, all other Lieutenant's who worked at the jail were assigned to work each shift with another Lieutenant, so that there would be two Lieutenant's per shift to cover the Watch Commander and Booking and Records positions. Lt. Kretzmon was the only Lieutenant who Defendant forced to work each of her shifts alone, with no other Lieutenant to assist her. As such, Defendant required Lt. Kretzmon to cover both the Watch Commander and Booking and Records positions on her own. Also as a result of Lt. Kretzmon being forced to work alone, Lt. Kretzmon was unable to take

emergency days off without the assistance of Jail Deputy Superintendant Leary or Undersheriff Doyle. No other Lieutenant had to go through such onerous procedures.

27. On February 24, 2009, Lt. Kretzman wrote a letter to Sheriff Howard, reporting an online blog called "Stop Howard 2009." The blog had been run and written by Defendant's employees in defiance of Defendant's policy. Lt. Kretzman advised that the postings, including photos and comments about supervisors, were becoming increasingly graphic, distasteful, disgusting, and disturbing. As of February 23, Lt. Kretzman reported that, although she had not personally been mentioned in the blog as of yet, she found the comments about other co-workers to be humiliating and sexually derogatory.

28. In the fall of 2009, Defendant's employees began posting comments about Lt. Kretzman in an online blog. In these comments, Defendant's employees called Lt. Kretzman a coward, said that she had "balls... and a penis," called her a "cancer" to the department, "a weasel," "a pig," "a fuck up," "a shit bag." One entry called her a "deal breaker" who "brought more grief to that place than all the other political hacks in admin combined." Another entry said that Lt. Kretzman was "the biggest piece of shit to ever come through the department. She was a shit deputy, a horrible sergeant, and a scumbag Lt." A later entry amended this entry stating, "...and the worst person, or dog, that has ever lived," calling her a "pint sized piece of shit" who "can't have more than 3 friends. That includes the outside world as well." Another entry said promoting her to Lieutenant was a "fuck up" and that she should be demoted. Another entry asked the question, "DOES ANYBODY FUCKING KNOW FOR A FUCKIN FACT IF FUCKING GLASCOTT KNOWS ABOUT FUCKING ASSHOLE KRETZMON BEING A FUCKING NO

GOOD CUNT OR NOT?" A later entry asked the webmaster to "start an anti-Kretzcock section? Pleeeaaase?"

29. Lt. Kretzmon reported to Deputy Superintendent Leary that Lt. Kretzmon had found one of Lt. Kibler's thumbdrives in a computer. Lt. Kibler's thumbdrive contained one of the blog entries. Defendant, however, told Lt. Kretzmon that they were not able to determine who had posted on the blog but that the Defendant's computers would block such postings. Defendant did not check their computer hard drives to determine who had been posting on the blog. Defendant did not investigate Lt. Kibler.
30. In fall 2009, an inmate attempted to escape. The video of the incident shows that while the inmate is preparing to escape, the Sergeant who was with the inmate failed to take care of his responsibilities, and that the Sergeant's lapse enabled the inmate to obtain the items he needed to begin his escape. The video next shows that the officer who was responsible for the housing unit had improperly abandoned his radio on a desk, enabling the inmate to further his escape attempt. Another officer failed to properly check a door, aiding the inmate's escape attempt. The two officers who were charged with securing an exit door assumed that the inmate was a guard when the inmate asked them to open the door. The officers opened the exit door for the inmate, without first verifying the inmate's identity.
31. When the Commission of Corrections (COC) reviewed the details of the escape, the COC determined that the officers mentioned above had erred but that Lt. Kretzmon was not responsible for the attempted escape. She had followed Policy and Procedure as soon as she learned of the situation. In the official Commission of Correction report about the attempted escape, Lt. Kretzmon and her actions were not cited at all as being improper, derelict, or incorrect.

32. On November 12, 2009, Defendant held a disciplinary hearing against Lt. Kretzman for the attempted break out. The Defendant alleged four charges, including “failure to properly supervise your shift before and after the incident.”
33. No other Watch Commander has ever been held to a disciplinary hearing about an incident in the jail in which they were not directly, physically involved. Even when, for two days, a Sergeant and five Deputies visited an inmate at night to threaten and beat him, the two Watch Commanders on duty were not brought up on charges or given a disciplinary hearing.
34. The two officers who opened the door without checking the identity of the person asking them to open the door were not disciplined. The officer who failed to check the door was not disciplined. The Sergeant who failed to properly take care of the inmate, allowing the inmate to obtain the items he needed to escape, was given two weeks suspension. However, one of those weeks was his vacation week. The officer who had abandoned the radio was fired but then reinstated.
35. On March 10, 2010, Sgt. Thomas Thompson, Deputy Jonathan Weir, and Deputy Peter Eagle were fired because of an alleged incident of inmate abuse. Lt. Kretzman had discovered the officers’ wrong-doing and reported it to PSD.
36. That day, at a staff meeting, Superintendent Koch told the staff in front of Lt. Kretzman that they had to “cover for each other.” Sergeant Johnstone said, “You and I are from the old school, isn’t there something... I mean, they have families.”
37. In mid-April 2010, Chief Reardon began taking charge of a larger portion of the duties in the Holding Center.

38. April 23, 2010, Lt. Kretzmon was ordered to correct a problem with the phone system. Lt. Kretzmon wrote an email to Provisional Sergeant Kuppel and to Provisional Lieutenant Harris advising them of the problem. Neither officer responded. Lt. Kretzmon followed up by speaking to the two men. The Lieutenant responded, "So? What's wrong with it?" The Provisional Sergeant agreed to take care of it but never did. Lt. Kretzmon finally made the changes herself.
39. Also in late April 2010, Lt. Kretzmon told one of her Sergeants, Sgt. Kuppel, that he would be learning a new job. Sgt. Kuppel responded, "I don't think so. I'm not doing it." Lt. Kretzmon told him again the next week that he would be learning a new job, and Sgt. Kuppel responded with the same insubordinate answer.
40. In April or May of 2010, Deputy Superintendent Leary told Lt. Kretzmon that they intended to conduct a disciplinary hearing against her regarding the alleged rape of the inmate back in February 2009. Lt. Kretzmon reminded Deputy Superintendent Leary that Defendant had already held the hearing on July 15, 2009 at the 10 Delaware facility.
41. In early May 2010, one of Defendant's employees told Lt. Harris that Lt. Kretzmon was "out to get him" and was having him "investigated." Neither accusation was true. However, the false rumor permanently damaged Lt. Kretzmon's relationship with Lt. Harris, who no longer felt that he could trust Lt. Kretzmon.
42. The male supervisors had a television in their break room. The female supervisors did not. In the past when this disparate treatment was brought to Defendant's attention, Defendant had removed the male's television which instigated the male employees to retaliate against the female employees. The male supervisors' television had been replaced, but the female supervisors' continued to have none.

43. In mid-May 2010, Lt. Kretzman engaged in protected activity, asking for a television for the women's break room, Defendant responded that the males' television would be removed instead if Lt. Kretzman insisted on the women having amenities equal to the men. The television remained in the males' room. None was given to the females.
44. On May 27, 2010 one of Defendant's employees wrote "Fire Kretzman" with permanent marker, in the lunch room, near the phone. Lt. Kretzman filed a complaint regarding the incident. Defendant's investigation into the matter was insufficient to find the culprit.
45. On May 28, 2010 Defendant made Lt. Kretzman work double duty as the Sergeant and Lieutenant for Booking and Records.
46. During the week of June 14, 2010 Chief Reardon again gave Lt. Kretzman an order through one of Lt. Kretzman's junior officers. He told Sgt. Kuppel to tell Lt. Kretzman to write up a Suicide Screening Form for Sentenced Inmates.
47. One June 16, 2010 Lt. Kretzman ordered Sgt. Knezevic and Sgt. Kuppel, via email, provide her with information about some files. Both ignored the order, did not respond, and did not do the work.
48. At noon on June 21, 2010 Chief Reardon failed to include Lt. Kretzman in a meeting about how her department was to be run. Lt. Kretzman happened to walk by and notice the discussion. When she joined the discussion, Chief Reardon assigned her to create daily lists regarding the medical processes for him and to take over escorting prisoners for the nurse. Escorting prisoners for the nurse is a menial task typically assigned to lower ranking Sheriff's Deputies, not Lieutenants.
49. At 2 p.m. that same day, Lt. Kretzman had a discussion with Deputy Superintendent Leary. During the discussion Lt. Kretzman asked a question to clarify how the medical

screening would be done. Deputy Superintendent Leary reprimanded Lt. Kretzmon for asking the question, telling Lt. Kretzmon, “Don’t be negative, don’t tell me what you can’t do; tell me what you can do.” The reprimand did not appropriately correspond to Lt. Kretzmon’s tone or question.

50. On June 22, 2010, Deputy Superintendent Leary entered the booking area and ordered Lt. Kretzmon to clean the old medical forms out of the area, a task which Lt. Kretzmon had already completed. Then Deputy Superintendent Leary began speaking to a Sergeant and some Deputies in the presence of inmates about what they thought about some new ideas for inmate screening. Sgt. Kuppel, who was part of the conversation, gestured to Lt. Kretzmon and said to her, “What do you think?”

51. Lt. Kretzmon began to give her input on how the process might work best, suggesting that questions should be asked in the booking area, rather than out in reception, and that the nurses needed time to get accustomed to the new routine. Before she could finish her sentence, Deputy Superintendent Leary cut Lt. Kretzmon off, still in the presence of inmates, again reprimanding Lt. Kretzmon, saying that “we all have to work together.”

52. When Lt. Kretzmon mentioned to Deputy Superintendent Leary that the inmates needed phones that worked, Deputy Superintendent Leary again cut Lt. Kretzmon off before she could finish her sentence, telling Lt. Kretzmon that it was on her list. Lt. Kretzmon asked her deputy, Jack Robinson, to please tell Deputy Superintendent Leary about the need for working phones. Deputy Robinson did and Lt. Kretzmon listened to him. Several deputies and at least one Sergeant watched this interaction, seeing that Deputy Superintendent Leary would not listen to Lt. Kretzmon, choosing instead to speak to Lt. Kretzmon’s junior officers in front of Lt. Kretzmon.

53. When Deputy Superintendent Leary left the room, Lt. Kretzmon began discussing the idea of placing a medical screening area in the Echo level reception area. Lt. Kretzmon has proposed the idea to Deputy Superintendent Leary, but Defendant had chosen to not include Lt. Kretzmon's idea into the plan for the Department of Justice. Lt. Kretzmon's junior officers Sgt. Kuppel and Deputy Robinson laughed and suggested that maybe they should present the idea to Deputy Superintendent Leary instead of Lt. Kretzmon. It appeared that Deputy Superintendent Leary would not listen to Lt. Kretzmon.
54. At 8 a.m. on June 23, 2010, Chief Reardon instructed Lt. Kretzmon to sign off on a form that detailed an officer's use of force on a prisoner. Lt. Kretzmon had not been on duty at the time. Lt. Isch was the commanding officer who had been on duty and who had filled out the report of the incident.
55. At 9:15 that same day, Lt. Kretzmon walked by Chief Reardon having a discussion with Sgt. Kuppel. Sgt. Kuppel waived Lt. Kretzmon over and told her that Chief Reardon wanted Lt. Kretzmon to change the inmate medical forms he had ordered her to work on June 21, two days earlier. Again, Chief Reardon instructed Lt. Kretzmon's junior officer to give Lt. Kretzmon orders.
56. At 9:30 that morning, Deputy Superintendent Leary called Lt. Kretzmon into her office. Deputy Superintendent Leary reprimanded Lt. Kretzmon, saying that they all had to work together. When Lt. Kretzmon questioned Deputy Superintendent Leary as to what she meant, Deputy Superintendent Leary stated that someone had reported that Lt. Kretzmon intended to grieve Chief Reardon's order for Lt. Kretzmon to escort inmates for the nurse. Lt. Kretzmon had had no intention of grieving the order. However, because escorting is a

deputy's job, Lt. Kretzmon would have been within her rights to file such a grievance. Lt. Kretzmon had chosen to follow the order and was being reprimanded for a false rumor.

57. At 2:10 that afternoon, Sgt. Kuppel entered Lt. Kretzmon's office and told her, unsolicited, that he did not want to get in the middle of anything between Chief Reardon and Lt. Kretzmon and that from that point forward Sgt. Kuppel would refer everything to Lt. Kretzmon.
58. On June 30, 2010 Lt. Kretzmon completed the inmate medical screening lists as per Chief Reardon's June 21st order. When she delivered them to his office at 10:30, Chief Reardon rejected them, saying that he had not ordered her to compile lists, that he instead wanted fingerprint logs. When Lt. Kretzmon assured him that he had requested the lists, Chief Reardon responded, "I can get that from Ceil, I said I wanted the fingerprint log." At which point Deputy Superintendent Leary appeared in Chief Reardon's office and gave him the fingerprint logs.
59. At 11 a.m. that day, Sheriff Howard spoke to Lt. Kretzmon about what an impressive job she had done with a report she had completed.
60. On July 1, 2010 Chief Reardon came into the booking area and spoke to Sgt. Reynolds. When Sgt. Reynolds told Chief Reardon that she had reported to Lt. Kretzmon about medical, Chief Reardon said loudly, in front of the entire booking area Lt. Kretzmon supervised, that if Sgt. Reynolds had any questions about medical, she was not to talk to her Lieutenant, Lt. Kretzmon, but to speak directly to him.
61. On July 9, 2010, Defendant again made Lt. Kretzmon work double duty.
62. On July 13, 2010 Chief Reardon assigned Lt. Kretzmon to conduct daily inmate disciplinary hearings in addition to her regular job duties. Previously, the hearings had

been run by the afternoon shift. The afternoon shift's main responsibility was to run the hearings.

63. The next day, July 14, Lt. Kretzmon spoke to Captain Hartman, who had previously delineated which shifts were to perform which tasks. Captain Hartman told Lt. Kretzmon that he had advised Chief Reardon that to move the disciplinary hearings to Lt. Kretzmon's day shift would create a very unevenly distributed workload for the day versus afternoon shifts and explained why the afternoon shift had been assigned to conduct the hearings. Chief Reardon responded to Captain Hartman that he didn't care who thought the workload was unevenly distributed, that he wanted the change made so that Lt. Kretzmon's shift had to take on the hearings in addition to their normal workload. Prior to being assigned to conduct hearings, Lt. Kretzmon's work logs were full, with no empty time.
64. No additional booking and records work was given to the afternoon shift. Nor was any of the day shifts work offset onto any other shift to accommodate this new assignment.
65. That same day, Lt. Kretzmon found a form Chief Reardon had given to the booking nurse and booking deputies, whom Lt. Kretzmon supervised. Lt. Kretzmon had seen Chief Reardon hand the nurses papers and asked whether she needed to know of any changes on behalf of her deputies. Chief Reardon had said no, but the forms were to be used by the deputies. Lt. Kretzmon only learned of the new process by accident even though she is supposed to oversee the department.
66. On July 15, 2010, Lt. Kretzmon filled out a complaint that the women's break room still did not have a television. A small, dirty, older model television was installed 2 months later. The males' television was 27 inches; the females' television was 19 inches.

67. Lt. Kretzmon went to the medical area and got checked because she was feeling so unwell from the stress. Her blood pressure was so high, she was sent to Erie County Medical Center where she was hospitalized for 3 days. She was then out sick from work for 2 weeks and took 1 week of vacation. After being absent from work for 3 weeks, when she returned on Monday, August 9, 2010, she went to an 8 a.m. inmate disciplinary hearing. When she arrived, she learned that no inmate disciplinary hearings had been conducted in the past 10 days, leaving her with a backlog of 24 hearings to complete. Later that day, when Lt. Kretzmon told Deputy Superintendent Leary that Lt. Kretzmon's medical condition was probably related to stress, Deputy Superintendent Leary responded sarcastically, "what makes you so stressed?"
68. On August 11, 2010, Deputy Superintendent Leary again told Lt. Kretzmon that Defendant was going to proceed with a disciplinary hearing against Lt. Kretzmon for the alleged rape of an inmate in February 2009. Deputy Superintendent Leary told Lt. Kretzmon that it would occur the next day, August 12. Again, Lt. Kretzmon told Deputy Superintendent Leary that Defendant had already held such a hearing on July 15, 2009 at the 10 Delaware facility and that Mr. Doyle had presided over the hearing. Deputy Superintendent Leary said that Mr. Doyle did not remember doing the hearing. Lt. Kretzmon emailed the date to Deputy Superintendent Leary as confirmation that the hearing had already occurred. Lt. Kretzmon then left work at 10 a.m. with a headache.
69. On August 20, 2010 Chief Reardon switched Lt. Kretzmon's and Lt. Harris' respective leadership groups, inconveniencing Lt. Kretzmon.
70. Chief Reardon also took Lt. Kretzmon out of the Suicide Prevention Workshop and placed her in the Detox Group, even though both groups only had a few meetings left until they

concluded. Lt. Kretzmon had prepared extensively for the Suicide Prevention Workshop. Lt. Kretzmon had not participated in any of the Detox Group's meetings and had little to contribute to the group, as it only met twice more after she was assigned to join them.

71. On August 25, 2010 Deputy Superintendent Leary questioned Lt. Kretzmon's handling of an inmate disciplinary hearing. An inmate had made some comments to a female deputy. The female deputy had written a report on the incident that made it sound like the incident was not so bad as to require the inmate to "get time." Deputy Superintendent Leary felt that because the inmate was a rapist, he should not be permitted to make any comments to a female deputy.

72. A week prior, Lt. Kretzmon had overseen an inmate appeal hearing. The inmate had been given 60 days "Keep Lock" as punishment for an altercation. However, when Lt. Kretzmon and Deputy Superintendent Leary viewed a video of the incident, it revealed that the inmate had only been defending himself. The Lieutenant who had unjustly punished the prisoner without reviewing the evidence was not questioned or reprimanded for his bad judgment.

73. On August 27, 2010 Deputy Superintendent Leary interrupted Lt. Kretzmon's work to order her to go out to the garage to check the old records and log books, to see if they could be disposed of. The garage was filthy and the task was menial. There were two other employees, a Sergeant and a Lieutenant, who were not busy, who could have handled checking on the old records and logs, to ascertain if they were garbage. Deputy Superintendent Leary chose to make Lt. Kretzmon interrupt her work to check on items that were likely garbage, and that would likely not be removed for some time.

74. On August 30, 2010 Defendant made Lt. Kretzmon work double duty because Lt. Harris was assigned to go to Six Sigma training. Lt. Kretzmon was not invited to this training that would have benefitted her career.
75. On August 31, 2010 Defendant made Lt. Kretzmon work double duty for the same reasons as the day before.
76. That day Lt. Kretzmon was supposed to attend a bi-weekly meeting with Deputy Superintendent Leary and the county clerks at 2 p.m. Lt. Kretzmon and a records clerk named Maryann Gruber went to the classroom at the time and location where the last meeting was held. They waited for 10 minutes but no one showed up. Lt. Kretzmon went to find Deputy Superintendent Leary. Deputy Superintendent Leary's receptionist called Deputy Superintendent Leary's cell phone, but got no answer. At 2:25, they phoned the county clerk's office and were told that the meeting had been moved to another building. Lt. Kretzmon hurried over to the meeting, arriving 30 minutes late. Ms. Gruber told Deputy Superintendent Leary, "Nobody told us the meeting was here!" To which, Deputy Superintendent Leary replied, "I forgot." After the meeting, Deputy Superintendent Leary told the records clerk that she didn't know Ms. Gruber was working that day. Deputy Superintendent Leary ignored Lt. Kretzmon, not saying a word to her. Shortly after, Ms. Gruber told Lt. Kretzmon that Ms. Gruber had been speaking to Deputy Superintendent Leary, but when Lt. Kretzmon walked by them Deputy Superintendent Leary stopped talking.
77. On September 1, Deputy Superintendent Leary gave the records clerk a copy of the notes from the meeting. Deputy Superintendent Leary did not give Lt. Kretzmon a copy of the

notes. Lt. Kretzmon asked the clerk for a copy of the notes and the two discussed how obvious it was that Deputy Superintendent Leary was shutting Lt. Kretzmon out.

78. That day, all of the other booking and records supervisors attended a meeting, to which Lt. Kretzmon was not invited. Instead, Defendant made Lt. Kretzmon remain in booking and records, working overtime, and covering for both of the sergeants attending the meeting.

79. Also that day, Lt. Kretzmon learned information from a provisional Sergeant about how the facility was going to be run, information that was directly pertinent to Lt. Kretzmon's department. The clerk who had accompanied Lt. Kretzmon to the clerk's meeting discussed with Lt. Kretzmon that the provisional sergeant knew more about what was going to happen in Lt. Kretzmon's department than Lt. Kretzmon did. The clerk stated that she thought the Defendant was trying to push Lt. Kretzmon out of booking and records.

80. On Wednesday, September 8, 2010, someone decapitated and cut the front legs off of a rat and left in on Lt. Kretzmon's driveway at her home. Deputy Giglio from PSD investigated the incident right away, as did Mr. Lobbins from The Department of Equal Employment Opportunity (EEO).

81. The next day, September 9, Lt. Kretzmon learned that Jonathan Weir had had an arbitration hearing the previous day, the same day that the rat was placed in Lt. Kretzmon's driveway. Jonathan Weir was one of the officers who had been fired for abusing an inmate, following Lt. Kretzmon discovering and reporting the abuse. Lt. Kretzmon was told that Jonathan Weir would be coming back to work. Lt. Kretzmon informed PSD of the coincidence between Jonathan Weir's hearing and the placement of the rat. PSD investigated and they believed the rat had been cut and placed there

intentionally, that it appeared to potentially be witness tampering, and that they believed the timing of Jonathan Weir's hearing and the placement of the rat was not a coincidence.

82. Shortly after, Lt. Kretzmon's physician diagnosed her with hypertension induced by stress and put her on blood pressure and anti-anxiety medication.
83. Friday, September 10, 2010, Lt. Kretzmon's health deteriorated from the stress of her workplace. She went to the nurse at work; her blood pressure was escalated and she felt unwell.
84. September 14, 2010 Lt. Kretzmon again felt unwell and experienced lightheadedness and high blood pressure.
85. September 16, 2010 Chief Reardon pulled a Sergeant from Lt. Kretzmon's section, forcing her to work double duty.
86. At 4 p.m. that day, Lt. Harris explained to Lt. Kretzmon that he is leading a think tank, comprised of Sergeants and Deputies who work under Lt. Kretzmon. They will be working to stream line the booking process. Despite Lt. Kretzmon's 20 years of experience, 7 of which she spent as a supervisor, 4 of which she spent supervising booking and records, Lt. Kretzmon was not asked for her input. Defendant passed her over to instead work with her subordinates, without informing her.
87. On September 19, 2010, Matthew Spina of the Buffalo News ran an article about Lt. Kretzmon. Lt. Kretzmon's co-workers told her that they believed it was leaked by someone who wanted her fired.
88. On September 22, 2010, Lt. Kretzmon found a picture of a woman in a binder of work documents, including the inmate roster and housing sheet. The picture of the woman had been altered to remove an approximately 1 ½ inch hole where her mouth had been. Lt.

Kretzman turned the photo over to Chief Love, explaining that the material was sexually suggestive and inappropriate for the workplace. Lt. Kretzman felt unwell, got checked by medical again, and went home with high blood pressure.

89. On her way out, she spoke to Lt. Evans. Lt. Kretzman had noticed that some of the Sergeants were spending work time napping, playing fantasy football, working out, or writing on Facebook. Lt. Kretzman suggested to Lt. Evans that the Sergeants needed to be more vigilant. Lt. Evans replied that "They don't have enough time. They're so busy."
90. Lt. Kretzman dropped the obscene photo off with Undersheriff Wipperman and left to see her doctor. Her doctor, Dr. Tussing, diagnosed Lt. Kretzman with stress related hypertension and placed her on an ACE inhibitor for blood pressure.
91. The next day, Lt. Kretzman handed in her report on the obscene photo to Chief Love. She felt unwell again and left work. She was forced to call in sick to work the next day because her blood pressure and the medication she had been placed on were making her feel woozy and weak.
92. On September 28, 2010, Lt. Harris arrived at 2:00 p.m. to take over for Lt. Kretzman, who was scheduled to leave at 2:30. Instead, Lt. Harris sat in Chief Reardon's office, chatting and having coffee. At 2:00, when Lt. Harris's shift began, Chief Reardon called Lt. Kretzman and assigned her to do a project immediately. The project was a large one, and was the type of work a secretary should have been doing. That afternoon, as Lt. Kretzman had been preparing to leave, the records area that Lt. Kretzman supervised was especially busy because her department had to correct a mistake Lt. Harris had made the day before in sending too many inmates to the penitentiary, in addition to several other problems that had arisen at the end of her shift. At 3:35, over an hour past the end of her

shift, Lt. Kretzmon completed the project, with the help of a clerk, and delivered it to Chief Reardon. Chief Reardon told Lt. Kretzmon that he wanted some additional documents. Lt. Kretzmon put together the documents and delivered them to Chief Reardon at 3:50 p.m. Lt. Harris was still having coffee and chatting with Chief Reardon.

93. On October 7, 2010, Lt. Kretzmon followed Policy and Procedure in denying a deputy from rescinding his vacation purely to spite another Deputy. Superintendent Koch rescinded Lt. Kretzmon's order.

94. On October 8, 2010, Chief Diina allowed another Lieutenant to choose his own Sergeant. When Lt. Kretzmon asked if she would be allowed to do the same, Diina at first would not allow it, then acquiesced. Lt. Kretzmon chose a gay female officer named Sgt. Reynolds. On information and belief, Lt. Harris did not like Sgt. Reynolds. Defendant then questioned Lt. Kretzmon's choice, stating that Sgt. Reynolds had served primarily on the line, making her unqualified for the Booking and Records position. However, 13 of the previous 15 Sergeants and Lieutenants who were appointed to Booking and Records came from the line.

95. Shortly after Lt. Kretzmon insisted that she be allowed to choose Sgt. Reynolds, Defendant ordered Lt. Kretzmon to move out of her office and into the Sergeant's office. Defendant ordered Lt. Kretzmon's Sergeant to vacate her office and post herself in the booking area with no desk. Lt. Kretzmon told Defendant that such a move would be counterproductive, since she had to work in coordination with her Sergeant continuously throughout the shift. Lt. Kretzmon needed to keep her staff together in order to complete the work assigned to them, and so was forced to share an office with the Sergeants. The

office was small and cramped. Lt. Kretzmon's former office remains vacant and unused, but she is not permitted to use it.

96. On October 14, 2010, Chief Reardon sent an email to Lt. Kretzmon stating that violating the chain of command can be grounds for discipline. Chief Reardon is in Lt. Kretzmon's chain of command, though his assignment is in violation of the settlement agreement between Lt. Kretzmon and the Defendant.
97. On October 18, 2010, Lt. Kretzmon learned that Thomas Thompson, another of the officers who had been fired for abusing an inmate, was getting his job back.
98. On October 19, 2010, Defendant again confronted Lt. Kretzmon about the February 2009 incident in which an inmate had been raped. Superintendent Koch entered Lt. Kretzmon's office to tell her again that criminal acts must be reported to the patrol service for investigation. Lt. Kretzmon again told Superintendent Koch that she had both spoken to and written a report to Deputy Superintendent Leary, stating that further investigation was needed. Superintendent Koch again told Lt. Kretzmon that she now understands to notify patrol when a criminal act occurs and that that is how they are leaving it.
99. On October 20, 2010, Lt. Kretzmon received an email from Lt. Harris, explaining what the group of men who were streamlining Lt. Kretzmon's department was doing. The group of male officer's had named themselves "Reardon's Raiders," all of whom Lt. Kretzmon outranked.
100. Lt. Harris was assigned to compile statistics. Lt. Kretzmon had previously completed her statistics on an almost monthly basis for a year. Lt. Harris compiled statistics for July 21 until August 8 and September 21 until September 26. In addition, Lt. Kretzmon did the vast majority of the work for records, bookkeeping, and classification. Lt. Harris did not

contribute to this work. Lt. Kretzmon also took care of the gun boxes and restocking of forms and paperwork. Lt. Harris did not contribute to this work either.

101. On October 21, 2010, Lt. Kretzmon was ordered to pick up the letter Superintendent Koch was submitting to PSD regarding the incident from February 2009, for which Lt. Kretzmon had been disciplined because her Deputies and Sergeants had violated orders when an inmate was raped. The Deputies and Sergeants who had violated the orders and the deputy who had allegedly tried to cover up the incident still were not disciplined.

102. On November 10, 2010, Lt. Kretzmon overheard Lt. Harris say about her, "I don't know what would be better...if she was demoted or fired or maybe she'll just die."

103. Lt. Kretzmon is frequently in a position in her job in which her life is potentially in danger. Especially when she is in contact with inmates, Lt. Kretzmon relies upon the support and unhesitating back-up of her fellow officers to keep her safe.

104. On March 11, 2011, Lt. Harris sent Lt. Kretzmon an email stating that, per Dr. Heidelberger, a certain inmate was not allowed to be brought into the jail. The email also stated that if Lt. Kretzmon had questions, she could contact Lt. Harris. Lt. Kretzmon did not understand the email, and so replied to the email, asking "Why and where is he supposed to be? (I was unaware that Dr. Heidelberger ran the facility)." Lt. Harris became angry with Lt. Kretzmon because she had replied by email rather than by phone. He stated that he was also upset because Lt. Kretzmon had questioned what he wrote. Lt. Kretzmon is not employed by Dr. Heidelberger, nor is he in Lt. Kretzmon's chain of command. However, Lt. Harris began to yell at Lt. Kretzmon saying repeatedly, "I'm sick of your smart ass comments" and "keep your smart ass comments to yourself." Lt. Harris shouted these comments in front of the other staff members.

105. After Lt. Kretzmon reported Lt. Harris's inappropriate comments, Defendant forced Lt. Kretzmon to work overtime every day for approximately one month, stating that Lt. Harris had claimed that he felt uncomfortable being alone with Lt. Kretzmon.
106. In early April 2011, Defendant selected Lt. Harris and Sgt. Irene Jerge to attend a two day seminar in Albany about the NYS Warrant System. Defendant did not make Lt. Kretzmon aware of the seminar until after the Defendant selected the other officers, preventing Lt. Kretzmon from gaining valuable knowledge with which to accomplish her job and to advance her career.
107. On August 19, 2011, Lt. Kretzmon was again assigned double duty. She confronted the provisional Lieutenant, Lt. Evans, who was the watch commander. He told Lt. Kretzmon that the Sergeants made the assignments. A Lieutenant outranks a Sergeant. Lt. Kretzmon said, "so you mean to tell me that sergeants assigned me to cover a sergeant position?" Lt. Evans replied yes.
108. One of Defendant's Deputies, Deputy Doxbeck, called Lt. Kretzmon a "carpet-muncher," a term that is sexually offensive and derogatory toward homosexuals. Defendant was obligated to investigate the comments, as per the settlement contract. On information and belief, Defendant has failed to investigate Deputy Doxbeck.
109. Chief Reardon has continued to be in her chain of command since February 2009. Chief Reardon continues to give Lt. Kretzmon direct orders.
110. In August 2011, the Defendant had a problem distributing and tracking the distribution of inmate handbooks. Lt. Kretzmon proposed a solution that would save time and paperwork. When she explained her idea to her superior officer, Capt. Hartman, he rejected it, stating that he wanted to continue to use the current way, even though it was

not effective. Sometime later that day or the next, Sgt. Knezevic, a male officer who is subordinate to Lt. Kretzmon, presented Lt. Kretzmon's idea to Capt. Hartman. When Lt. Kretzmon came to work the next day, Chief Rodriguez explained to Lt. Kretzmon that the Defendant would be adopting the "new idea" Sgt. Knezevic had come up with. Lt. Kretzmon explained to Chief Rodriguez that it had been her idea. Lt. Kretzmon then asked Capt. Hartman why her idea was rejected when she presented it, but found to be a good idea when her male, subordinate officer presented it. Capt. Hartman responded that he had not been in the mood to hear what she had said, when she had said it.

111. The Erie County Holding Center blog, as of August 4, 2011, contained a poll as to whether J K (Jacqueline Kretzmon) should be fired and showed a photo labeled "aka>>> JK THE RAT FUCK." The accompanying photo showed a dead rat, caught in a trap.

FIRST CAUSE OF ACTION

Retaliation in Violation of Title VII

112. Lt. Kretzmon realleges and reasserts the allegations contained in paragraphs above as though fully set forth herein.

113. "In order to present a prima facie case of retaliation under Title VII... a plaintiff must adduce evidence sufficient to permit a rational trier of fact to find [1] that he engaged in protected participation or opposition under Title VII, [2] that the employer was aware of this activity, [3] that the employer took adverse action against the plaintiff, and [4] that a causal connection exists between the protected activity and the adverse action, i.e., that a retaliatory motive played a part in the adverse employment action." *Cifra v. General Electric Co.*, 252 F.3d 205, 216 (2nd Cir. 2001).

114. Lt. Kretzmon engaged in protected activity: in November 2007, when she filed a complaint against the Defendant with the New York Division of Human Rights; on February 11, 2009, when she wrote a letter to the Defendant explaining that Chief Reardon had been improperly placed back into her chain of command; on February 24, 2009, when she wrote a letter to the Defendant explaining that Chief Reardon had been improperly placed back into her chain of command; on May 12, 2009, when Lt. Kretzmon wrote an email to the Defendant stating that Chief Reardon was still unlawfully in her chain of command, that Chief Reardon was seeing how far he could push her under the new administration, and that her superior officers seemed to be unaware of the contract they were breaching; in the fall of 2009, when Lt. Kretzmon reported finding evidence as to who had posted the derogatory and degrading comments about her in an online blog; on January 19, 2010, when Lt. Kretzmon reported three of Defendant's employees' abuse of an inmate; in May 2010, when Lt. Kretzmon asked the Defendant for equal accommodations in the men's and women's break rooms; on July 15, 2010, when Lt. Kretzmon sent a letter to the Defendant explaining the harassment, retaliation, and hostile work environment to which the Defendant was subjecting her; on July 15, 2010, when the Sheriff filed a complaint with the EEO on Lt. Kretzmon's behalf, explaining the disparate treatment to which the Defendant had subjected her; on March 11, 2011, when Lt. Kretzmon reported to Defendant that Lt. Harris had made inappropriate comments to her; and on August 11, 2010, when Lt. Kretzmon filed a complaint against the Defendant with the New York Division of Human Rights.

115. The Defendant knows about each of these instances of protected activity because Lt. Kretzmon's complaints and reports were all made directly to the Defendant via Lt. Kretzmon's superior officers.

116. After Lt. Kretzmon filed her first DHR complaint in 2007, Defendant committed an adverse action against Lt. Kretzmon in breaching the settlement contract from 2008, placing Chief Reardon in Lt. Kretzmon's chain of command.

117. After Lt. Kretzmon notified Defendant that this assignment was unlawful, Defendant committed at least two additional adverse actions against Lt. Kretzmon.

118. First, Defendant further required Lt. Kretzmon to take direct orders from Chief Reardon, again in violation of Defendant's settlement contract with Lt. Kretzmon.

119. Second, Defendant's superior officers, including but not limited to Chief Reardon, refused to speak to Lt. Kretzmon, and instead repeatedly gave her orders through her junior officers, in front of her. A jury will properly infer that when Defendant's superior officers gave Lt. Kretzmon orders through her subordinate officers while Lt. Kretzmon was present, Defendant usurped Lt. Kretzmon's authority and embarrassed her in front the officers she was assigned to command.

120. After Lt. Kretzmon again notified Defendant that Defendant's assigning Chief Reardon to be Lt. Kretzmon's superior officer was unlawful, Defendant's PSD Investigators informed her that Defendant was throwing her under the bus in regards to an incident at the jail in which Lt. Kretzmon had acted according to protocol. A jury will properly infer that Defendant possessed a retaliatory animus toward Lt. Kretzmon from the PSD Investigator's statements

121. After Lt. Kretzmon notified Defendant that Chief Reardon was acting in a retaliatory manner and that Defendant was breaching their settlement contract, Defendant took at least three adverse actions against Lt. Kretzmon.
122. First, Defendant forced Lt. Kretzmon to attend a specious disciplinary hearings for event in which she had acted strictly according to protocol. By contrast, Defendant failed to discipline the insubordinate officers who had violated their orders, causing the escalation of the incidents. Defendant also failed to discipline the other Lieutenants who had violated rules and procedures.
123. Second, Defendant forced Lt. Kretzmon to be the only Lieutenant who worked without an accompanying Lieutenant on duty for 10 months.
124. Third, Defendant allowed Lt. Kretzmon's co-workers to post offensive, derogatory comments about her in an online blog about the Holding Center, from which action and omission, a jury will properly infer that the Defendant condoned the retaliation.
125. After Lt. Kretzmon reported that she had found evidence showing who at least one of the officers posting on the blog was, Defendant took at least two more adverse actions against Lt. Kretzmon.
126. First, Defendant failed to investigate the employees who posted on the blog even after Lt. Kretzmon gave the defendant evidence as to the identity of one of the bad actors. From this omission, a jury will properly infer that the Defendant condoned the retaliation.
127. Second, Defendant held another specious disciplinary hearings for an event in which she had acted strictly according to protocol. By contrast, Defendant again failed to discipline the insubordinate officers who had violated their orders, causing the escalation of the incident.

128. After Lt. Kretzmon reported three of her co-workers for abusing an inmate, those three officers were fired and the Defendant took at least four adverse actions against Lt.

Kretzmon.

129. First, the same day that three officers were fired for abusing an inmate, an offense which Lt. Kretzmon had uncovered and reported, Defendant's Superintendent of the Prison made an announcement in front of her at a staff meeting. Defendant's Superintendent of the Prison stated to Lt. Kretzmon and her colleagues that they needed to "cover for each other." A jury will properly infer from this event that the Defendant had a retaliatory animus. For the Superintendent of the Prison to say in front of Lieutenant Kretzmon and her colleagues, that they need to "cover for each other," in the immediate context of three officers being fired because an officer, namely Lt. Kretzmon, had not covered for those officers, would reasonably dissuade an employee from engaging in protected activity.

130. Second, Defendant allowed Lt. Kretzmon's junior officers to be insubordinate to her and to defy direct orders.

131. Third, Defendant threatened Lt. Kretzmon that Defendant was going to hold more disciplinary hearings against Lt. Kretzmon for incidents in which hearings had already been held.

132. Fourth, Defendant allowed employees to spread rumors about Lt. Kretzmon that damaged her working relationships with fellow officers.

133. After Lt. Kretzmon requested that the female employees get break room accommodations equal to the male employees, Defendant took at least twelve adverse actions against Lt. Kretzmon.

134. First, Defendant permitted an employee to write "Fire Kretzmon" in the lunch room.

135. Second, Defendant insufficiently investigated the incident and was unable to find employee who had written it.
136. Third, Defendant repeatedly made Lt. Kretzmon work double duty.
137. Fourth, Defendant's superior officers, including but not limited to Chief Reardon, continued to repeatedly give her orders through her junior officers, in front of her. From these acts, a jury will properly infer that the Defendant was usurping Lt. Kretzmon's authority and embarrassing her in front of her subordinate officers.
138. Fifth, Defendant's Chief Reardon excluded Lt. Kretzmon from meetings about how her department would be run.
139. Sixth, Defendant reprimanded Lt. Kretzmon for imaginary infractions.
140. Seventh, Defendant refused to allow Lt. Kretzmon to give input and information about how her department was run, instead allowing only Lt. Kretzmon's junior officers to speak on the subjects.
141. Eighth, Defendant failed to invite Lt. Kretzmon to meetings in which all other supervisors and officers junior to Lt. Kretzmon in her department met to discuss running the department. Instead, Defendant required Lt. Kretzmon to work overtime and double duty.
142. Ninth, Chief Reardon ordered Lt. Kretzmon to sign off on an incident for which she was not present or on duty.
143. Tenth, Chief Reardon assigned Lt. Kretzmon to a project then, when Lt. Kretzmon handed it in, he pretended he had not assigned her the project and that she had done the wrong work.

144. Eleventh, Chief Reardon ordered Lt. Kretzmon's staff to not speak to her, but to speak directly to him.

145. Twelfth, Chief Reardon assigned an egregiously disparate amount of work to Lt. Kretzmon compared to the other Lieutenants. The unequal distribution of work was so severe that another officer senior to Lt. Kretzmon pointed out to Chief Reardon how unfair the work assignments were, yet the assignments did not change. The senior officer's statement will allow a jury to properly infer that the Defendant had a retaliatory animus toward Lt. Kretzmon.

146. After Lt. Kretzmon wrote formal letters of complaint to the Defendant and EEO, Defendant again took an adverse action against Lt. Kretzmon. Defendant's Deputy Superintendant mocked Lt. Kretzmon for being sick from the stress of her workplace. A Jury will properly infer from Lt. Kretzmon's supervisor's comment that the Defendant had a retaliatory animus toward Lt. Kretzmon.

147. After Lt. Kretzmon reported the inappropriate comments of her co-worker, Defendant took adverse action against Lt. Kretzmon, forcing her to work overtime every day for approximately one month.

148. After Lt. Kretzmon filed a complaint with the DHR against the Defendant for the Defendant's disparate treatment of her, Defendant took at least fifteen adverse actions against Lt. Kretzmon.

149. First, Defendant again threatened Lt. Kretzmon that Defendant was going to hold more disciplinary hearings against Lt. Kretzmon for incidents in which hearings had already been held.

150. Second, Defendant again forced Lt. Kretzmon to attend a specious disciplinary hearings for events in which she had acted strictly according to protocol.

151. Third, Chief Reardon switched Lt. Kretzmon's schedule, nullifying work she had developed and inconveniencing her.

152. Fourth, Defendant ordered Lt. Kretzmon to do menial tasks, such as secretarial work, housekeeping, and deputy escort work on top of her already full work schedule, despite the availability of other, junior staff and officers to do the work.

153. Fifth, Defendant continued to make Lt. Kretzmon work double duty.

154. Sixth, Defendant did not allow Lt. Kretzmon to attend training that would have helped her career.

155. Seventh, Defendant's Deputy Superintendent failed to inform Lt. Kretzmon that a meeting had been moved, causing Lt. Kretzmon to miss the first half of the meeting.

156. Eighth, Defendant's Deputy Superintendent then chose to give the meeting notes to a clerk rather than Lt. Kretzmon. Defendant so pervasively and obviously cut Lt. Kretzmon out of the circle of information and administration of her own department that multiple staff commented to Lt. Kretzmon about it. From Lt. Kretzmon's co-workers' comments a jury will properly infer that the Defendant had a retaliatory animus toward Lt. Kretzmon.

157. Ninth, Defendant created a think tank named "Reardon's Raiders" to streamline Lt. Kretzmon's department but did not allow her to participate, despite her experience, rank, and seniority.

158. Tenth, Defendant's employee decapitated a rat and placed it in Lt. Kretzmon's driveway. A subsequent Erie County Holding Center blog posting about Lt. Kretzmon featured a dead rat and was titled with Lt. Kretzmon's initials.

159. Eleventh, though PSD felt that the incident might be witness tampering, Defendant failed to appropriately investigate the incident.

160. Twelfth, when officers placed sexually obscene material in a work binder that Defendant looked through, Defendant failed to investigate or discipline the employees responsible.

161. Thirteenth, Chief Reardon required Lt. Kretzman to do projects at the last minute that required her to stay unexpectedly past her shift, while Chief Reardon simultaneously allowed the Lieutenant on duty to drink coffee and chat in Chief Reardon's office.

162. Fourteenth, Defendant currently allows a blog of the Erie County Holding Center to post a quiz as to whether or not Lt. Kretzman should be fired, and features a photo of a dead rat titled with her initials.

163. Fifteenth, Chief Reardon remains in Lt. Kretzman's chain of command, giving her direct orders.

164. Defendant took adverse actions against Lt. Kretzman after each and every time that she engaged in protected activity. Lt. Kretzman engaged in protected activity at least eleven times, and Defendant responded by taking at least forty-two adverse actions against her.

165. As a result of Defendant's retaliation, Lt. Kretzman experienced a severe deterioration of her health, fear, anxiety, humiliation, shame embarrassment, emotional pain and suffering, and loss of enjoyment of life.

SECOND CAUSE OF ACTION

Breach of Contract

166. Plaintiff repeats each and every allegation set forth herein in paragraphs above as though fully set forth herein.

167. In 2008, Defendant entered into a contract with Lt. Kretzman.

168. In the contract, the Defendant was named "Respondent."

169. Section 2 (a) of the contract stated "Respondent shall guarantee that for the duration of Lt. Kretzman's employment by Respondent, Lt. Kretzman and Michael Reardon, currently holding the position of Chief, will not be assigned to positions placing them in direct chain of command with each other."

170. From February 6, 2009 through the present, Defendant violated the terms of the contract by assigning Chief Michael Reardon to be directly in Lt. Kretzman's chain of command.

171. On page 4 of the settlement contract, the last sentence of Section 2 states that the Defendant would continue to investigate Deputy Doxbeck, who referred to Lt. Kretzman using a sexually explicit and derogatory term. Upon information and belief, Defendant has failed to follow through on its contractual obligation to investigate Deputy Doxbeck.

THIRD CAUSE OF ACTION

Retaliatory Personnel Action by Employer, in Violation of

New York State Labor Law §740

172. Plaintiff repeats each and every allegation set forth herein in the paragraphs above as though fully set forth herein.

173. When an employee discloses to a supervisor or to a public body an activity, policy, or practice of the employer which violation creates and presents a substantial and specific danger to the public health or safety, the employer may not take any retaliatory personnel action against the employee. NY Lab. L. §740(2)(a).

174. On January 19, 2010, Lt. Kretzman disclosed to Defendant's Professional Standards Division that she had discovered that three of the Defendant's employees had been violently abusing an inmate in an attempt to coerce the inmate into informing on other inmates.

175. Defendant's Professional Standards Division is supervisory to Lt. Kretzman.

176. Law enforcement officials' perpetrating repeated, unlawful, violent abuse of an inmate presents a substantial and specific danger to the public health and safety.

177. Defendant took at least 32 retaliatory personnel actions against Lt. Kretzman in response to her disclosing the unlawful abuse.

178. First, the day that three officers she reported were fired, Defendant's Superintendent of the Prison made an announcement in front of her at a staff meeting that they needed to "cover for each other." A jury will properly infer from this event that the Defendant had a retaliatory animus.

179. Second, Defendant allowed Lt. Kretzman's junior officers to be insubordinate to her and to defy direct orders.

180. Third, Defendant threatened Lt. Kretzmon that Defendant was going to hold duplicate disciplinary hearings against Lt. Kretzmon for incidents in which hearings had already been held and concluded.

181. Fourth, Defendant allowed employees to spread rumors about Lt. Kretzmon that damaged her working relationships with fellow officers.

182. Fifth, Defendant permitted an employee to write "Fire Kretzmon" in the lunch room.

183. Sixth, Defendant insufficiently investigated the incident in which someone wrote "Fire Kretzmon" on the wall, and was unable to find employee who had written it.

184. Seventh, Defendant repeatedly made Lt. Kretzmon work double duty.

185. Eighth, Defendant's superior officers, including but not limited to Chief Reardon, continued to repeatedly give her orders through her junior officers, in front of her. From these acts, a jury will properly infer that the Defendant was usurping Lt. Kretzmon's authority and embarrassing her in front of her subordinate officers.

186. Ninth, Defendant's Chief Reardon excluded Lt. Kretzmon from meetings about how her department would be run.

187. Tenth, Defendant reprimanded Lt. Kretzmon for imaginary infractions.

188. Eleventh, Defendant refused to allow Lt. Kretzmon to give input and information about how her department was run, instead allowing only Lt. Kretzmon's junior officers to speak on the subjects.

189. Twelfth, Defendant failed to invite Lt. Kretzmon to meetings in which all other supervisors and officers junior to Lt. Kretzmon in her department met to discuss running the department. Instead, Defendant required Lt. Kretzmon to work overtime and double duty.

190. Thirteenth, Chief Reardon ordered Lt. Kretzmon to sign off on an incident for which she was not present or on duty.

191. Fourteenth, Chief Reardon assigned Lt. Kretzmon to a project then, when Lt. Kretzmon handed it in, he pretended he had not assigned her the project and that she had done the wrong work.

192. Fifteenth, Chief Reardon ordered Lt. Kretzmon's staff to not speak to her, but to speak directly to him.

193. Sixteenth, Chief Reardon assigned an egregiously disparate amount of work to Lt. Kretzmon compared to the other Lieutenants. The unequal distribution of work was so severe that another officer senior to Lt. Kretzmon pointed out to Chief Reardon how unfair the work assignments were, yet the assignments did not change. The senior officer's statement will allow a jury to properly infer that the Defendant had a retaliatory animus toward Lt. Kretzmon.

194. Seventeenth, Defendant's Deputy Superintendent mocked Lt. Kretzmon for being sick from the stress of her workplace. A jury will properly infer from Lt. Kretzmon's supervisor's comment that the Defendant had a retaliatory animus toward Lt. Kretzmon.

195. Eighteenth, Defendant punished Lt. Kretzmon for reporting that another Lieutenant had spoken inappropriately and disrespectfully to her. As punishment, Defendant forced her to work overtime every day for approximately one month.

196. Nineteenth, Defendant again threatened Lt. Kretzmon that Defendant was going to hold more disciplinary hearings against Lt. Kretzmon for incidents in which hearings had already been held.

197. Twentieth, Defendant again forced Lt. Kretzmon to attend a specious disciplinary hearings for event in which she had acted strictly according to protocol.
198. Twenty-first, Chief Reardon switched Lt. Kretzmon's schedule, nullifying work she had developed and inconveniencing her.
199. Twenty-second, Defendant ordered Lt. Kretzmon to do menial tasks, such as secretarial work, housekeeping, and deputy escort work on top of her already full work schedule, despite the availability of other, junior staff and officers to do the work.
200. Twenty-third, Defendant continued to make Lt. Kretzmon work double duty.
201. Twenty-fourth, Defendant did not allow Lt. Kretzmon to attend training that would have helped her career.
202. Twenty-fifth, Defendant's Deputy Superintendent failed to inform Lt. Kretzmon that a meeting had been moved, causing Lt. Kretzmon to miss the first half of the meeting.
203. Twenty-sixth, Defendant's Deputy Superintendent then chose to give the meeting notes to a clerk rather than Lt. Kretzmon. Defendant so pervasively and obviously cut Lt. Kretzmon out of the circle of information and administration of her own department that multiple staff commented to Lt. Kretzmon about it. From Lt. Kretzmon's co-workers' comments a jury will properly infer that the Defendant had a retaliatory animus toward Lt. Kretzmon.
204. Twenty-seventh, Defendant created a think tank named "Reardon's Raiders" to streamline Lt. Kretzmon's department but did not allow her to participate, despite her experience, rank, and seniority.
205. Twenty-eighth, on the day one of the officers who abused an inmate was held to a disciplinary hearing, Defendant's employee decapitated a rat and placed it in Lt.

Kretzman's driveway. A subsequent Erie County Holding Center blog posting about Lt. Kretzman featured a dead rat and was titled with Lt. Kretzman's initials.

206. Twenty-ninth, though the Professional Standards Division felt that the incident might be witness tampering, Defendant failed to appropriately investigate the incident.

207. Thirtieth, when officers placed sexually obscene material in a work binder that Defendant looked through, Defendant failed to investigate or discipline the employees responsible.

208. Thirty-first, Chief Reardon required Lt. Kretzman to do projects at the last minute that required her to stay unexpectedly past her shift, while Chief Reardon simultaneously allowed the Lieutenant on duty to drink coffee and chat in Chief Reardon's office.

209. Thirty-second, Defendant currently allows a blog of the Erie County Holding Center to post a quiz as to whether or not Lt. Kretzman should be fired, and features a photo of a dead rat titled with her initials.

210. As a result of Defendant's retaliation, Lt. Kretzman experienced a severe deterioration of her health, fear, anxiety, humiliation, shame embarrassment, emotional pain and suffering, and loss of enjoyment of life.

FOURTH CAUSE OF ACTION

Retaliation in Violation of New York State Civil Service Law §75-b

211. Plaintiff repeats each and every allegation set forth herein in the paragraphs above as though fully set forth herein.

212. When a public employee discloses to a governmental body information regarding a violation of a law, rule or regulation which violation creates and presents a substantial and specific danger to the public health or safety, the public employer may not take disciplinary or other adverse personnel action against a public employee regarding the employee's employment because of the employee's disclosure. McKinney's Civil Service Law §75-b.
213. Lt. Kretzman is a public employee of the Erie County Sheriff's Department.
214. On January 19, 2010, Lt. Kretzman disclosed to Defendant's Professional Standards Division that she had discovered that three of the Defendant's employees had been violently abusing an inmate in an attempt to coerce the inmate into informing on other inmates.
215. The Defendant's Professional Standards Division is a governmental body.
216. Law enforcement officials' perpetrating repeated, unlawful, violent abuse of an inmate presents a substantial and specific danger to the public health and safety.
217. Defendant took at least 32 disciplinary or adverse personnel actions against Lt. Kretzman in response to her disclosing the unlawful abuse.
218. Lt. Kretzman reasserts the 32 disciplinary or adverse personnel actions described in paragraphs 176 through 207 above.
219. Though typically the employer is required to make a good faith effort to provide the appointing authority information and reasonable time to take appropriate action, the employee is waived from this obligation when there is imminent and serious danger to public health or safety. McKinney's Civil Service Law §75-b.

220. Because Lt. Kretzmon feared for the immediate safety of the inmate, and because Lt. Kretzmon did not know which, if any, of her superior officers, had condoned the abuse, Lt. Kretzmon acted to immediately protect the inmate by jumping her chain of command to report the abuse directly to the Defendant's Professional Standards Division.
221. As a result of Defendant's unlawful discipline and adverse personnel actions, Lt. Kretzmon experienced a severe deterioration of her health, fear, anxiety, humiliation, shame embarrassment, emotional pain and suffering, and loss of enjoyment of life.

FIFTH CAUSE OF ACTION

Deprivation of Constitutional and Legal Rights, in Violation of 42 U.S.C.A. §1983

222. Plaintiff repeats each and every allegation set forth herein in the paragraphs above as though fully set forth herein.
223. Any person who subjects or causes to be subjected, any citizen of the United States to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws shall be liable to the party injured. 42 U.S.C.A. §1983.
224. In bringing a §1983 claim, the Plaintiff must demonstrate that "(1) his speech was constitutionally protected, (2) he suffered an adverse employment decision, and (3) a causal connection exists between his speech and the adverse employment determination against him, so that it can be said that his speech was a motivating factor in the determination." *Morris v. Lindau*, 196 F.3d 102, 110 (2nd Cir. 1999).

225. As to the first element, “Plaintiff’s statements related to actions by others that involved the safety of the public or corruption within the police department” are protected speech.

Moscowitz v. Coscette, 3 Fed. Appx. 1, 4-5 (2nd Cir. 2001).

226. Lt. Kretzmon engaged in a variety of protected speech, as seen above.

227. Most specifically, on January 19, 2010, Lt. Kretzmon disclosed to Defendant’s

Professional Standards Division that she had discovered that three of the Defendant’s employees had been violently abusing an inmate in an attempt to coerce the inmate into informing on other inmates.

228. Lt. Kretzmon’s speech on January 19, 2010 was protected by the First Amendment, and was aimed to protect the Eighth and Fourteenth Amendments of the inmate being abused.

229. As to the second element, an adverse employment action includes “reprimand,” *Morris v.*

Lindau, 196 F.3d 102, 110 (2nd Cir. 1999), and damage to the employee’s “reputation, opportunity for advancement and earning potential,” *Bernheim v. Litt*, 79, F.3d 318, 325 (2nd Cir. 1996) (wherein the employer gave preferential assignments to other staff members, assigned the plaintiff to more onerous, less prestigious positions, required the plaintiff to perform the same amount of work in less time, assigned the plaintiff to less convenient work, criticized the plaintiff’s work, and wrongfully accused the plaintiff of committing work infractions).

230. Lt. Kretzmon reasserts the adverse employment actions outlined above in paragraphs 176 through 207. The more important of these adverse actions are delineated in the paragraphs below.

231. After Lt. Kretzmon reported that Defendant’s officers were abusing an inmate, the

Defendant reprimanded Lt. Kretzmon at least three times regarding an incident for which

the New York State Commission of Corrections found Lt. Kretzmon to have acted in accordance with Defendant's policies and procedures, and for which Defendant had already held a disciplinary hearing against Lt. Kretzmon.

232. Defendant allowed employees to spread rumors about Lt. Kretzmon that damaged her reputation and working relationships with fellow officers.

233. Defendant repeatedly made Lt. Kretzmon work double duty.

234. Defendant's superior officers, including but not limited to Chief Reardon, continued to repeatedly give her orders through her junior officers, in front of her. From these acts, a jury will properly infer that the Defendant was usurping Lt. Kretzmon's authority and embarrassing her in front of her subordinate officers.

235. Defendant's Chief Reardon excluded Lt. Kretzmon from meetings about how her department would be run.

236. Defendant reprimanded Lt. Kretzmon for imaginary infractions.

237. Defendant refused to allow Lt. Kretzmon to give input and information about how her department was run, instead allowing only Lt. Kretzmon's junior officers to speak on the subjects.

238. Defendant failed to invite Lt. Kretzmon to meetings in which all other supervisors and officers junior to Lt. Kretzmon in her department met to discuss running the department. Instead, Defendant required Lt. Kretzmon to work overtime and double duty.

239. Chief Reardon ordered Lt. Kretzmon to sign off on an incident for which she was not present or on duty.

240. Chief Reardon assigned Lt. Kretzmon to a project then, when Lt. Kretzmon handed it in, he pretended he had not assigned her the project and that she had done the wrong work.

241. Chief Reardon ordered Lt. Kretzman's staff to not speak to her, but to speak directly to him.

242. Chief Reardon assigned an egregiously disparate amount of work to Lt. Kretzman compared to the other Lieutenants. The unequal distribution of work was so severe that another officer senior to Lt. Kretzman pointed out to Chief Reardon how unfair the work assignments were, yet the assignments did not change. The senior officer's statement will allow a jury to properly infer that the Defendant had a retaliatory animus toward Lt. Kretzman.

243. After Lt. Kretzman reported the inappropriate comments of her co-worker, Defendant took adverse action against Lt. Kretzman, forcing her to work overtime every day for approximately one month.

244. Defendant again forced Lt. Kretzman to attend a specious disciplinary hearing for event in which she had acted strictly according to protocol.

245. Chief Reardon switched Lt. Kretzman's schedule, nullifying the work she had developed and inconveniencing her.

246. Defendant ordered Lt. Kretzman to do menial tasks, such as secretarial work, housekeeping, and deputy escort work on top of her already full work schedule, despite the availability of other, junior staff and officers to do the work.

247. Defendant did not allow Lt. Kretzman to attend training that would have helped her career.

248. Defendant's Deputy Superintendent failed to inform Lt. Kretzman that a meeting had been moved, causing Lt. Kretzman to miss the first half of the meeting. Defendant's Deputy Superintendent then chose to give the meeting notes to a clerk rather than Lt.

Kretzmon. Defendant so pervasively and obviously cut Lt. Kretzmon out of the circle of information and administration of her own department that multiple staff commented to Lt. Kretzmon about it. From Lt. Kretzmon's co-workers' comments a jury will properly infer that the Defendant had a retaliatory animus toward Lt. Kretzmon.

249. Defendant created a think tank named "Reardon's Raiders" to streamline Lt. Kretzmon's department but did not allow her to participate, despite her experience, rank, and seniority.

250. Defendant's employee decapitated a rat and placed it in Lt. Kretzmon's driveway. A subsequent Erie County Holding Center blog posting about Lt. Kretzmon featured a dead rat and was titled with Lt. Kretzmon's initials. Even though Defendant's Professional Standards Division felt that the incident might be witness tampering, Defendant failed to appropriately investigate the incident.

251. Chief Reardon required Lt. Kretzmon to do projects at the last minute that required her to stay unexpectedly past her shift, while Chief Reardon simultaneously allowed the Lieutenant on duty to drink coffee and chat in Chief Reardon's office.

252. As to the third element of Lt. Kretzmon's claim, the Defendant's Superintendent of the Prison made a statement that demonstrated the Defendant's retaliatory animus and there is temporal proximity between her protected speech and Defendant's subsequent adverse actions.

253. The same day that three officers were fired for abusing an inmate, an offense which Lt. Kretzmon had uncovered and reported, Defendant's Superintendent of the Prison made an announcement in front of her at a staff meeting. Defendant's Superintendent of the Prison stated to Lt. Kretzmon and her colleagues that they needed to "cover for each other." A jury will properly infer from this event that the Defendant had a retaliatory animus. For

the Superintendent of the Prison to say in front of Lieutenant Kretzmon and her colleagues, that they need to “cover for each other,” in the immediate context of three officers being fired because an officer, namely Lt. Kretzmon, had not covered for those officers shows a causal connection to the Defendant’s subsequent adverse actions.

254. Within one month of the Superintendent of the Prison saying that the Defendant’s employees need to “cover for each other,” Defendant took adverse actions against Lt. Kretzmon. Those adverse actions have continued to occur with frequency for the duration of Lt. Kretzmon’s employment.

255. As a result of Defendant’s adverse actions, Lt. Kretzmon experienced a severe deterioration of her health, fear, anxiety, humiliation, shame embarrassment, emotional pain and suffering, and loss of enjoyment of life.

WHEREFORE, Lt. Kretzmon respectfully requests this Court to enter an Order

A. Directing Defendants to remove Chief Michael Reardon from Lt. Kretzmon’s chain of command;

B. Awarding Lt. Kretzmon damages in an amount to be determined at trial;

C. Awarding Lt. Kretzmon reimbursement for the loss of income and benefits, including but not limited to sick time accrued, vacation days lost, and overtime denied, and holiday time denied, she incurred as a result of the stress and anxiety caused by the retaliation she suffered.

D. Directing Defendants pay all unreimbursed medical costs incurred by Lt. Kretzmon as a result of the stress and anxiety resulting from the retaliation she suffered and the

hostile working conditions she endured, including diagnostic analysis, treatment and therapy, and follow up therapy;

E. Directing Defendants pay Lt. Kretzmon the costs of this action, together with reasonable attorneys' fees and disbursements;

F. Directing Defendant's to pay punitive damages for their intentional violation of Lt. Kretzmon's rights.

G. Directing Lt. Kretzmon to have such other and further relief as this Court deems just and equitable.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) Fed. R. Civ. P., Plaintiff hereby demands a trial by jury for all issues triable of right by a jury in this case.

Dated: August 23, 2011

Respectfully submitted,
Plaintiff Jacqueline Kretzmon
by her Attorneys

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