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JEREMY A. COLBY
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

CHRIS COLLINS
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MARTIN A. POLOWY
FIRST ASSISTANT COUNTY ATTORNEY

THOMAS F. KIRKPATRICK, JR.
SECOND ASSISTANT COUNTY ATTORNEY

March 29, 2011

GA

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Gacek, Debra A. vs County of Erie, Erie County Sheriff's Office</i>
Document Received:	Summons and Complaint
Name of Claimant:	Debra A. Gracek 7215 Sweeland Road Derby, New York 14047
Claimant's attorney:	Tasha E. Moore New York State Division of Human Rights - Buffalo 65 Court Street, Suite 506 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

JEREMY A. COLBY
Erie County Attorney

By:


THOMAS F. KIRKPATRICK, JR.
Second Assistant County Attorney

TFK/mow
Enc.

cc: JEREMY A. COLBY, Erie County Attorney

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ANDREW M. CUOMO
GOVERNOR

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BUFFALO REGIONAL OFFICE
BUFFALO REGIONAL OFFICE

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF
HUMAN RIGHTS on the Complaint of

Debra A. Gacek,

Complainant,

v.

County of Erie, Erie County Sheriff's
Office,

Respondent.

VERIFIED COMPLAINT

Pursuant to Executive
law Article 15

Case No.

Federal Charge No.

I, Debra A. Gacek, residing at 7215 Sweetland Road, Derby, NY 14047, charge the above named respondent, whose administrative address is 10 Delaware Avenue Buffalo, NY 14202, with an unlawful discriminatory practice relating to employment in violation of Article 15 of the Executive Law of the State of New York (Human Rights Law) because of sex and opposed discrimination/retaliation.

Date most recent or continuing discrimination took place is 15 February 15, 2011.

The allegations are:

1. I am female and I began working for the Respondent October 12, 1988.
2. Beginning in 2010, with the election of a new Sheriff, Timothy B. Howard, my work situation has become permeated with hostile acts against me based on gender as well as insult and innuendo.

3. On October 6, 2010, I was involved in a small incident over the use of scrap paper. As a result I was moved from my usual work location at the City Court to the Respondent's Holding Center facility (Holding Center) at 40 Delaware Avenue, Buffalo, New York. This was done even though there were no formal disciplinary actions and our CBA specifically provides against such moves. I was told that if I did wish to fight this move I would be disciplined up to and including termination.

4. I remained at the Holding Center facility from October 6, 2010 until December 20, 2010. At that time I was moved back to the county court after I had begged my supervisors for this move.

5. During my time at the county court I discovered that I was not getting overtime. On January 19, 2011 I called Mr. Richard Carr, my union representative, to find out why I was not getting overtime as I did volunteer for it. Mr. Carr told me that I could not get overtime because I could not work at the city court and that was where the overtime was and "too fucking bad." I know this is not true as it has been done before.

6. I asked for the list for overtime at which Mr. Carr said to me, "fuck you - you are not on any overtime list."

7. I called my Lieutenant, Lt. Kibler who said he would check with Mr. Carr and that I should sign up on court list and do overtime at jail. I called Mr. Carr repeated what my lieutenant had said about doing my overtime at the jail, at which Mr. Carr slammed the phone down.

8. I now called Mr. Tom Dietzic regarding issues of discipline and overtime. I met with Mr. Dietzic and we prepared two grievance forms. Mr. Dietzic said he would file these grievances by January 21, 2011. This was not done.

9. On 20 January 2011 I was called to Professional Standards Board. I was questioned about an allegation that I had put out a 'contract' to have Richard Carr murdered.

10. On January 21, 2011 I went to work at county court. I was told to clean out my locker and that I was going back to the Holding Center. This was done in front of co-workers who know that this assignment was not appropriate and that I was being punished.

11. On January 26, 2011 I did go to the Holding Center, my name was not called and I found I was being reassigned to the Alden detention facility. This move cause me to have chest pains to the extent that I had to go to the Emergency Room where I was given meds and told to take off work until January 26, 2011.

12. In this same time period I was also told by Lt. Evans not to speak with Carr because of pending PSB charge.

13. On January 27, 2011 the Respondent generated a letter saying I that the county had opened a case against me for the alleged 'contract' on Mr. Carr. I did not receive this letter until 7 February 2011.

14. After receiving this notification from the Respondent, I called my union representative and I also called Lt. Kibler and Lieutenant Evans about this case because while it was pending, its existence would determine where I worked, I was now at the Alden detention facility. This is known as a high stress job and is perceived as more dangerous than other assignments because of the way inmates are handled.

15. On February 11, 2011 Richard Carr called the Alden detention facility and asked to speak with me. I took the call and Mr. Carr now asked me if I wanted to work overtime. I told the sergeant at the Alden detention facility that he should not have put the call through as he knew I was not supposed to have contact with Mr. Carr until the PSB investigation was finished. The sergeant made light of this and made it clear he did not care about the position he put me in.

16. During this period I received no answers to my questions. In the early morning of February 15, 2011 I called the PSB asking the status of this "hiring a hit man" charge. I was told by Deputy Anthony Giglio that the case was closed and had been for over two weeks.

17. Later on this same day, Chief Joslyn called me later on this same date to notify me that the case was found "inconclusive" and was closed. This is not sufficient as the term "inconclusive" leaves room to believe that the Respondent believes that there might have been some shred of evidence supporting Mr. Carr's outrageous allegation. Worse, the letter said the "case will remain closed unless further incidents are reported to the Office of Professional Standards." This letter could have a very severe negative effect on the balance of my

career with the Respondent and the Respondent is very well aware that this is the case.

18. The Respondent has not engaged in similar disciplinary action against male deputies. In approximately November of 2010, for example Mr. Rick Carr threatened to break a fellow officer's legs and chased the office with broom etc. In this instance the Respondent did nothing to correct Mr. Carr's behavior.

19. On January 29, 2011 Mr. Carr threatened people in an elevator that he would take them out in parking lot. The individuals who were so threatened were officers Mr. Carr believed would support his charge of me hiring a hit man to kill him. These officers did not support this claim as it was not true, and this was Mr. Carr's reaction. Again, no disciplinary action of any kind was taken against Mr. Carr for his threats against fellow officers.

20. Disciplinary actions are not taken against males in general and. For example, in approximately November 2010 Mr. Carr threatened to break a fellow officer's legs and chased the officer with broom. This incident was reported to the Respondent, but no disciplinary action against Mr. Carr was taken. This is typical of how things are done by the Respondent when males are involved.

Based on the foregoing, I charge respondent with an unlawful discriminatory practice relating to employment because of sex and opposed discrimination/retaliation, in violation of the New York State Human Rights Law (Executive Law, Article 15), Section 296.

I also charge the above-named respondent with violating Title VII of the Civil Rights Act of 1964, as amended (covers race, color, creed, national origin, sex relating to employment). I hereby authorize SDHR to accept this verified complaint on behalf of the U.S. Equal Employment Opportunity Commission (EEOC) subject to the statutory limitations contained in the aforementioned law(s).

I have not commenced any other civil action, nor do I have an action pending before any administrative agency, under any state or local law, based upon this same unlawful discriminatory practice.


DEBRA A. GACEK

STATE OF NEW YORK)
COUNTY OF Erie)SS:

DEBRA A. GACEK, being duly sworn, deposes and says: that he/she is the complainant herein; that he/she has read (or had read to him or her) the foregoing complaint and knows the content thereof; that the same is true of his/her own knowledge except as to the matters therein stated on information and belief; and that as to those matters, he/she believes the same to be true.

Debra A. Gacek

DEBRA A. GACEK

Subscribed and sworn to before me this

28th day

of February, 2011

Lindysue Korn

Signature of Notary Public

LINDYSUE KORN
Notary Public, State Of New York
Qualified In Erie County
No. 02KO4700780
My Commission Expires 6/30/20 11