



3.

Decatur County Fire and Rescue (hereinafter, “DCF&R”) is a duly formed and existing agency of the County, exists and operates in the County, is funded by the County, and is a joint tortfeasor with the County, Charlie McCann, Terrell Long, and Kenny King. Accordingly, DCF&R is subject to the jurisdiction and venue of this Court.

4.

Charlie McCann (hereinafter, “McCann”) is a male, over the age of eighteen years, otherwise sui juris, a resident of Decatur County, Georgia, and a joint tortfeasor with the County, DCF&R, Terrell Long, and Kenny King. At all times relevant to this action, McCann was an agent and employee of DCF&R and was and continues to be an agent and employee of the County. Accordingly, McCann is subject to the jurisdiction and venue of this Court.

5.

Terrell Long (hereinafter, “Long”) is a male, over the age of eighteen years, otherwise sui juris, a resident of Decatur County, Georgia, and a joint tortfeasor with the County, DCF&R, McCann, and Kenny King. At all times relevant to this action, Long was an agent and employee of DCF&R and was and continues to be an agent and employee of the County. Accordingly, Long is subject to the jurisdiction and venue of this Court.

6.

Kenny King (hereinafter, “King”) is a male, over the age of eighteen years, otherwise sui juris, a resident of Seminole County, Georgia, and a joint tortfeasor with the County, DCF&R, McCann, and Long. At all times relevant to this action, King was an agent and employee of DCF&R and was and continues to be an agent and employee of the County. Accordingly, King is subject to

the jurisdiction and venue of this Court.

7.

This action is brought pursuant to the Fourteenth Amendment to the United States Constitution (hereinafter, "Fourteenth Amendment"), Article I, Section I, Paragraph II of the Constitution of the State of Georgia, 42 U.S.C. § 1981a, 42 U.S.C. § 1983, 42 U.S.C. § 1988, 29 U.S.C. §§ 201 *et seq.*, as amended ("Fair Labor Standards Act"), 29 U.S.C. §206(d), as amended ("Equal Pay Act"), and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e, *et seq.* ("Title VII"). Accordingly, this Court is vested with original jurisdiction over the claims in this matter pursuant to Article III, Section II of the United States Constitution and pursuant to 28 U.S.C. § 1331 as federal questions arising under the laws of the United States of America. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 in that the Defendants all reside in the United States Middle District of Georgia and all or a substantial part of the events or omissions giving rise to the claim occurred in the United States Middle District of Georgia.

8.

At all times relevant to this action, the County was engaged in an industry affecting commerce and had fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year. Accordingly, the County, and its agencies, including DCF&R, are "employers" for purposes of Title VII.

9.

At all times relevant to this action, DCF&R was engaged in an industry affecting commerce and had fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year or was the agent of one who was engaged in an industry

affecting commerce and which had fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year. Accordingly, DCF&R is an “employer” for purposes of Title VII.

10.

At all times relevant to this action, the County and DCF&R were public agencies. Accordingly, DCF&R is an “employer” for purposes of the Fair Labor Standards Act and the Equal Pay Act.

11.

At all times relevant to this action, McCann was employed by and an agent of the County and DCF&R.

12.

At all times relevant to this action, Long was employed by and an agent of the County and DCF&R.

13.

At all times relevant to this action, King was employed by and an agent of the County and DCF&R.

14.

In 2000, in the course of performing her “student clinicals” with Decatur County Emergency Medical Services (“DCEMS”), Ms. Harrell was taken to DCF&R. While there, in the presence of DCF&R Assistant Chief, McCann, and DCF&R Chief, Billy Griffin (“Griffin”), Ms. Harrell stated that she would one day be working at DCF&R.

15.

McCann, immediately put his fingers in his ears, began making childish noises, and said, "I'm not hearing this."

16.

Griffin declared, "No, there will never be a woman that works out here."

17.

Thereafter, on numerous occasions, Ms. Harrell would discuss with McCann and Griffin her desire to work at DCF&R, but the men would always tell her no woman would ever work there.

18.

In or about January 2002, Ms. Harrell became a full-time, paid emergency medical technician ("EMT") for the County and DCEMS.

19.

In or about September 2003, Ms. Harrell became a Module I Georgia Certified Firefighter.

20.

Prior to and upon completion of her Georgia firefighter certification, Ms. Harrell continued to voice her desire to McCann and Griffin that she be allowed to work at DCF&R.

21.

However, Decatur County and DCF&R had a custom, policy, and practice of not hiring female firefighter applicants.

22.

Decatur County and DCF&R had never hired a female firefighter.

23.

Decatur County and DCF&R refused to allow Ms. Harrell to transfer to DCF&R even though they had open positions and she had qualifications superior to several of the male firefighters at DCF&R.

24.

In or about December 2003, Michelle Lagace became a volunteer firefighter for the County. In or about January 2004, Ms. Lagace filed an application with the County for full-time employment at DCF&R. At the time Ms. Lagace filed her application, the DCF&R had never had a paid female firefighter.

25.

Subsequent thereto, two paid, full-time firefighter positions became available at DCF&R, and Ms. Lagace renewed her request for such a position.

26.

Griffin, who was then Chief of DCF&R, voiced the County's custom, policy, and practice that DCF&R would not employ any female firefighters at the DCF&R.

27.

The positions were neither posted nor advertised, as the County and DCF&R had a custom, policy, and practice of not posting or advertising open positions. See Decatur County Grand Jury Presentments, Superior Court of Decatur County, November Term 2004 (*"Grand Jury Report"*) (the pertinent portions of which are attached hereto as Exhibit "A"). The Grand Jury declared that: "By sworn testimony of the county administrator, positions within the county are not advertised, but word-of-mouth is used as notice of jobs available." *Grand Jury Report*, "Employee Job

Descriptions/Evaluations/Hiring.”

28.

The positions were neither posted nor advertised, as the County and DCF&R had a custom, policy, and practice of not posting or advertising open positions so that they could utilize such nefarious and discriminatory bases as they might desire in hiring and promotions. Those nefarious and discriminatory bases and practices included, but were not limited to, restricting applicant pools and candidates to the male gender, and therefore denying jobs to females.

29.

The County and DCF&R did not post or advertise a written job description or position qualifications, as the County and DCF&R had a custom, policy, and practice of not posting or advertising written job descriptions or position qualifications. *See Grand Jury Report*. The Grand Jury declared that: “[I]t is clear that no uniform requirement for job descriptions exist in the county.” *Grand Jury Report*, “Employee Job Descriptions/Evaluations/Hiring.”

30.

The County utilized its custom, policy, and practice of not posting or advertising a written job description or position qualifications for County jobs so that the County and its agencies and agents, including DCF&R, Griffin, and McCann could utilize such nefarious and discriminatory bases as they might desire in hiring and promotions. Those nefarious and discriminatory bases and practices included, but were not limited to, restricting applicant pools and candidates to the male gender, utilizing any after-the-fact or after-acquired evidence to justify discriminatory practices, and denying jobs and promotions on the basis of gender.

31.

In or about April 2004, Ms. Lagace inquired of Griffin as to the open positions. Griffin told her she had an application on file and assured her she would be considered for the two open positions. Outside the presence of Ms. Lagace, however, Griffin reiterated his position that no woman would ever work at DCF&R. Griffin also referred to Ms. Lagace as a “bitch,” “slut,” and “whore.”

32.

Ms. Lagace was clearly, by every legitimate objective and subjective standard, far superior in qualifications as a firefighter to all other applicants for the open positions. Despite Ms. Lagace’s incontrovertibly superior qualifications, the Defendants hired two males, Darryl Smiley and Lindsey Grant, for the positions. Smiley and Grant were imminently less qualified than Ms. Lagace.

33.

Smiley listed on his application three prior employment references with associated telephone numbers, and three other references with associated telephone numbers. Consistent with their custom, policy, and practice, the Defendants did not contact any of Mr. Smiley’s references.

34.

Grant listed on his application two prior employment references with associated telephone numbers and three other references with a telephone number for one of the references. Consistent with their custom, policy, and practice, the Defendants did not contact any of Mr. Grant’s references.

35.

The County and DCF&R had a custom, policy, and practice of not contacting or checking background references except on those applicants that they did not want to hire, so that the County

and DCF&R could utilize such nefarious and discriminatory bases as they might desire in hiring and promotions. Those nefarious and discriminatory bases and practices included, but were not limited to, restricting applicant and candidate pools to certain genders, and denying jobs and promotions on the basis of gender.

36.

Ms. Lagace listed on her application five prior employment references with associated telephone numbers.

37.

Prior to her non-hire in lieu of Grant and Smiley, and during the time Ms. Lagace served as a volunteer firefighter and trainer for three volunteer fire departments, the County and DCF&R did not perform any background checks on Ms. Lagace or contact any of her references.

38.

Prior to her non-hire in lieu of Grant and Smiley, the County and DCF&R did not perform background checks on Ms. Lagace or contact her references but, as set forth below, did so later to cover their intentional and illegal discrimination of not hiring Ms. Lagace on the basis of her gender. *See Firefighter Affidavits (Exhibits "B" through "E", attached hereto).*

39.

Alternatively, Plaintiff contends that if any background checks were performed by or on behalf of the County and DCF&R prior to Ms. Lagace's non-hire in lieu of Grant and Smiley, same were done for the purpose of developing a pretext for their intentional and illegal discrimination of not hiring Ms. Lagace on the basis of her gender.

40.

At or about the time the County and DCF&R refused to hire Ms. Lagace on the basis of her gender, Griffin commented that since he had hired Smiley and Grant he could tell Ms. Lagace the positions were already filled.

41.

At the time of her non-hire, Ms. Lagace notified the County and the DCF&R she believed she had been the victim of unlawful employment discrimination in the hiring of Mr. Grant and Mr. Smiley.

42.

At all times subsequent to her non-hire, the County, DCF&R, and their agents and employees, including but not limited to, the County's Commissioners and its officials James Bramblett ("Bramblett"), William Hogan ("Hogan"), Griffin, McCann, and County Attorney, Brown Moseley ("Moseley"), were on notice that Ms. Lagace intended to file a complaint with the Equal Employment Opportunity Commission ("EEOC") and a civil action regarding her being the victim of unlawful employment discrimination in the hiring of Mr. Grant and Mr. Smiley.

43.

Upon learning that Ms. Lagace opposed their discriminatory practices in their refusal to hire her, the County, DCF&R, and their agents and employees, including but not limited to, the County's Commissioners, Bramblett, Hogan, Griffin, McCann, and Moseley, began soliciting and coercing from County and DCF&R employees and volunteer firefighters negative statements relating to Ms. Lagace.

44.

Persons who refused to give such negative statements were threatened by the County, DCF&R, and their agents and employees, including but not limited to, the County's Commissioners, Bramblett, Hogan, Griffin, McCann, and Moseley, with adverse employment action or loss of volunteer firefighter status, as the case may be.

45.

The solicitation and coercion of said adverse statements, and the threats toward those who refused to provide such statements, was an attempt to thwart any investigation by the EEOC of the aforesated discriminatory practices, an attempt to cover up said discriminatory practices, and retaliation against and punishment of Ms. Lagace and her witnesses for opposing the unconstitutional practices and those practices made unlawful under Title VII.

46.

Upon learning that Ms. Lagace opposed their discriminatory practices manifested in their refusal to hire her, the County, DCF&R, and their agents and employees, including but not limited to, the County's Commissioners, Bramblett, Hogan, Griffin, McCann, and Moseley, warned County and DCF&R employees, that they were to refuse to speak to or socialize with Ms. Lagace.

47.

Persons who refused the unlawful command that they neither speak to nor socialize with Ms. Lagace were threatened with adverse employment action or loss of volunteer firefighter status, as the case may be.

48.

The unlawful command that employees and volunteers neither speak to nor socialize with

Ms. Lagace, and the threats toward those who refused to obey the unlawful mandate, were an attempt to thwart any investigation by the EEOC of the aforesaid discriminatory practices, an attempt to cover up said discriminatory practices, and retaliation against and punishment of Ms. Lagace and her witnesses for opposing the unconstitutional practices and those practices made unlawful under Title VII.

49.

On or about October 8, 2004, Ms. Lagace filed her complaint with the EEOC, alleging the County and DCF&R refused to hire her on the basis of her gender. On or about November 5, 2004, Ms. Lagace filed her second complaint with the EEOC, alleging the County and DCF&R refused to hire her on the basis of her gender and that the County and DCF&R had retaliated against her, in violation of, *inter alia*, Title VII.

50.

As more specifically set forth below, the County and DCF&R, through their attorney and agent, Moseley, filed false and misleading documents with the EEOC denying they had discriminated against Ms. Lagace on the basis of her gender.

51.

By letter dated February 24, 2005, from Moseley to Fred Holloway of the EEOC, the County and DCF&R set forth their official response (hereinafter “Official Response”) to Ms. Lagace’s claims set forth in her January 3, 2005, and February 15, 2005, Charges of Discrimination filed with the EEOC.

52.

The Official Response stated only one reason for the non-hire of Ms. Lagace: “Claimant does

not meet the qualifications for the employment sought as required by O.C.G.A. 25-4-8.”

53.

At the time of her non-hire by the County and DCF&R in September 2004, Ms. Lagace met the qualifications of O.C.G.A. § 25-4-8.

54.

At the time of her non-hire by the County and DCF&R in January 2005, Ms. Lagace met the qualifications of O.C.G.A. § 25-4-8.

55.

The Official Response falsely claimed Ms. Lagace was not qualified for the positions because she was a certified firefighter in North Carolina, but not in Georgia. Contrary to the Official Response, however, neither Smiley, Grant, nor Casey Chapman, who was hired in lieu of Ms. Lagace and Ms. Harrell in January 2005, were certified in Georgia or in any other state. Ms. Lagace was imminently more qualified than any of the men hired for the positions. In addition to the foregoing, Ms. Lagace was a volunteer firefighter for the County, and at the time of Chapman’s hire, a paid firefighter for the City of Camilla, Georgia. Ms. Lagace had incontrovertibly proven her ability to competently fight fires and perform the other duties required of firefighters. None of the men had the firefighting experience of Ms. Lagace and, indeed, they had little or no experience at all.

56.

Accordingly, by reply to the EEOC dated March 4, 2005, Ms. Lagace successfully rebutted the Official Response.

57.

Realizing the folly of their Official Response, and realizing that it had been successfully

refuted by the March 4, 2005 reply, the County and DCF&R completely changed their official position by filing a rebuttal of their own Official Response (hereinafter, “Completely Changed Official Response”) with the EEOC on April 27, 2005.

58.

In their Completely Changed Official Response, the County and DCF&R for the first time, at least seven months after their discrimination against Ms. Lagace and refusal to hire her for firefighter positions for which she was imminently qualified, claimed the “real” reason for not hiring Ms. Lagace was negative references from two prior employers.

59.

In their Completely Changed Official Response, the County and DCF&R for the first time, two months after swearing to the EEOC that the only reason Ms. Lagace was not hired was because she lacked the requisite credentials pursuant to O.C.G.A. § 25-4-8, claimed the “real” reason for not hiring Ms. Lagace was negative references from two prior employers.

60.

The Completely Changed Official Response was the first time that the County and DCF&R contended that Ms. Lagace’s non-hire was on the basis of unfavorable employment references.

61.

The Completely Changed Official Response was the first written contention by anyone that Ms. Lagace’s non-hire was on the basis of unfavorable employment references.

62.

Contrary to the Completely Changed Official Response, at the time it was filed there was nothing in Ms. Lagace’s personnel file maintained by the County and DCF&R that made any

reference to or allegation of the non-hire of Ms. Lagace due to adverse employment references.

63.

Contrary to the Completely Changed Official Response, at the time it was filed there was nothing in any correspondence that referenced or alleged the non-hire of Ms. Lagace was due to adverse employment references.

64.

In their Completely Changed Official Response, the County and DCF&R “acknowledge[d] that Ms. Lagace has the required credentials for a firefighter.” Thus, the County and DCF&R set up irreconcilable, contrary positions by asserting in the Official Response that the only reason Ms. Lagace was not hired was lack of necessary credentials pursuant to O.C.G.A. § 25-4-8, then admitting in the Completely Changed Official Response that Ms. Lagace did meet the requirements of O.C.G.A. § 25-4-8, and that their real reason for not hiring her was adverse employment references.

65.

The County has admitted through the sworn trial testimony of its Vice-Chair, Earl Perry, that Moseley’s declaration to the EEOC in the Official Response was a lie.

66.

The County and DCF&R did not perform employment reference checks on Smiley, Grant, or Chapman.

67.

The County and DCF&R did not perform employment reference checks on Ms. Lagace prior to her non-hire in lieu of Smiley and Grant.

68.

Purported employment reference checks were performed on Ms. Lagace only as a subterfuge for the County's and DCF&R's intentional gender discrimination.

69.

Documents were created by Decatur County and DCF&R listing falsified background checks and notes relating to the character of Ms. Lagace. The documents were created for the purpose of lying to and misleading the EEOC, this Court, and Ms. Lagace's counsel.

70.

The County and DCF&R, through their attorney and agent, Donald Cronin, admitted in a trial in April 2009 in the United States District Court for the Middle District of Georgia, that despite their earlier denial to the EEOC of unlawful discrimination against Ms. Lagace, she had indeed been discriminated against by the County and DCF&R on the basis of, among other things, her gender.

71.

The County and DCF&R, through their attorney and agent, Moseley, lied to the EEOC when they denied they had engaged in unlawful discrimination against Ms. Lagace.

72.

The County and DCF&R, through their attorney and agent, Moseley, filed documentation with the EEOC that had been falsified in an attempt to cover up the unlawful discrimination against Ms. Lagace.

73.

The County and DCF&R, through their attorney and agent, Moseley, admitted in a trial April 2009 in the United States District Court for the Middle District of Georgia, that documentation filed

by them with the EEOC had been falsified.

74.

Indeed, according to Moseley's sworn testimony in said trial, the falsification of the documents was the impetus for the County having to settle Ms. Lagace's claims against the County for \$175,000.00.

75.

The County and DCF&R, through their attorney and agent, Moseley, were lying to and intentionally attempting to mislead the EEOC when they filed falsified documentation in support of their denial to the EEOC they had engaged in unlawful discrimination against Ms. Lagace.

76.

After their hire by the County, Smiley and Grant took the written portion of the required Georgia firefighter certification exam. Neither Smiley nor Grant could pass the exam.

77.

After several unsuccessful attempts to pass the firefighter certification exam, Smiley and Grant were accompanied to the exam on or about April 28, 2005, by Chapman.

78.

Smiley and Grant copied the exam answers of Chapman. By thus cheating, Smiley and Grant were able to post a "passing" score on the exam.

79.

Smiley and Grant admitted to their fellow firefighters that they had cheated.

80.

It was brought to the attention of Griffin and McCann by other DCF&R firefighters that

Smiley and Grant had admitted cheating on the firefighter certification exam.

81.

In response to the information, Griffin simply made a comment to the effect that: “At least they passed.”

82.

Griffin and McCann ratified the cheating of Smiley and Grant by failing to report the cheating and by failing to take any disciplinary action toward the men.

83.

Griffin and McCann further ratified the cheating of Smiley and Grant by accepting, for DCF&R’s purposes, the results of the examination on which the men had cheated.

84.

Griffin and McCann further ratified the cheating of Smiley and Grant by accepting, for purposes of the mandatory certification requirements of O.C.G.A. § 25-4-8, the results of the examination on which the men had cheated.

85.

In or about May 2005, seven of the paid DCF&R firefighters signed and submitted a letter (Exhibit “F” hereto) to the County’s commissioners, setting forth the cheating incident and Griffin’s failure to take appropriate action.

86.

The County investigated the cheating incident, and allegedly investigated Ms. Lagace’s discrimination complaints as well. To reward Griffin for his wrongdoing concerning Ms. Lagace and his enforcement of the County’s custom, policy, and practice of discriminating against females

who desired employment at DCF&R, the County created a new position for Griffin with less responsibility, but the same pay and benefits.

87.

Griffin's and McCann's efforts in covering up the cheating incident were designed to conceal the obvious fact that neither Grant nor Smiley had been qualified applicants for the firefighter positions and that Ms. Lagace was the only truly qualified candidate.

88.

The County's efforts in creating a new, highly compensated position for Griffin, was designed to reward Griffin for attempting to conceal the obvious fact that neither Grant nor Smiley had been qualified applicants for the firefighter positions and that Ms. Lagace was the only truly qualified candidate.

89.

Four of the firefighters who signed the letter, and who had been vocal in support of Ms. Lagace, including the making of the Firefighter Affidavits attached hereto as Exhibits B - E, were disciplined. The discipline included suspension from work without pay, disciplinary records in their employment file, and threats of further retaliation unless they learned to "play ball" and support or overlook the County's and DCF&R's wrongdoing.

90.

On August 10, 2005, Bernice-Williams Kimbrough, Director of the Atlanta EEOC District Office, issued a Reasonable Cause Determination (Exhibit "G" hereto), finding that the evidence supported a violation of Title VII as alleged by Ms. Lagace in her Charges of Discrimination.

91.

An EEOC Conciliation was held in Atlanta, Georgia on August 25, 2005. Moseley attended on behalf of the County and DCF&R.

92.

The Conciliation was unsuccessful, and Moseley was notified by Ms. Lagace's counsel that a lawsuit would be filed on her EEOC claims.

93.

Knowing that a lawsuit was imminent that would allege, among other things, gender discrimination and retaliation, the County and DCF&R determined that a good litigation strategy would be to hire a female so they could attempt to mislead this Court and a jury by representing they were willing to hire females.

94.

Moseley, the County, and DCF&R still maintained that females did not belong in the fire service, and were going to hire a female only to assist their litigation efforts.

95.

The County and DCF&R reasoned that they could bring in a female to assist their litigation efforts as aforesaid, but that they did not have to keep her once the reason for her hire – Lagace's litigation – no longer existed. As soon as Ms. Lagace's litigation was resolved, the County and DCF&R would look for grounds upon which to show that women did not belong in the fire services, and more specifically did not and would not belong at DCF&R.

96.

The County and DCF&R determined that their sacrificial victim would be Cindy Harrell.

97.

As noted above, Ms. Harrell had been requesting since 2000 a transfer from DCEMS to DCF&R, but McCann, Griffin, the County, and DCF&R had refused.

98.

In addition to refusing to hire Ms. Lagace for the positions that were filled by Smiley and Grant, the County and DCF&R had refused to allow Ms. Harrell to transfer to DCF&R.

99.

Ms. Harrell was clearly, by every legitimate objective and subjective standard, far superior in qualifications as a firefighter to Smiley and Grant. Smiley and Grant were imminently less qualified than Ms. Harrell.

100.

At the time of their hire by DCF&R, neither Smiley nor Grant were certified firefighters.

101.

At the time of the hire by DCF&R of Smiley and Grant, Ms. Harrell was a certified firefighter.

102.

At the time of their hire by DCF&R, neither Smiley nor Grant were certified EMTs.

103.

At the time of the hire by DCF&R of Smiley and Grant, Ms. Harrell was a certified EMT.

104.

The County and DCF&R's refusal to allow Ms. Harrell to transfer to DCF&R was part and parcel of, and a continuation of, the County and DCF&R's custom, policy, and practice of refusing

to allow females to work as paid firefighters at DCF&R.

105.

As with Ms. Harrell, the County's and DCF&R's refusal to hire Ms. Lagace was part and parcel of, and a continuation of, the County and DCF&R's custom, policy, and practice of refusing to allow females to work as paid firefighters at DCF&R.

106.

Indeed, the County's attorney, Moseley, voiced the opinion that women did not belong in jobs such as firefighting.

107.

Moseley voiced the opinion in his capacity as agent and attorney for the County and DCF&R.

108.

The County and DCF&R have, by the conduct and speech of their elected and appointed officials, adopted and ratified as their own the said comments made by Moseley.

109.

In or about January 2005, the County and DCF&R filled a paid DCF&R firefighter position by the hiring of Chapman, a male. In keeping with the County's and DCF&R's custom, policy, and practice, the position was neither advertised nor posted.

110.

Despite having Ms. Lagace's application and supporting documentation, and despite knowing Ms. Lagace desired to be hired as a paid firefighter with the DCF&R, the County and DCF&R refused, on the basis of her gender to consider Ms. Lagace for employment. Ms. Lagace was clearly, by every legitimate objective and subjective standard, far superior in qualifications as a firefighter

to all other applicants for the position filled in January 2005.

111.

The County and DCF&R's refusal to hire Ms. Lagace was part and parcel of, and a continuation of, the County and DCF&R's custom, policy, and practice of refusing to allow females to work as paid firefighters at DCF&R.

112.

Despite Ms. Harrell's repeated requests to be transferred to DCF&R, McCann, Griffin, the County and DCF&R refused, on the basis of her gender to consider Ms. Harrell for employment at DCF&R. Ms. Harrell was clearly, by every legitimate objective and subjective standard, far superior in qualifications as a firefighter to all other applicants for the position filled in January 2005.

113.

The County and DCF&R's refusal to allow Ms. Harrell to transfer to DCF&R was part and parcel of, and a continuation of, the County and DCF&R's custom, policy, and practice of refusing to allow females to work as paid firefighters at DCF&R.

114.

In or about September 2005, however, within two weeks of the failure of Ms. Lagace's EEOC conciliation, Ms. Harrell was asked by DCF&R Chief Griffin to transfer from DCEMS to DCF&R.

115.

In or about September 2005, within two weeks of the failure of Ms. Lagace's EEOC conciliation, Ms. Harrell became a full-time, paid firefighter for the County and DCF&R.

116.

At the time Ms. Harrell was transferred to DCF&R, she was the only female paid firefighter out of at least fifteen paid Decatur County and DCF&R firefighters.

117.

At the time Ms. Harrell was transferred to DCF&R, she was the only female paid firefighter ever at DCF&R.

118.

Prior to the hire of Ms. Harrell, Decatur County and DCF&R had a custom, policy, and practice of not hiring female firefighter applicants.

119.

Ms. Harrell, who had been the subject of gender discrimination in originally being denied a transfer to DCF&R, was again the subject of gender discrimination when she was finally given the transfer to DCF&R.

120.

McCann told Ms. Harrell the transfer would be a lateral move in terms of pay and benefits, and she would be credited in terms of pay with the years she had served as a County employee.

121.

After Ms. Harrell accepted McCann's request that she transfer to DCF&R, she was told her pay was being cut.

122.

Ms. Harrell was informed by McCann she could not be paid at DCF&R her prior rate of pay as a County employee, because it would "make some of the men [at DCF&R] mad."

123.

Ms. Harrell's rate of pay at DCF&R was lower than for men who had been employed for a shorter period with the County.

124.

Ms. Harrell's rate of pay at DCF&R was lower than for men who only had a firefighter certification, but did not – as did Ms. Harrell – have an EMT certification.

125.

The County and DCF&R had no legitimate, non-discriminatory business reason for paying Ms. Harrell a lower salary than she had made at DCEMS.

126.

The County and DCF&R had no legitimate, non-discriminatory business reason for paying Ms. Harrell a lower salary than males at DCF&R who had less seniority as County employees.

127.

The County and DCF&R had no legitimate, non-discriminatory business reason for paying Ms. Harrell a lower salary than males at DCF&R who had inferior credentials to Ms. Harrell.

128.

The County and DCF&R had no legitimate, non-discriminatory business reason for paying Ms. Harrell a lower salary than similarly situated males at DCF&R.

129.

Ms. Harrell was paid less than she was paid at DCEMS throughout the course of her employment with DCF&R.

130.

Throughout her employment with DCF&R, Ms. Harrell was paid less than males performing the same job responsibilities but who had less seniority with the County than did Ms. Harrell.

131.

Throughout her employment with DCF&R, Ms. Harrell was paid less than males performing the same job responsibilities but who had inferior credentials to Ms. Harrell.

132.

Throughout her employment with DCF&R, Ms. Harrell was paid less than similarly situated males performing the same job responsibilities

133.

Starting with Ms. Harrell's first day of duty as a firefighter of the County and DCF&R, Ms. Harrell was shown in the strongest of terms that because of her gender she would be treated in a humiliating and degrading fashion by her male co-workers.

134.

Starting with Ms. Harrell's first day as a firefighter of the County and DCF&R, Ms. Harrell was shown in the strongest of terms her male co-workers would be allowed to humiliate and degrade her on the basis of her gender without fear of discipline.

135.

Ms. Harrell was assigned to a shift led by Captain Kenny King.

136.

King had been promoted to Captain despite having had more disciplinary write-ups than the rest of DCF&R's employees combined.

137.

King's promotion came after he was not allowed to join a lawsuit against the County and DCF&R for retaliation to the other three firefighters who had supported Ms. Lagace on her EEOC charges.

138.

King, feeling the sting of rejection, took a strong stance against the three men and his promotion soon followed.

139.

Also on Ms. Harrell's shift was Long, who had pled guilty to sexual misconduct with the 15-year-old daughter of his live-in girlfriend.

140.

Long had originally been charged with first degree rape, but entered a plea deal to the sexual misconduct charge.

141.

He was still on probation for the offense when he was hired by DCF&R. Long discussed his conviction and probation with Griffin and McCann at the time of his hire. Thus, Long's sexual misconduct conviction was at all times known to the County.

142.

Despite knowing Long was on probation in Alabama for sexual misconduct with a minor, McCann signed off on a certification for the State of Georgia declaring that Long was of "good moral character."

143.

McCann has given sworn deposition testimony during which he testified he does not think that Long's having been engaged in sexual misconduct with a minor indicates Long is of bad moral character.

144.

In keeping with the County's and DCF&R's custom, policy, and practice of discriminating against females who might desire to work at DCF&R, Ms. Harrell's first day of work at DCF&R may rival any ever recorded in the history of Title VII jurisprudence.

145.

On Ms. Harrell's first day, all DCF&R employees were made to attend diversity training, which included training related to sexual harassment.

146.

The employees were warned against engaging in such conduct.

147.

DCF&R supervisors, including King, were told the training constituted their only warning, and that they would be terminated if they engaged in or allowed any inappropriate harassment or discriminatory conduct.

148.

Immediately upon the return to the station of Ms. Harrell and her shiftmates, King, Long, and other of the male firefighters presented Ms. Harrell with her new firefighter "uniform," which was a pair of short-shorts with a hole cut out in the crotch area, and a cut-off top with holes cut out in the breast areas.

149.

The presentation was made in the presence of the other shift personnel and other persons who had come into the station.

150.

Ms. Harrell was told by King, Long, and the others that she should wear her new “uniform.”

151.

None of the men engaging in the unlawful and improper sexually harassing misconduct were ever disciplined for the incident.

152.

In addition, throughout the course of her employment with the County and DCF&R, Ms. Harrell was the victim of constant and continuous sexual harassment, being subjected to such conduct as lewd and lascivious remarks, requests for sexual favors, and unwanted physical touching of a sexual nature by her male counterparts.

153.

Ms. Harrell’s co-workers, including Long and Ms. Harrell’s immediate supervisor, King, were the perpetrators of the sexual and harassing conduct.

154.

Ms. Harrell was subjected to egregious conduct which included, but was not limited to, Long hiding under her bed at night while she was in it, walking in on her in the shower, and soliciting sex from her.

155.

Long sent sexually explicit texts to Ms. Harrell, including the following one night when she

was in bed: “Have you ever been with a black man before? Would you do it? How would my black face look between your white thighs?”

156.

On one occasion, Long and King put a CD in Ms. Harrell’s vehicle. The CD contained a recording of the song, “Pretty Pussy.” The lyrics, which are unbelievably obscene, contain lines such as:

You got the pretty pussy lips I’ve ever seen, if I want to eat you, I can eat you cause your pussy clean. . . . I better snap out of this shit, or I’ma do the wrong thang, I wanna fuck you raw, that pussy is like everything. . . . That pussy smell like water, ain’t no smell in it, a clean muhfucka she run to the shower when we finish, little mama got a snapper, pussy be bite’n while I’m in it . . . .

157.

King, Ms. Harrell’s supervisor, would go into her bedroom and awaken her in the mornings by rubbing her buttocks and saying, “Get up, darling.”

158.

King made obscene remarks of a sexual nature to Ms. Harrell at wreck scenes while victims were being rescued or transported for treatment.

159.

McCann was a witness to some of the conduct and the other conduct was reported to him.

160.

McCann flatly refused to take any action reasonably designed to stop the offensive, unlawful conduct of King, Long, and the other firefighters.

161.

Ms. Harrell complained about the sexual harassment to her supervisor King, who refused to

take any corrective actions, and instead, she became the victim of retaliation by King and her co-workers as a result of her opposition to their unconstitutional and unlawful practices.

162.

When Ms. Harrell complained of her mistreatment and the harassment, she was subject to retaliation by King, including his falsely writing her up for being tardy, and treating her differently for disciplinary purposes than the male DCF&R employees.

163.

McCann again failed and refused to take action against King or to otherwise address the improper sexually harassing misconduct.

164.

McCann again failed and refused to take action against King or to otherwise address the retaliatory actions made against Ms. Harrell for her exercise of her statutorily and constitutionally protected complaints.

165.

Ms. Harrell complained about the sexual harassment to the County's Human Resources Director, Marjorie Mayfield, who refused to take any corrective actions.

166.

Ms. Harrell complained about the sexual harassment to the County's Administrator, Tom Patton, who refused to take any corrective actions.

167.

It was only after Ms. Harrell threatened to involve the EEOC that the County took the only action it has ever taken against King and Long in these matters. King received a written warning,

and Long received a verbal warning stating he would receive a written warning if he repeated the conduct.

168.

The County's lack of action is inexcusable.

169.

In light of Long's conviction and his sexual misconduct on County computers, the County's inaction is reprehensible.

170.

Long admitted under oath to engaging in sex chats on a County computer at DCF&R on County time.

171.

In one of the chats, Long was in a discussion with a person who identified herself as a 15-year-old female. The person had a camera that would stream pictures through her computer and Long continually asked her to show him her "boobs." Long's sex chats took place during the time he was still on probation for the sexual misconduct (with a minor) charge from Alabama.

172.

Despite knowing the danger presented by Long, a convicted sex offender, King, McCann, Mayfield, Patton, Moseley, and other County officials who had the authority to take proper corrective action failed and refused to take such actions.

173.

King, McCann, Mayfield, Patton, Moseley, and the other County officials who had the authority to take proper corrective action failed and refused to take such actions to protect Ms.

Harrell, failed and refused to protect her even after the July 9, 2007 deposition of Long in which he admitted he has solicited sex from Ms. Harrell, engaged in sex chats on County computers on County time, and had engaged in other sexual misconduct toward Ms. Harrell.

174.

King, McCann, Mayfield, Patton, Moseley, and the other County officials who had the authority to take proper corrective action failed and refused to take such actions to protect Ms. Harrell, failed and refused to protect her even after the July 31, 2007 deposition of McCann in which he admitted knowing that: King had made inappropriate joking toward Ms. Harrell; King had run Ms. Harrell's panties up the flagpole; Long was a convicted child molester; and King had more disciplinary reprimands than anyone else at DCF&R.

175.

King, McCann, Mayfield, Patton, Moseley, and the other County officials who had the authority to take proper corrective action failed and refused to take such actions to protect Ms. Harrell, failed and refused to protect her even after the July 31, 2007 deposition of DCF&R employee, Tony Nix, in which he admitted he: knew Long engaged in sex chats on County computers on County time; heard King make inappropriate sexual remark to Ms. Harrell at a wreck scene; knew King had run Ms. Harrell's panties up the flagpole; and heard Long and Chapman joking about Ms. Harrell being given the "uniform" on her first day on the job.

176.

King, McCann, Mayfield, Patton, Moseley, and the other County officials who had the authority to take proper corrective action failed and refused to take such actions to protect Ms. Harrell, failed and refused to protect her even after the August 17, 2007 deposition of DCF&R

employee, Gerald Hatcher, in which he admitted he: had observed inappropriate sexual behavior and speech toward Ms. Harrell at DCF&R; had observed King engage in inappropriate sexual speech and behavior toward Ms. Harrell at DCF&R; observed King hugging on Ms. Harrell; and heard about King running Ms. Harrell's panties up the flagpole.

177.

King, McCann, Mayfield, Patton, Moseley, and the other County officials who had the authority to take proper corrective action failed and refused to take such actions to protect Ms. Harrell were carrying out the County's custom, practice, and policy of discrimination against females in the fire services.

178.

King, McCann, Mayfield, Patton, Moseley, and the other County officials who had the authority to take proper corrective action failed and refused to take such actions to protect Ms. Harrell were carrying out the County's custom, practice, and policy of discrimination against females in the fire services, and were attempting to make conditions at DCF&R so intolerable that Ms. Harrell would be forced to quit her employment.

179.

On or about November 3, 2006, Ms. Harrell filed her Charge of Discrimination with the EEOC, alleging the Defendants sexually harassed her, permitted the employees of Decatur County and DCF&R to sexually harass her, and discriminated against her in violation of the Equal Pay Act of 1963, as amended, on the basis of her gender. Ms. Harrell, by her signature, swore that the information provided to the EEOC was true and correct to the best of her knowledge.

180.

Ms. Harrell requested a transfer back to DCEMS, but Patton, Mayfield, Hogan, McCann, and the County refused her request in retaliation for her having filed a Charge of Discrimination with the EEOC.

181.

Ultimately, conditions at DCF&R became so intolerable, and the County's lack of corrective and remedial actions so lacking, that Ms. Harrell was constructively discharged on October 26, 2007.

182.

The harassment and retaliation toward Ms. Harrell was not limited to the workplace. Beth Yarbrough is an employee of the Decatur County, Georgia, School System, and good friends and work subordinate of Susan Moseley, wife of County Attorney, Moseley. Ms. Yarbrough has harassed Ms. Harrell's child during school hours and on school property.

183.

On information and belief, Ms. Yarbrough's harassment is directly related to, and a result of Moseley's involvement in these matters.

184.

On information and belief, Ms. Yarbrough's harassment is directly related to, and a result of Ms. Harrell's filing of a Charge of Discrimination with the EEOC.

185.

In addition, Palmer Rich, Chair of the Decatur County Commission, recently went into Ms. Harrell's place of business and conducted a juvenile and boisterous rant against Ms. Harrell, designed to harass and humiliate Ms. Harrell, and to cause her to lose her employment.

186.

Rich's malicious and childish actions were directly related to and in retaliation for Ms. Harrell's filing of her Charge of Discrimination with the EEOC and her exercise of statutory and constitutional rights.

187.

Rich's malicious and childish actions were directly related to and in retaliation for Ms. Harrell's filing of her Charge of Discrimination with the EEOC and her exercise of statutory and constitutional rights.

188.

On June 17, 2009, Ms. Harrell received from the United States Department of Justice a right to institute civil action under Title VII and the Equal Pay Act (Exhibit "H" hereto).

COUNT I

AS TO: DEFENDANTS DECATUR COUNTY, GEORGIA  
AND DECATUR COUNTY FIRE & RESCUE

VIOLATION OF TITLE VII

SEXUAL HARASSMENT

189.

The Plaintiff realleges and incorporates herein by reference as if fully set forth Paragraphs numbered 1 through 188 hereinabove.

190.

Ms. Harrell is female, and is therefore a member of a protected class for purposes of the protections of Title VII.

191.

Ms. Harrell was, as herein stated, an employee of DCF&R and the County.

192.

During all times of her employment by DCF&R and the County, Ms. Harrell was subjected to sexual solicitations from her supervisor and her co-workers.

193.

The sexual solicitations to which Ms. Harrell was subjected by her supervisor and her co-workers were based on her gender.

194.

Ms. Harrell was subjected to unwanted touching of a sexual nature by her supervisor and co-workers.

195.

The unwanted touching of a sexual nature to which Ms. Harrell was subjected by her supervisor and co-workers was based on her gender.

196.

Ms. Harrell was subjected to sexually-charged public humiliation, innuendo, defamation, and ridicule by her supervisor and co-workers.

197.

The sexually-charged public humiliation, innuendo, defamation, and ridicule to which Ms. Harrell was subjected by her supervisor and co-workers were based on her gender.

198.

Ms. Harrell's privacy was repeatedly violated, including but not limited to, having co-

workers hide under her bed, walk in on her in the shower, and go through her personal effects and her personal hygiene items and put them on public display.

199.

The violations of privacy to which Ms. Harrell was subjected by her supervisor and co-workers were based on her gender.

200.

Ms. Harrell was subjected to a work environment at DCF&R that was so harassing it adversely affected the terms and conditions and of her employment.

201.

The harassing environment to which Ms. Harrell was subjected was based on her gender.

202.

The harassing environment to which Ms. Harrell was subjected was objectively abusive, offensive, and unwelcome.

203.

The harassing environment to which Ms. Harrell was subjected was abusive and offensive to her, and unwelcome by her.

204.

The harassing environment to which Ms. Harrell was subjected was subjectively abusive, offensive, and unwelcome.

205.

Reasonably minded persons similarly situated would have found the harassing environment to which Ms. Harrell was subjected abusive, offensive, and unwelcome.

206.

The Defendants' harassment of Ms. Harrell and the creation of a harassing environment violated her rights pursuant to Title VII.

COUNT II

AS TO: DEFENDANTS DECATUR COUNTY, GEORGIA  
AND DECATUR COUNTY FIRE & RESCUE

VIOLATION OF TITLE VII

CONSTRUCTIVE DISCHARGE

207.

The Plaintiff realleges and incorporates herein by reference as if fully set forth Paragraphs numbered 1 through 188 hereinabove.

208.

Ms. Harrell is female, and is therefore a member of a protected class for purposes of the protections of Title VII.

209.

Ms. Harrell was, as stated herein, an employee of DCF&R and the County.

210.

During all times of her employment by DCF&R and the County, Ms. Harrell was subjected to sexual solicitations from her supervisor and her co-workers.

211.

The sexual solicitations to which Ms. Harrell was subjected by her supervisor and her co-workers were based on her gender.

212.

Ms. Harrell was subjected to unwanted touching of a sexual nature by her supervisor and co-workers.

213.

The unwanted touching of a sexual nature to which Ms. Harrell was subjected by her supervisor and co-workers was based on her gender.

214.

Ms. Harrell was subjected to sexually-charged public humiliation, innuendo, defamation, and ridicule by her supervisor and co-workers.

215.

The sexually-charged public humiliation, innuendo, defamation, and ridicule to which Ms. Harrell was subjected by her supervisor and co-workers were based on her gender.

216.

Ms. Harrell's privacy was repeatedly violated, including but not limited to, having co-workers hide under her bed, walk in on her in the shower, and go through her personal effects and her personal hygiene items and put them on public display.

217.

The violations of privacy to which Ms. Harrell was subjected by her supervisor and co-workers were based on her gender.

218.

Ms. Harrell was subjected to a work environment at DCF&R that was so harassing it adversely affected the terms and conditions and of her employment.

219.

The harassing environment to which Ms. Harrell was subjected was based on her gender.

220.

The harassing environment to which Ms. Harrell was subjected was objectively abusive, offensive, and unwelcome.

221.

The harassing environment to which Ms. Harrell was subjected was abusive and offensive to her, and unwelcome by her.

222.

The harassing environment to which Ms. Harrell was subjected was subjectively abusive, offensive, and unwelcome.

223.

Reasonably minded persons similarly situated would have found the harassing environment to which Ms. Harrell was subjected abusive, offensive, and unwelcome.

224.

The harassing environment to which Ms. Harrell was subjected was so abusive and offensive to her that she could no longer physically and mentally tolerate the said environment, and was constructively discharged by the Defendants.

225.

The harassing environment to which Ms. Harrell was subjected was so abusive and offensive that no reasonably minded person could have been expected to continue to physically and mentally tolerate the said environment, and would have been constructively discharged by the Defendants.

226.

The Defendants' constructive discharge of Ms. Harrell violated her rights pursuant to Title VII.

COUNT III

AS TO: ALL DEFENDANTS

VIOLATION OF THE FOURTEENTH AMENDMENT AND 42 U.S.C. § 1983

EQUAL PROTECTION VIOLATION RE SEXUAL HARASSMENT

227.

The Plaintiff realleges and incorporates herein by reference as if fully set forth Paragraphs numbered 1 through 188 hereinabove.

228.

Ms. Harrell is female, and a lawful citizen of the United States of America, and is therefore a member of a protected class for purposes of the protections of the Fourteenth Amendment to the Constitution of the United States.

229.

Ms. Harrell was, as stated herein, an employee of DCF&R and the County.

230.

During all times of her employment by DCF&R and the County, Ms. Harrell was subjected to sexual solicitations from her supervisor and her co-workers.

231.

The sexual solicitations to which Ms. Harrell was subjected by her supervisor and her co-

workers were based on her gender.

232.

Male employees at DCF&R were not subjected to sexual solicitations by their supervisors and/or co-workers.

233.

Ms. Harrell was subjected to unwanted touching of a sexual nature by her supervisor and co-workers.

234.

The unwanted touching of a sexual nature to which Ms. Harrell was subjected by her supervisor and co-workers was based on her gender.

235.

Male employees at DCF&R were not subjected to unwanted touching of a sexual nature by their supervisors and/or co-workers.

236.

Ms. Harrell was subjected to sexually-charged public humiliation, innuendo, defamation, and ridicule by her supervisor and co-workers.

237.

The sexually-charged public humiliation, innuendo, defamation, and ridicule to which Ms. Harrell was subjected by her supervisor and co-workers were based on her gender.

238.

Male employees at DCF&R were not subjected to sexually-charged public humiliation,

innuendo, defamation, and ridicule by their supervisors and/or co-workers.

239.

Ms. Harrell's privacy was repeatedly violated, including but not limited to, having co-workers hide under her bed, walk in on her in the shower, and go through her personal effects and her personal hygiene items and put them on public display.

240.

The violations of privacy to which Ms. Harrell was subjected by her supervisor and co-workers were based on her gender.

241.

Male employees at DCF&R were not subjected to violations of privacy by their supervisors and/or co-workers.

242.

Ms. Harrell was subjected to a work environment at DCF&R that was so harassing it adversely affected the terms and conditions and of her employment.

243.

The harassing environment to which Ms. Harrell was subjected was based on her gender.

244.

Male employees at DCF&R were not subjected by their supervisors and/or co-workers to a sexually charged work environment that was so harassing it adversely affected the terms and conditions of her employment.

245.

The discrimination and harassment of Ms. Harrell was based on a long-standing, custom,

policy, and/or practice of DCF&R and the County.

246.

The County's top officials, including but not limited to, Moseley, its County Attorney, Griffin, then Chief of DCF&R, and McCann, then Assistant Chief and now Chief of DCF&R, publicly stated their opposition to the employment of females at DCF&R.

247.

The County, through its County Commissioners, gave Griffin and McCann complete hiring authority at DCF&R.

248.

The County authorized, sanctioned, ratified, and participated in Griffin's and McCann's refusals to employ females at DCF&R.

249.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its upholding of Griffin's and McCann's hiring practices.

250.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its upholding of Griffin's and McCann's refusals to consider females for employment at DCF&R.

251.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its upholding of Griffin's and McCann's

refusals to employ females at DCF&R.

252.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its refusal to post publicly open positions at DCF&R.

253.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its refusal to post written job descriptions for open positions at DCF&R.

254.

The County specifically authorized, sanctioned, ratified, and participated in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R.

255.

The County specifically authorized, sanctioned, ratified, and participated in Griffin's and McCann's refusals to employ Ms. Harrell at DCF&R prior to the Lagace litigation.

256.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its mandate that males be hired for the positions for which Ms. Lagace was denied employment in September 2004.

257.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Harrell at DCF&R included its mandate that males be hired

for the positions for which Ms. Harrell was denied employment in September 2004.

258.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its mandate that a male be hired for the positions for which Ms. Lagace was denied employment in January 2005.

259.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Harrell at DCF&R included its mandate that a male be hired for the positions for which Ms. Harrell was denied employment in January 2005.

260.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its covering up of cheating by Smiley and Grant on the firefighter certification exam.

261.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its falsification of background checks on Ms. Lagace.

262.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included Moseley's participation in the false background checks, his having admittedly filed same with the EEOC, and his having admitted he knows the documents were falsified.

263.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its lying to the EEOC and claiming that the County, DCF&R, Griffin, and McCann had not discriminated against Ms. Lagace on the basis of her gender.

264.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its lying to the United States District Court for the Middle District of Georgia in claiming that the County, DCF&R, Griffin, and McCann had not discriminated against Ms. Lagace on the basis of her gender.

265.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its unlawful retaliation against DCF&R employees, Guy Yates and Steve Enfinger, and former DCF&R employee, the late Jimmy Bellflower, for their support of Ms. Lagace in her Title VII claims.

266.

Subsequent to his and McCann's refusal to hire Ms. Lagace, the County transferred Griffin from DCF&R to a newly created position that was designed to reward him for his implementation and enforcement of the County's custom, policy, and practice of discrimination against and harassment of females.

267.

Subsequent to the transfer of Griffin from DCF&R, the County and DCF&R continued its

custom, policy, and practice of discrimination against and harassment of females.

268.

Subsequent to the transfer of Griffin from DCF&R, the County and DCF&R continued its custom, policy, and practice of retaliating against those who supported females in asserting their Title VII and constitutional rights.

269.

The County's and DCF&R's continued custom, policy, and practice of retaliating against those who supported females in asserting their Title VII and constitutional rights, included its unlawful retaliation against DCF&R employees, Guy Yates and Steve Enfinger, and former DCF&R employee, the late Jimmy Bellflower, for their support of Ms. Lagace in her Title VII claims.

270.

On April 14, 2009, a petit jury in and for the United States Middle District of Georgia, returned a trial verdict in the amount of \$250,000.00 each for Yates, Enfinger, and the Estate of Jimmy Bellflower, on their claims of retaliation by the County and DCF&R.

271.

The harassing environment to which Ms. Harrell was subjected was objectively abusive, offensive, and unwelcome.

272.

The harassing environment to which Ms. Harrell was subjected was abusive and offensive to her, and unwelcome by her.

273.

The harassing environment to which Ms. Harrell was subjected was subjectively abusive,

offensive, and unwelcome.

274.

Reasonably minded persons similarly situated would have found the harassing environment to which Ms. Harrell was subjected abusive, offensive, and unwelcome.

275.

Despite knowing the danger presented by Long, a convicted sex offender, King, McCann, Mayfield, Patton, Moseley, and other County officials who had the authority to take proper corrective action failed and refused to take such actions.

276.

King, McCann, Mayfield, Patton, Moseley, and the other County officials who had the authority to take proper corrective action failed and refused to take such actions to protect Ms. Harrell were carrying out the County's custom, practice, and policy of discrimination against females in the fire services.

277.

The Defendants' harassment of Ms. Harrell on the basis of her gender, facilitation of the harassment, and failure to prevent and correct the harassment violated her rights of equal protection of the laws pursuant to the Fourteenth Amendment and as enforced pursuant to 42 U.S.C. § 1983.

COUNT IV

AS TO: ALL DEFENDANTS

VIOLATION OF THE FOURTEENTH AMENDMENT AND 42 U.S.C. § 1983

EQUAL PROTECTION VIOLATION RE CONSTRUCTIVE DISCHARGE

278.

The Plaintiff realleges and incorporates herein by reference as if fully set forth Paragraphs numbered 1 through 188 hereinabove.

279.

Ms. Harrell is female, and a lawful citizen of the United States of America, and is therefore a member of a protected class for purposes of the protections of the Fourteenth Amendment to the Constitution of the United States.

280.

Ms. Harrell was, as stated herein, an employee of DCF&R and the County.

281.

During all times of her employment by DCF&R and the County, Ms. Harrell was subjected to sexual solicitations from her supervisor and her co-workers.

282.

The sexual solicitations to which Ms. Harrell was subjected by her supervisor and her co-workers were based on her gender.

283.

Male employees at DCF&R were not subjected to sexual solicitations by their supervisors and/or co-workers.

284.

Ms. Harrell was subjected to unwanted touching of a sexual nature by her supervisor and co-workers.

285.

The unwanted touching of a sexual nature to which Ms. Harrell was subjected by her supervisor and co-workers was based on her gender.

286.

Male employees at DCF&R were not subjected to unwanted touching of a sexual nature by their supervisors and/or co-workers.

287.

Ms. Harrell was subjected to sexually-charged public humiliation, innuendo, defamation, and ridicule by her supervisor and co-workers.

288.

The sexually-charged public humiliation, innuendo, defamation, and ridicule to which Ms. Harrell was subjected by her supervisor and co-workers were based on her gender.

289.

Male employees at DCF&R were not subjected to sexually-charged public humiliation, innuendo, defamation, and ridicule by their supervisors and/or co-workers.

290.

Ms. Harrell's privacy was repeatedly violated, including but not limited to, having co-workers hide under her bed, walk in on her in the shower, and go through her personal effects and her personal hygiene items and put them on public display.

291.

The violations of privacy to which Ms. Harrell was subjected by her supervisor and co-workers were based on her gender.

292.

Male employees at DCF&R were not subjected to violations of privacy by their supervisors and/or co-workers.

293.

Ms. Harrell was subjected to a work environment at DCF&R that was so harassing it adversely affected the terms and conditions and of her employment.

294.

The harassing environment to which Ms. Harrell was subjected was based on her gender.

295.

Male employees at DCF&R were not subjected by their supervisors and/or co-workers to a sexually charged work environment that was so harassing it adversely affected the terms and conditions of her employment.

296.

The discrimination and harassment of Ms. Harrell was based on a long-standing, custom, policy, and/or practice of DCF&R and the County.

297.

The County's top officials, including but not limited to, Moseley, its County Attorney, Griffin, then Chief of DCF&R, and McCann, then Assistant Chief and now Chief of DCF&R, publicly stated their opposition to the employment of females at DCF&R.

298.

The County, through its County Commissioners, gave Griffin and McCann complete hiring authority at DCF&R.

299.

The County authorized, sanctioned, ratified, and participated in Griffin's and McCann's refusals to employ females at DCF&R.

300.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its upholding of Griffin's and McCann's hiring practices.

301.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its upholding of Griffin's and McCann's refusals to consider females for employment at DCF&R.

302.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its upholding of Griffin's and McCann's refusals to employ females at DCF&R.

303.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its refusal to post publicly open positions at DCF&R.

304.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its refusal to post written job descriptions

for open positions at DCF&R.

305.

The County specifically authorized, sanctioned, ratified, and participated in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R.

306.

The County specifically authorized, sanctioned, ratified, and participated in Griffin's and McCann's refusals to employ Ms. Harrell at DCF&R prior to the Lagace litigation.

307.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its mandate that males be hired for the positions for which Ms. Lagace was denied employment in September 2004.

308.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Harrell at DCF&R included its mandate that males be hired for the positions for which Ms. Harrell was denied employment in September 2004.

309.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its mandate that a male be hired for the positions for which Ms. Lagace was denied employment in January 2005.

310.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Harrell at DCF&R included its mandate that a male be hired

for the positions for which Ms. Harrell was denied employment in January 2005.

311.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its covering up of cheating by Smiley and Grant on the firefighter certification exam.

312.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its falsification of background checks on Ms. Lagace.

313.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included Moseley's participation in the false background checks, his having admittedly filed same with the EEOC, and his having admitted he knows the documents were falsified.

314.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its lying to the EEOC and claiming that the County, DCF&R, Griffin, and McCann had not discriminated against Ms. Lagace on the basis of her gender.

315.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its lying to the United States

District Court for the Middle District of Georgia in claiming that the County, DCF&R, Griffin, and McCann had not discriminated against Ms. Lagace on the basis of her gender.

316.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its unlawful retaliation against DCF&R employees, Guy Yates and Steve Enfinger, and former DCF&R employee, the late Jimmy Bellflower, for their support of Ms. Lagace in her Title VII claims.

317.

Subsequent to his and McCann's refusal to hire Ms. Lagace, the County transferred Griffin from DCF&R to a newly created position that was designed to reward him for his implementation and enforcement of the County's custom, policy, and practice of discrimination against and harassment of females.

318.

Subsequent to the transfer of Griffin from DCF&R, the County and DCF&R continued its custom, policy, and practice of discrimination against and harassment of females.

319.

Subsequent to the transfer of Griffin from DCF&R, the County and DCF&R continued its custom, policy, and practice of retaliating against those who supported females in asserting their Title VII and constitutional rights.

320.

The County's and DCF&R's continued custom, policy, and practice of retaliating against those who supported females in asserting their Title VII and constitutional rights, included its

unlawful retaliation against DCF&R employees, Guy Yates and Steve Enfinger, and former DCF&R employee, the late Jimmy Bellflower, for their support of Ms. Lagace in her Title VII claims.

321.

On April 14, 2009, a petit jury in and for the United States Middle District of Georgia, returned a trial verdict in the amount of \$250,000.00 each for Yates, Enfinger, and the Estate of Jimmy Bellflower, on their claims of retaliation by the County and DCF&R.

322.

The harassing environment to which Ms. Harrell was subjected was objectively abusive, offensive, and unwelcome.

323.

The harassing environment to which Ms. Harrell was subjected was abusive and offensive to her, and unwelcome by her.

324.

The harassing environment to which Ms. Harrell was subjected was subjectively abusive, offensive, and unwelcome.

325.

Reasonably minded persons similarly situated would have found the harassing environment to which Ms. Harrell was subjected abusive, offensive, and unwelcome.

326.

Despite knowing the danger presented by Long, a convicted sex offender, King, McCann, Mayfield, Patton, Moseley, and other County officials who had the authority to take proper corrective action failed and refused to take such actions.

327.

King, McCann, Mayfield, Patton, Moseley, and the other County officials who had the authority to take proper corrective action failed and refused to take such actions to protect Ms. Harrell were carrying out the County's custom, practice, and policy of discrimination against females in the fire services.

328.

King, McCann, Mayfield, Patton, Moseley, and the other County officials who had the authority to take proper corrective action failed and refused to take such actions to protect Ms. Harrell were carrying out the County's custom, policy, and practice of discrimination against females in the fire services, and were attempting to make conditions at DCF&R so intolerable that Ms. Harrell would be forced to quit her employment.

329.

Ultimately, conditions became so intolerable, and the County's lack of corrective and remedial actions so lacking, that Ms. Harrell was constructively discharged on October 26, 2007.

330.

The Defendants' constructive discharge of Ms. Harrell on the basis of her gender violated her rights of equal protection of the laws pursuant to the Fourteenth Amendment and as enforced pursuant to 42 U.S.C. § 1983.

COUNT V

AS TO: ALL DEFENDANTS

VIOLATION OF ARTICLE I, SECTION I, PARAGRAPH II  
OF THE CONSTITUTION OF THE STATE OF GEORGIA

EQUAL PROTECTION VIOLATION RE SEXUAL HARASSMENT

331.

The Plaintiff realleges and incorporates herein by reference as if fully set forth Paragraphs numbered 1 through 188 hereinabove.

332.

Ms. Harrell is female, and a lawful citizen of the State of Georgia, and is therefore a member of a protected class for purposes of the protections of Article I, Section I, Paragraph II of the Constitution of the State of Georgia.

333.

Ms. Harrell was, as stated herein, an employee of DCF&R and the County.

334.

During all times of her employment by DCF&R and the County, Ms. Harrell was subjected to sexual solicitations from her supervisor and her co-workers.

335.

The sexual solicitations to which Ms. Harrell was subjected by her supervisor and her co-workers were based on her gender.

336.

Male employees at DCF&R were not subjected to sexual solicitations by their supervisors and/or co-workers.

337.

Ms. Harrell was subjected to unwanted touching of a sexual nature by her supervisor and co-workers.

338.

The unwanted touching of a sexual nature to which Ms. Harrell was subjected by her supervisor and co-workers was based on her gender.

339.

Male employees at DCF&R were not subjected to unwanted touching of a sexual nature by their supervisors and/or co-workers.

340.

Ms. Harrell was subjected to sexually-charged public humiliation, innuendo, defamation, and ridicule by her supervisor and co-workers.

341.

The sexually-charged public humiliation, innuendo, defamation, and ridicule to which Ms. Harrell was subjected by her supervisor and co-workers were based on her gender.

342.

Male employees at DCF&R were not subjected to sexually-charged public humiliation, innuendo, defamation, and ridicule by their supervisors and/or co-workers.

343.

Ms. Harrell's privacy was repeatedly violated, including but not limited to, having co-workers hide under her bed, walk in on her in the shower, and go through her personal effects and her personal hygiene items and put them on public display.

344.

The violations of privacy to which Ms. Harrell was subjected by her supervisor and co-workers were based on her gender.

345.

Male employees at DCF&R were not subjected to violations of privacy by their supervisors and/or co-workers.

346.

Ms. Harrell was subjected to a work environment at DCF&R that was so harassing it adversely affected the terms and conditions and of her employment.

347.

The harassing environment to which Ms. Harrell was subjected was based on her gender.

348.

Male employees at DCF&R were not subjected by their supervisors and/or co-workers to a sexually charged work environment that was so harassing it adversely affected the terms and conditions of her employment.

349.

The discrimination and harassment of Ms. Harrell was based on a long-standing, custom, policy, and/or practice of DCF&R and the County.

350.

The County's top officials, including but not limited to, Moseley, its County Attorney, Griffin, then Chief of DCF&R, and McCann, then Assistant Chief and now Chief of DCF&R, publicly stated their opposition to the employment of females at DCF&R.

351.

The County, through its County Commissioners, gave Griffin and McCann complete hiring authority at DCF&R.

352.

The County authorized, sanctioned, ratified, and participated in Griffin's and McCann's refusals to employ females at DCF&R.

353.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its upholding of Griffin's and McCann's hiring practices.

354.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its upholding of Griffin's and McCann's refusals to consider females for employment at DCF&R.

355.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its upholding of Griffin's and McCann's refusals to employ females at DCF&R.

356.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its refusal to post publicly open positions at DCF&R.

357.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its refusal to post written job descriptions

for open positions at DCF&R.

358.

The County specifically authorized, sanctioned, ratified, and participated in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R.

359.

The County specifically authorized, sanctioned, ratified, and participated in Griffin's and McCann's refusals to employ Ms. Harrell at DCF&R prior to the Lagace litigation.

360.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its mandate that males be hired for the positions for which Ms. Lagace was denied employment in September 2004.

361.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Harrell at DCF&R included its mandate that males be hired for the positions for which Ms. Harrell was denied employment in September 2004.

362.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its mandate that a male be hired for the positions for which Ms. Lagace was denied employment in January 2005.

363.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Harrell at DCF&R included its mandate that a male be hired

for the positions for which Ms. Harrell was denied employment in January 2005.

364.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its covering up of cheating by Smiley and Grant on the firefighter certification exam.

365.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its falsification of background checks on Ms. Lagace.

366.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included Moseley's participation in the false background checks, his having admittedly filed same with the EEOC, and his having admitted he knows the documents were falsified.

367.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its lying to the EEOC and claiming that the County, DCF&R, Griffin, and McCann had not discriminated against Ms. Lagace on the basis of her gender.

368.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its lying to the United States

District Court for the Middle District of Georgia in claiming that the County, DCF&R, Griffin, and McCann had not discriminated against Ms. Lagace on the basis of her gender.

369.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its unlawful retaliation against DCF&R employees, Guy Yates and Steve Enfinger, and former DCF&R employee, the late Jimmy Bellflower, for their support of Ms. Lagace in her Title VII claims.

370.

Subsequent to his and McCann's refusal to hire Ms. Lagace, the County transferred Griffin from DCF&R to a newly created position that was designed to reward him for his implementation and enforcement of the County's custom, policy, and practice of discrimination against and harassment of females.

371.

Subsequent to the transfer of Griffin from DCF&R, the County and DCF&R continued its custom, policy, and practice of discrimination against and harassment of females.

372.

Subsequent to the transfer of Griffin from DCF&R, the County and DCF&R continued its custom, policy, and practice of retaliating against those who supported females in asserting their Title VII and constitutional rights.

373.

The County's and DCF&R's continued custom, policy, and practice of retaliating against those who supported females in asserting their Title VII and constitutional rights, included its

unlawful retaliation against DCF&R employees, Guy Yates and Steve Enfinger, and former DCF&R employee, the late Jimmy Bellflower, for their support of Ms. Lagace in her Title VII claims.

374.

On April 14, 2009, a petit jury in and for the United States Middle District of Georgia, returned a trial verdict in the amount of \$250,000.00 each for Yates, Enfinger, and the Estate of Jimmy Bellflower, on their claims of retaliation by the County and DCF&R.

375.

The harassing environment to which Ms. Harrell was subjected was objectively abusive, offensive, and unwelcome.

376.

The harassing environment to which Ms. Harrell was subjected was abusive and offensive to her, and unwelcome by her.

377.

The harassing environment to which Ms. Harrell was subjected was subjectively abusive, offensive, and unwelcome.

378.

Reasonably minded persons similarly situated would have found the harassing environment to which Ms. Harrell was subjected abusive, offensive, and unwelcome.

379.

Despite knowing the danger presented by Long, a convicted sex offender, King, McCann, Mayfield, Patton, Moseley, and other County officials who had the authority to take proper corrective action failed and refused to take such actions.

380.

King, McCann, Mayfield, Patton, Moseley, and the other County officials who had the authority to take proper corrective action failed and refused to take such actions to protect Ms. Harrell were carrying out the County's custom, practice, and policy of discrimination against females in the fire services.

381.

The Defendants' harassment of Ms. Harrell on the basis of her gender, facilitation of the harassment, and failure to prevent and correct the harassment violated her rights of equal protection of the laws pursuant to Article I, Section I, Paragraph II of the Constitution of the State of Georgia.

COUNT VI

AS TO: ALL DEFENDANTS

VIOLATION OF ARTICLE I, SECTION I, PARAGRAPH II  
OF THE CONSTITUTION OF THE STATE OF GEORGIA

EQUAL PROTECTION VIOLATION RE CONSTRUCTIVE DISCHARGE

382.

The Plaintiff realleges and incorporates herein by reference as if fully set forth Paragraphs numbered 1 through 188 hereinabove.

383.

Ms. Harrell is female, and a lawful citizen of the State of Georgia, and is therefore a member of a protected class for purposes of the protections of Article I, Section I, Paragraph II of the Constitution of the State of Georgia.

384.

Ms. Harrell was, as stated herein, an employee of DCF&R and the County.

385.

During all times of her employment by DCF&R and the County, Ms. Harrell was subjected to sexual solicitations from her supervisor and her co-workers.

386.

The sexual solicitations to which Ms. Harrell was subjected by her supervisor and her co-workers were based on her gender.

387.

Male employees at DCF&R were not subjected to sexual solicitations by their supervisors and/or co-workers.

388.

Ms. Harrell was subjected to unwanted touching of a sexual nature by her supervisor and co-workers.

389.

The unwanted touching of a sexual nature to which Ms. Harrell was subjected by her supervisor and co-workers was based on her gender.

390.

Male employees at DCF&R were not subjected to unwanted touching of a sexual nature by their supervisors and/or co-workers.

391.

Ms. Harrell was subjected to sexually-charged public humiliation, innuendo, defamation, and

ridicule by her supervisor and co-workers.

392.

The sexually-charged public humiliation, innuendo, defamation, and ridicule to which Ms. Harrell was subjected by her supervisor and co-workers were based on her gender.

393.

Male employees at DCF&R were not subjected to sexually-charged public humiliation, innuendo, defamation, and ridicule by their supervisors and/or co-workers.

394.

Ms. Harrell's privacy was repeatedly violated, including but not limited to, having co-workers hide under her bed, walk in on her in the shower, and go through her personal effects and her personal hygiene items and put them on public display.

395.

The violations of privacy to which Ms. Harrell was subjected by her supervisor and co-workers were based on her gender.

396.

Male employees at DCF&R were not subjected to violations of privacy by their supervisors and/or co-workers.

397.

Ms. Harrell was subjected to a work environment at DCF&R that was so harassing it adversely affected the terms and conditions and of her employment.

398.

The harassing environment to which Ms. Harrell was subjected was based on her gender.

399.

Male employees at DCF&R were not subjected by their supervisors and/or co-workers to a sexually charged work environment that was so harassing it adversely affected the terms and conditions of her employment.

400.

The discrimination and harassment of Ms. Harrell was based on a long-standing, custom, policy, and/or practice of DCF&R and the County.

401.

The County's top officials, including but not limited to, Moseley, its County Attorney, Griffin, then Chief of DCF&R, and McCann, then Assistant Chief and now Chief of DCF&R, publicly stated their opposition to the employment of females at DCF&R.

402.

The County, through its County Commissioners, gave Griffin and McCann complete hiring authority at DCF&R.

403.

The County authorized, sanctioned, ratified, and participated in Griffin's and McCann's refusals to employ females at DCF&R.

404.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its upholding of Griffin's and McCann's hiring practices.

405.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its upholding of Griffin's and McCann's refusals to consider females for employment at DCF&R.

406.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its upholding of Griffin's and McCann's refusals to employ females at DCF&R.

407.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its refusal to post publicly open positions at DCF&R.

408.

The County's authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ females at DCF&R included its refusal to post written job descriptions for open positions at DCF&R.

409.

The County specifically authorized, sanctioned, ratified, and participated in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R.

410.

The County specifically authorized, sanctioned, ratified, and participated in Griffin's and McCann's refusals to employ Ms. Harrell at DCF&R prior to the Lagace litigation.

411.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its mandate that males be hired for the positions for which Ms. Lagace was denied employment in September 2004.

412.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Harrell at DCF&R included its mandate that males be hired for the positions for which Ms. Harrell was denied employment in September 2004.

413.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its mandate that a male be hired for the positions for which Ms. Lagace was denied employment in January 2005.

414.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Harrell at DCF&R included its mandate that a male be hired for the positions for which Ms. Harrell was denied employment in January 2005.

415.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its covering up of cheating by Smiley and Grant on the firefighter certification exam.

416.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's

and McCann's refusals to employ Ms. Lagace at DCF&R included its falsification of background checks on Ms. Lagace.

417.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included Moseley's participation in the false background checks, his having admittedly filed same with the EEOC, and his having admitted he knows the documents were falsified.

418.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its lying to the EEOC and claiming that the County, DCF&R, Griffin, and McCann had not discriminated against Ms. Lagace on the basis of her gender.

419.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its lying to the United States District Court for the Middle District of Georgia in claiming that the County, DCF&R, Griffin, and McCann had not discriminated against Ms. Lagace on the basis of her gender.

420.

The County's specific authorization, sanctioning, ratification, and participation in Griffin's and McCann's refusals to employ Ms. Lagace at DCF&R included its unlawful retaliation against DCF&R employees, Guy Yates and Steve Enfinger, and former DCF&R employee, the late Jimmy Bellflower, for their support of Ms. Lagace in her Title VII claims.

421.

Subsequent to his and McCann's refusal to hire Ms. Lagace, the County transferred Griffin from DCF&R to a newly created position that was designed to reward him for his implementation and enforcement of the County's custom, policy, and practice of discrimination against and harassment of females.

422.

Subsequent to the transfer of Griffin from DCF&R, the County and DCF&R continued its custom, policy, and practice of discrimination against and harassment of females.

423.

Subsequent to the transfer of Griffin from DCF&R, the County and DCF&R continued its custom, policy, and practice of retaliating against those who supported females in asserting their Title VII and constitutional rights.

424.

The County's and DCF&R's continued custom, policy, and practice of retaliating against those who supported females in asserting their Title VII and constitutional rights, included its unlawful retaliation against DCF&R employees, Guy Yates and Steve Enfinger, and former DCF&R employee, the late Jimmy Bellflower, for their support of Ms. Lagace in her Title VII claims.

425.

On April 14, 2009, a petit jury in and for the United States Middle District of Georgia, returned a trial verdict in the amount of \$250,000.00 each for Yates, Enfinger, and the Estate of Jimmy Bellflower, on their claims of retaliation by the County and DCF&R.

426.

The harassing environment to which Ms. Harrell was subjected was objectively abusive, offensive, and unwelcome.

427.

The harassing environment to which Ms. Harrell was subjected was abusive and offensive to her, and unwelcome by her.

428.

The harassing environment to which Ms. Harrell was subjected was subjectively abusive, offensive, and unwelcome.

429.

Reasonably minded persons similarly situated would have found the harassing environment to which Ms. Harrell was subjected abusive, offensive, and unwelcome.

430.

Despite knowing the danger presented by Long, a convicted sex offender, King, McCann, Mayfield, Patton, Moseley, and other County officials who had the authority to take proper corrective action failed and refused to take such actions.

431.

King, McCann, Mayfield, Patton, Moseley, and the other County officials who had the authority to take proper corrective action failed and refused to take such actions to protect Ms. Harrell were carrying out the County's custom, practice, and policy of discrimination against females in the fire services.

432.

King, McCann, Mayfield, Patton, Moseley, and the other County officials who had the authority to take proper corrective action failed and refused to take such actions to protect Ms. Harrell were carrying out the County's custom, practice, and policy of discrimination against females in the fire services, and were attempting to make conditions at DCF&R so intolerable that Ms. Harrell would be forced to quit her employment.

433.

Ultimately, conditions became so intolerable, and the County's lack of corrective and remedial actions so lacking, that Ms. Harrell was constructively discharged on October 26, 2007.

434.

The Defendants' constructive discharge of Ms. Harrell on the basis of her gender violated her rights of equal protection of the laws pursuant to Article I, Section I, Paragraph II of the Constitution of the State of Georgia.

COUNT VII

AS TO: DEFENDANTS DECATUR COUNTY, GEORGIA  
AND DECATUR COUNTY FIRE AND RESCUE

VIOLATION OF THE EQUAL PAY ACT OF 1963 AND  
THE FAIR LABOR STANDARDS ACT OF 1938

435.

The Plaintiff realleges and incorporates herein by reference as if fully set forth Paragraphs numbered 1 through 188 hereinabove.

436.

Ms. Harrell is female.

437.

Ms. Harrell was, as stated herein, an employee of DCF&R and the County.

438.

During all times of her employment by DCF&R and the County, Ms. Harrell was subjected to discrimination in her pay based upon her gender.

439.

At the time Ms. Harrell was transferred to DCF&R, she was the only female paid firefighter out of at least fifteen paid Decatur County and DCF&R firefighters.

440.

At the time Ms. Harrell was transferred to DCF&R, she was the only female paid firefighter ever at DCF&R.

441.

Prior to the hire of Ms. Harrell, Decatur County and DCF&R had a custom, policy, and practice of not hiring female firefighter applicants.

442.

Ms. Harrell who had been the subject of gender discrimination in originally being denied a transfer to DCF&R, was the subject of gender discrimination in the transfer to DCF&R as well.

443.

McCann told Ms. Harrell that if she accepted the transfer it would be a lateral transfer in terms of pay and benefits, and she would be credited in terms of pay with her years as a County

employee.

444.

After Ms. Harrell accepted McCann's request that she transfer to DCF&R, she was told her pay was being cut.

445.

Ms. Harrell was informed by McCann she could not be paid at DCF&R her prior rate of pay as a County employee, because it would "make some of the men [at DCF&R] mad."

446.

Ms. Harrell's rate of pay at DCF&R was lower than for men who had been employed for a shorter period with the County.

447.

Ms. Harrell's rate of pay at DCF&R was lower than for men who only had a firefighter certification, but did not – as did Ms. Harrell – have an EMT certification.

448.

The County and DCF&R had no legitimate, non-discriminatory business reason for paying Ms. Harrell a lower salary than she had made at DCEMS.

449.

The County and DCF&R had no legitimate, non-discriminatory business reason for paying Ms. Harrell a lower salary than males at DCF&R who had less seniority as County employees.

450.

The County and DCF&R had no legitimate, non-discriminatory business reason for paying Ms. Harrell a lower salary than males at DCF&R who had inferior credentials to Ms. Harrell.

451.

The County and DCF&R had no legitimate, non-discriminatory business reason for paying Ms. Harrell a lower salary than similarly situated males at DCF&R.

452.

Ms. Harrell was paid less than she was paid at DCEMS throughout the course of her employment with DCF&R.

453.

Throughout her employment with DCF&R, Ms. Harrell was paid less than males performing the same job responsibilities but who had less seniority with the County than did Ms. Harrell.

454.

Throughout her employment with DCF&R, Ms. Harrell was paid less than males performing the same job responsibilities but who had inferior credentials to Ms. Harrell.

455.

Throughout her employment with DCF&R, Ms. Harrell was paid less than similarly situated males performing the same job responsibilities

456.

The Defendants' payment to Ms. Harrell of lower wages than similarly situated males, less senior males, and less qualified males violated her rights of equal pay pursuant to the Equal Pay Act of 1963, as amended, and the Fair Labor Standards Act of 1938, as amended.

COUNT VIII

AS TO: DEFENDANTS DECATUR COUNTY, GEORGIA  
AND DECATUR COUNTY FIRE & RESCUE

VIOLATION OF TITLE VII

RETALIATION

457.

The Plaintiff realleges and incorporates herein by reference as if fully set forth Paragraphs numbered 1 through 188 hereinabove.

458.

Ms. Harrell is female, and is therefore a member of a protected class for purposes of the protections of Title VII.

459.

Ms. Harrell was, as stated herein, an employee of DCF&R and the County.

460.

Ms. Harrell complained about the sexual harassment to her supervisor King, who refused to take any corrective actions, and instead, she became the victim of retaliation by King and her co-workers as a result of her opposition to their unconstitutional and unlawful practices.

461.

When Ms. Harrell complained of her mistreatment and the harassment, she was subject to retaliation by King, including his falsely writing her up for being tardy, and treating her differently for disciplinary purposes than the male DCF&R employees.

462.

McCann failed and refused to take action against King or to otherwise address the improper sexually harassing misconduct.

463.

McCann failed and refused to take action against King or to otherwise address the retaliatory actions made against Ms. Harrell for her exercise of her statutorily and constitutionally protected complaints.

464.

Ms. Harrell's complaints about the sexual harassment and retaliation to the County's Human Resources Director, Mayfield, and the County's Administrator, Patton, went unheeded.

465.

Ms. Harrell was retaliated against for her complaints internally regarding the sexual harassment and for filing her Charge of Discrimination with the EEOC. Ms. Harrell's retaliation included being publicly humiliated and ridiculed by her co-workers, and the target of innuendo and defamation by her supervisor and co-workers.

466.

Ms. Harrell requested a transfer back to DCEMS. Although there were open positions, Patton, Mayfield, Hogan, McCann, and the County refused her request in retaliation for her internal complaints and her having filed a Charge of Discrimination with the EEOC.

467.

Beth Yarbrough, close friend and work subordinate of Susan Moseley, wife of County Attorney, Moseley, harassed Ms. Harrell's child in retaliation for Ms. Harrell exercising her statutory right to complain about the sexually harassing behavior.

468.

Yarbrough's harassment is directly related to, and a result of Moseley's involvement in these

matters.

469.

In addition, Palmer Rich, Chair of the Decatur County Commission, recently went into Ms. Harrell's place of business and conducted a juvenile and boisterous rant against Ms. Harrell, designed to harass and humiliate Ms. Harrell, and to cause her to lose her employment.

470.

Rich's childish and boorish behavior is directly related to, and in retaliation for, Ms. Harrell's complaints of sexual harassment at DCF&R and her filing of her Charge of Discrimination and Equal Pay Act claims.

471.

The Defendants' retaliation against Ms. Harrell on the basis of her exercising her statutory rights under Title VII to be free of gender-based discrimination and harassment violated her rights under Title VII.

COUNT IX

AS TO: ALL DEFENDANTS

VIOLATION OF THE FOURTEENTH AMENDMENT AND 42 U.S.C. § 1983

RETALIATION

472.

The Plaintiff realleges and incorporates herein by reference as if fully set forth Paragraphs numbered 1 through 188 hereinabove.

473.

Ms. Harrell is female, and is therefore a member of a protected class for purposes of the protections of the Fourteenth Amendment.

474.

Ms. Harrell was, as stated herein, an employee of DCF&R and the County.

475.

Ms. Harrell complained about the sexual harassment to her supervisor King, who refused to take any corrective actions, and instead, she became the victim of retaliation by King and her co-workers as a result of her opposition to their unconstitutional and unlawful practices.

476.

When Ms. Harrell complained of her mistreatment and the harassment, she was subject to retaliation by King, including his falsely writing her up for being tardy, and treating her differently for disciplinary purposes than the male DCF&R employees.

477.

McCann failed and refused to take action against King or to otherwise address the improper sexually harassing misconduct.

478.

McCann failed and refused to take action against King or to otherwise address the retaliatory actions made against Ms. Harrell for her exercise of her statutorily and constitutionally protected complaints.

479.

Ms. Harrell's complaints about the sexual harassment and retaliation to the County's Human

Resources Director, Mayfield, and the County's Administrator, Patton, went unheeded.

480.

Ms. Harrell was retaliated against for her complaints internally regarding the sexual harassment and for filing her Charge of Discrimination with the EEOC. Ms. Harrell's retaliation included being publicly humiliated and ridiculed by her co-workers, and the target of innuendo and defamation by her supervisor and co-workers.

481.

Ms. Harrell requested a transfer back to DCEMS. Although there were open positions, Patton, Mayfield, Hogan, McCann, and the County refused her request in retaliation for her internal complaints and her having filed a Charge of Discrimination with the EEOC.

482.

Beth Yarbrough, close friend and work subordinate of Susan Moseley, wife of County Attorney, Moseley, harassed Ms. Harrell's child in retaliation for Ms. Harrell exercising her statutory right to complain about the sexually harassing behavior.

483.

Yarbrough's harassment is directly related to, and a result of Moseley's involvement in these matters.

484.

In addition, Palmer Rich, Chair of the Decatur County Commission, recently went into Ms. Harrell's place of business and conducted a juvenile and boisterous rant against Ms. Harrell, designed to harass and humiliate Ms. Harrell, and to cause her to lose her employment.

485.

Rich's childish and boorish behavior is directly related to, and in retaliation for, Ms. Harrell's complaints of sexual harassment at DCF&R and her filing of her Charge of Discrimination and Equal Pay Act claims.

486.

The Defendants' retaliation against Ms. Harrell on the basis of her exercising her statutory and constitutional rights to be free of gender-based discrimination and harassment violated her rights pursuant to the Fourteenth Amendment and as enforced pursuant to 42 U.S.C. § 1983.

COUNT X

AS TO: ALL DEFENDANTS

VIOLATION OF ARTICLE I, SECTION I, PARAGRAPH II  
OF THE CONSTITUTION OF THE STATE OF GEORGIA

RETALIATION

487.

The Plaintiff realleges and incorporates herein by reference as if fully set forth Paragraphs numbered 1 through 188 hereinabove.

488.

Ms. Harrell is female, and a lawful citizen of the State of Georgia, and is therefore a member of a protected class for purposes of the protections of Article I, Section I, Paragraph II of the Constitution of the State of Georgia.

489.

Ms. Harrell was, as stated herein, an employee of DCF&R and the County.

490.

Ms. Harrell complained about the sexual harassment to her supervisor King, who refused to take any corrective actions, and instead, she became the victim of retaliation by King and her co-workers as a result of her opposition to their unconstitutional and unlawful practices.

491.

When Ms. Harrell complained of her mistreatment and the harassment, she was subject to retaliation by King, including his falsely writing her up for being tardy, and treating her differently for disciplinary purposes than the male DCF&R employees.

492.

McCann failed and refused to take action against King or to otherwise address the improper sexually harassing misconduct.

493.

McCann failed and refused to take action against King or to otherwise address the retaliatory actions made against Ms. Harrell for her exercise of her statutorily and constitutionally protected complaints.

494.

Ms. Harrell's complaints about the sexual harassment and retaliation to the County's Human Resources Director, Mayfield, and the County's Administrator, Patton, went unheeded.

495.

Ms. Harrell was retaliated against for her complaints internally regarding the sexual harassment and for filing her Charge of Discrimination with the EEOC. Ms. Harrell's retaliation included being publicly humiliated and ridiculed by her co-workers, and the target of innuendo and

defamation by her supervisor and co-workers.

496.

Ms. Harrell requested a transfer back to DCEMS. Although there were open positions, Patton, Mayfield, Hogan, McCann, and the County refused her request in retaliation for her internal complaints and her having filed a Charge of Discrimination with the EEOC.

497.

Beth Yarbrough, close friend and work subordinate of Susan Moseley, wife of County Attorney, Moseley, harassed Ms. Harrell's child in retaliation for Ms. Harrell exercising her statutory right to complain about the sexually harassing behavior.

498.

Yarbrough's harassment is directly related to, and a result of Moseley's involvement in these matters.

499.

In addition, Palmer Rich, Chair of the Decatur County Commission, recently went into Ms. Harrell's place of business and conducted a juvenile and boisterous rant against Ms. Harrell, designed to harass and humiliate Ms. Harrell, and to cause her to lose her employment.

500.

Rich's childish and boorish behavior is directly related to, and in retaliation for, Ms. Harrell's complaints of sexual harassment at DCF&R and her filing of her Charge of Discrimination and Equal Pay Act claims.

501.

The Defendants' retaliation against Ms. Harrell on the basis of her exercising her statutory

and constitutional rights to be free of gender-based discrimination and harassment violated her rights pursuant to Article I, Section I, Paragraph II of the Constitution of the State of Georgia.

PRAYER FOR RELIEF

502.

WHEREFORE, Plaintiff prays as follows:

- a. that summons and process issue as provided by law and that the Defendants be properly served therewith;
- b. that Plaintiff recover of the Defendants special damages in an amount to be proven at trial;
- c. that Plaintiff recover of the Defendants general and consequential damages as determined in the enlightened conscience of the jury;
- d. that Plaintiff recover of the Defendants wages, benefits, retirement, seniority, all other actual monetary and benefits losses by her, and interest on the wages and benefits;
- e. that Plaintiff recover of the Defendants nominal damages in an amount to be determined in the enlightened conscience of the jury.
- f. the Plaintiff recover of the Defendants any attorneys' and experts' fees incurred by the employee and all expenses of her litigation;
- g. that Plaintiff be entitled to all equitable relief, including but not limited to, front pay, back pay, lost pay, and lost seniority and benefits;
- h. that Plaintiff recover of the Defendants for her mental and emotional pain, suffering,

and anguish;

- i. that Plaintiff be awarded punitive damages in an amount to be determined in the enlightened conscience of the jury; and
- j. that this Court award such other and further relief against the Defendants as it deems just and proper.

WHEREFORE, Plaintiff demands a trial by jury as to all issues so triable.

This 25<sup>th</sup> day of August, 2009.

WATSON SPENCE LLP  
Attorneys for Plaintiffs

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