

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF NEW YORK

MAKAYLA SUDDARD,
Plaintiff

V.

CLINTON COUNTY,
DAVID FAVRO and
NATHAN FAUBERT,
Defendants.

Civil Action No. 8:23-cv-1093 (GTS/CFH)

COMPLAINT

NOW COMES the Plaintiff MAKAYLA SUDDARD, by and through her counsel Robert J. Kaplan, Esq. and Stephanie M. Greenlees, Esq. of KAPLAN AND KAPLAN, and hereby states the following complaint against the Defendants CLINTON COUNTY, DAVID FAVRO and NATHAN FAUBERT.

NATURE OF THE CASE

1. Plaintiff Makayla Suddard brings this action against Defendants Clinton County, David Favro and Nathan Faubert pursuant to Title VII of the Civil Rights Act, 42 U.S.C. §2000e *et seq.* (“Title VII”) and the New York State Human Rights Law, N.Y. Exec. §296 *et seq.* (“NYSHRL”) for damages she suffered during her employment for Clinton County at Clinton County Sheriff’s Office and as a direct and proximate result of continuous and unremedied workplace discrimination based on her sex, sexual harassment, retaliation for engaging in protected activities, a discriminatory hostile work environment on account of her sex, and constructive discharge from her position.

PARTIES

2. Plaintiff Makayla Suddard (or “Ms. Suddard”) is a resident of Clinton County, New York and has been so for more than six months prior to the commencement of this action.

3. Defendant Clinton County is a municipal agency in State of New York. At all relevant times, the Clinton County Sheriff's Office was a department of Clinton County and located at 25 McCarthy Drive, Plattsburgh, New York 12901.

4. Upon information and belief, Defendant David Favro is a resident of Clinton County, New York and, at all times relevant to this action, was employed by Clinton County as the Sheriff of Clinton County.

5. Upon information and belief, Defendant Nathan Faubert is a resident of Clinton County in the State of New York and, at all times relevant to this action, was employed by Clinton County as a Sergeant at the Clinton County Sheriff's Office ("Sheriff's Office").

JURISDICTION AND VENUE

6. The Court has jurisdiction over this action pursuant to 42 U.S.C. §2000e, 28 U.S.C. §1331, and 28 U.S.C. §1367.

7. Venue is proper in this District pursuant to 28 U.S.C. §1391 because Defendant Clinton County does business in the State of New York and Defendants Favro and Faubert are residents of Clinton County, New York.

PROCEDURAL REQUIREMENTS

8. Prior to the commencement of this action, Plaintiff filed a timely Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") on December 10, 2021 (Charge No. 525-2022-00585) and received a Notice of Right to Sue letter from the EEOC on June 20, 2023.

9. Prior to the commencement of this action, Plaintiff filed a separate, timely Charge of Discrimination with the EEOC on May 18, 2023 (Charge No. 511-2023-02454) and received a Notice of Right to Sue letter from the EEOC on June 20, 2023.

FACTUAL ALLEGATIONS

10. At all times relevant, the Clinton County Sheriff's Office (or "the Sheriff's Office") operated Clinton County Jail, a men's and women's correctional facility located at 25 McCarthy Drive, Plattsburgh, New York 12901.

11. Ms. Suddard was employed by Clinton County as a correction officer ("CO") at the Sheriff's Office at Clinton County Jail (or "the Jail") from on or about April 1, 2019 to March 21, 2023.

9. Throughout Ms. Suddard's employment at the Jail, she and other female employees were subjected to continuous workplace sexual harassment, disparate treatment on account of their sex, policies and practices that discriminated against female employees, selective and unfounded discipline on account of sex, and a sexually hostile work environment permeated with discriminatory ridicule, intimidation, insult and animus toward females.

10. Defendant Clinton County, individually and through Sheriff Favro, Sergeant Faubert and other supervising officers at the Sheriff's Office, continuously subjected female COs to disparate treatment based on their sex, including relating to shift assignments and job duties. Defendants had an ongoing practice of assigning male COs to the most desirable assignments at the Jail, which were generally considered to be Rover, Intake and Control, while assigning female COs, including Ms. Suddard, to the least desirable shift assignments, which were generally considered to be Pods, Medium, and Maximum (e.g. Ms. Suddard was assigned to a Pod approximately 50% more than male COs on her shift (C-tour) were on average). Defendants also had an ongoing policy that prohibited female COs from searching male inmate cells without a male CO present but simultaneously allowed male COs to search female inmate cells regardless of whether a female CO present.

11. Defendants had an ongoing discriminatory forced overtime policy consisting of a regular forced overtime rotation for male and female COs (the CO at the top of the rotation would be forced for overtime and then dropped to the bottom of the rotation) and a separate female forced overtime rotation in situations when coverage for a female inmate was needed. The overtime policy did not take into consideration when a female CO was forced for female overtime in the regular forced overtime rotation (i.e. a female CO did not drop to the bottom of the regular forced overtime rotation after being forced for female overtime coverage) and, as a consequence, female COs, including Ms. Suddard, were forced for overtime significantly more than male COs.

12. Several female COs complained about the disparate and unfair shift assignments, including Ms. Suddard in July 2019 when she inquired to Sergeant Harry Bechore if she did something wrong because she had been assigned to the same Pod several shifts in a row which was contrary to the Jail's policy to rotate CO assignments. In response, Sergeant Bechore told her, "We prefer to put a female in the pod because we have one officer who is here right now who likes to accuse male officers of doing inappropriate things with females in the jail."

13. Ms. Suddard was repeatedly denied the opportunity to train to work Intake on account of her sex and despite her qualification and experience. At all relevant times, four of the five COs who worked Intake on Ms. Suddard's shift were males and, upon information and belief, Sergeant Faubert was responsible for selecting COs to train to work Intake. Following one of Ms. Suddard's several requests to train for Intake, Faubert said "Intake only needed one female trained" and, in or around December 2022, selected a male CO who had been working at the Jail for approximately five months to be trained for Intake over her.

14. Ms. Suddard was subject to selective and unfounded discipline on the basis on her sex including, for example, on November 9, 2020, when Major Smith ordered Sergeant

Christopher Thompson to formally counsel (i.e. discipline) Ms. Suddard for using excessive force against an inmate, though there was no basis to find she used excessive force. In addition, the male CO, Corey Brean, who responded to the incident with Ms. Suddard, used more force against the inmate than her went undisciplined.

15. Ms. Suddard was continuously and regularly sexually harassed by Travis Dunham, a male CO at the Jail and employee of Clinton County throughout her employment which included constant attempts to hug her despite her rejections, frequent incidents of him intentionally brushing up against her including with his genital area, and weekly incidents of unwelcome sexual advances which most often consisted of him intentionally placing his genital area in directly in front of her face while she was seated and then calling her attention to the fact that his genitals were in her face. For example, in or around February 2021, Dunham placed his genital in front of Ms. Suddard's face and said to her, "Oops, my crotch is in your face". In September 2021 and again in November 2021, Dunham stepped over Ms. Suddard's lap while she was seated at a desk and hovered over her with his legs straddling her and genital area immediately in front of her face. Dunham engaged in a similar ongoing course of sexually harassing and offensive conduct toward other female employees and also female inmates.

16. CO Dunham frequently and routinely made derogatory and sexually offensive comments about women and comments about raping and murdering women and female inmates, to and in front Ms. Suddard throughout her employment, as well as directed physically threatening and sexually offensive comments at Ms. Suddard. For example, in or around November 2020, Dunham told Ms. Suddard he wanted to "rape [her] in the parking lot"; in or around December 2020, Dunham told Ms. Suddard and two other female COs that he has "tarps, shovels and duct tape" in his truck and would "murder and rape the bitches" at the Jail if given the chance; and the winter of 2020, Dunham told Ms. Suddard, "I'd like to take her out back and

shoot her” in reference to a female inmate. In addition, on October 28, 2020, Dunham and Ms. Suddard were assigned to relieve two officers monitoring a female inmate at the hospital and, at the hospital, Dunham said to the inmate, “Do you want my gun so you can shoot yourself in the head?”, and also told a nurse she looked like she would “be a wild one” and that he “loves red heads” and, on the drive back from the hospital, Dunham repeatedly warned Ms. Suddard, “See this badge, this means I can do whatever I want.”

17. At all times relevant, Defendant Clinton County was aware of CO Dunham’s ongoing pattern of workplace sexual harassment and offensive treatment of female employees. Prior to Ms. Suddard and Dunham’s departure for the hospital transport on October 28, 2020, Sergeant Faubert warned Ms. Suddard, “Whatever you see on this trip, don’t rat Dunham out like the other people do.” In addition, Ms. Suddard complained about Dunham to Sergeant Christopher Thompson the day after her October 28, 2020 hospital assignment with him, and she also submitted a workplace sexual harassment complaint to the Clinton County Department of Personnel about him (and others) in March 2021. Several other female employees, as well as female inmates, complained to supervising officers about Dunham’s sexually harassing conduct over the years but Clinton County failed to take timely or appropriate corrective action.

18. Ms. Suddard was routinely and continuously subjected to derogatory and obscene comments and sexually offensive language by her supervising officers. For example, Sergeant Faubert and COs Brean and Dunham, who Sergeant Faubert referred to as the “Faubert boys”, frequently and openly bragged and joked about “banging” female COs and used a computer at the Jail to look up pictures of female COs and incoming female inmates on social media and make offensive and disparaging comments about their intimate body parts. On July 30, 2019, Sergeant Bechore made a comment about “f*cking” a female inmate’s mother in Ms. Suddard’s presence.

19. Defendants continuously allowed male inmates to engage in sexually harassing conduct toward Ms. Suddard and other female COs including, but not limited to, indecent exposure and exhibitionist masturbation directed at them. One particular male inmate exposed himself and masturbated at and in front of Ms. Suddard on every shift or nearly every shift that she was assigned to his unit and similarly did so with other female COs. On or about September 18, 2020, Ms. Suddard reported to Sergeant Christopher Thompson and Sergeant Nicholas Threlkeld that the male inmate exposed his genitals and masturbated at and in front of her. Rather than disciplining the inmate for violating the Jail rules prohibiting such conduct, Sergeants Threlkeld and Shawn Martineau and Captain Joel Desso brought Ms. Suddard in for questioning and told her she would be disciplined if she wrote the inmate up because she allowed him to have a newspaper up in his cell, and Threlkeld told her, “You need to understand, this is a male dominated facility ... These men all have sexual urges.” Ms. Suddard also complained to Sergeant Faubert about the inmate engaging in that misconduct in or around the end of summer 2020. Despite Ms. Suddard’s and several other female COs complaints to superior officers about male inmates engaging in exhibitionist masturbation, no corrective action was taken.

20. The supervising officers at the Jail, including Sergeants Faubert and Threlkeld, continuously and routinely undermined Ms. Suddard’s authority over inmates, allowed inmates to be insubordinate and engage in violent and physically threatening behavior toward her, and interfered with her ability to safely and effectively perform her job. For example, in or around May 2020, Sergeant Faubert disregarded Jail rules and refused to write up and discipline an inmate who disobeyed Ms. Suddard’s orders to lock-in his cell and threw a remote control at her. On December 28, 2020, Ms. Suddard notified Faubert of a male inmate refusing her orders to lock-in and, instead of writing the inmate up in accordance with Jail rules, Faubert ordered Ms. Suddard “to accept an apology” from the inmate and to “move on”. During briefing on the next

shift, Sergeant Threlkeld announced that the incident was “Suddard’s fault”, when he knew or should have known it was not, and that she “should not have disrespected [the inmate] like that.” On September 27, 2021, Ms. Suddard was Rover and responded to an incident in a male housing unit after which she submitted an incident report detailing a male inmate’s misconduct which included threats to throw water and feces at her and the female CO assigned to the unit and yelled obscenities at Ms. Suddard (“fat ass” and “dumb bitch”), which was consistent with the incident report submitted by the other female CO but conflicted with the grievance the male inmate made about that female CO. Threlkeld subsequently made false statements to Ms. Suddard’s co-workers that she was “lying” and “covering up” for the female CO and found the inmate not guilty of wrongdoing at his disciplinary hearing.

21. On or about March 18, 2021, Ms. Suddard a submitted a complaint to the Clinton County Department of Personnel alleging workplace sexual harassment and discrimination by male COs Brean and Dunham and Sergeant Faubert. Upon information and belief, two other female COs submitted workplace discrimination and harassment complaint to the Department of Personnel in or around the same time based on misconduct by Faubert, Threlkeld, Dunham and/or Brean. Upon completing its investigation, the Department of Personnel concluded violations of the Clinton County Non-Discrimination, Anti-Harassment and Sexual Harassment Prevention Policy took place which “had the purpose and effect of unreasonable interfering with a person’s work performance or creating an intimidating, hostile or offensive working environment”. Upon information and belief, Sheriff Favro suspended Faubert and Dunham for approximately one month with pay, allowed Brean to resign, and did not bring charges against any of them under NYS Civil Service Law Section 75 (Removal and Other Disciplinary Action).

22. Following and because of the sexual harassment and discrimination complaints, Ms. Suddard and other female complainants and cooperators were retaliated against by male

officers at Clinton County Jail and subjected to adverse employment actions, threats, increased acts of harassment and disparate treatment, selective discipline and an increasingly discriminatory hostile work environment toward female employees including, but not limited to, as set forth below.

- a) On April 23, 2021, Clinton County Undersheriff Robert Craig made an announcement during briefing, which Ms. Suddard and other female COs complainants and cooperators were present for, that Faubert and Dunham “were found guilty” and “will be back tomorrow business as usual”, that “the last 5 weeks have been a huge pain” in reference to their suspension, and explicitly discouraged complaints about workplace sexual harassment and discrimination and threatened to fire anyone who spoke about their suspension. The Undersheriff also told the COs “I don’t want to hear anything about shift assignments” and, if he does, “you will be fired.”
- b) On April 26, 2021, Sergeants Martineau and Faubert disregarded a female CO’s report that several male inmates in A-Pod made threatening statements to her which included “If Dunham and Faubert can get away with grabbing you, why can’t we”; “They don’t have to listen so we don’t need to”; and “Let’s see what we can get away with.” On April 30, 2021, an emboldened male inmate in A-Pod grabbed a female CO and tackled her to the ground. On May 25, 2021, an inmate in A-Pod told Ms. Suddard he could not believe Faubert and Dunham were not fired and, while making a slapping motion with his hand, said to her “If they can do this, what’s stopping us from doing that too?”
- c) The Sergeants increasingly gave Ms. Suddard and the other female complainants and cooperators the least desirable assignments.
- d) Sergeant Threlkeld, a member of Sergeant Faubert’s “clique”, made it known to the COs that he was “furious” about Sergeant Faubert and CO Dunham’s suspension and announced to multiple COs that the complaints were “bullshit” and that Dunham and Faubert “were suspended for nothing.”
- e) On or about April 29, 2021, Sergeant Threlkeld yelled at and ridiculed Ms. Suddard in front of several co-workers because she recorded the wrong number on the count sheet and thereafter stated the only reason he did not take disciplinary action against her was she because he would then have to discipline the male CO who took over for her at the end of her shift. Count sheet errors were very common and, upon information and belief, no male COs on C-Tour had been disciplined or publicly ridiculed for making the same or similar error as Ms. Suddard did.
- f) On or about June 2, 2021, Ms. Suddard was pulled from her post and interrogated at work by Clinton County Sheriff’s Deputy Todd about a criminal investigation into a work matter she was not involved in and that concerned one

of the other female COs who complained to the Department of Personnel. On or about June 10, 2021, Ms. Suddard was interrogated a second time by Major Nicholas Leon regarding the same female complainant during which he repeatedly and baselessly accused her of lying to him and to Deputy Todd, accused the female complainant of lying, and threatened Ms. Suddard with termination and obstruction of justice charges.

- g) On or about August 11, 2021, Sergeants Faubert and Threlkeld knowingly used false and fabricated information as basis to formally counsel (i.e. discipline) Ms. Suddard in connection with an incident when an inmate broke a TV on or about the day prior and, on Captain Desso's instructions, denied her request for and right to union representation during the formal counseling.
- h) After his return from suspension, CO Dunham engaged in repeated acts of hostility and workplace sabotage against Ms. Suddard and other female complainants and cooperators and created hazardous working conditions for Ms. Suddard. For example, Dunham refused to speak with Ms. Suddard at work, including on essential work related matters, for several months; on several occasions when Dunham was Rover, including on April 26, 2021, he intentionally did not relieve Ms. Suddard for her meal break per his duty; on April 29, 2021, Ms. Suddard was assigned to a Pod and Dunham, the Rover, came to relieve her for a break and refused to take the Pod keys from her per Jail rules requiring a hand-to-hand exchange and, instead, pointed to the counter; on May 6, 2021, Dunham intentionally gave Ms. Suddard false information regarding an inmate security check; on June 3, 2021, Dunham was speaking to a male CO about his suspension in Ms. Suddard's presence and said "I knew it was bullshit and I wasn't getting fired"; and, on June 8, 2021, Dunham was assigned to Control, so it was his duty to radio all the COs to ensure their radio is working properly, and he radioed every CO but Ms. Suddard.

23. On December 10, 2021, Ms. Suddard filed a Charge of Discrimination with the EEOC alleging unremedied disparate treatment based on her sex, workplace sexual harassment and adverse conduct by male officers including, but not limited to, CO Dunham, Sergeants Faubert and Threlkeld, and Captain Desso; retaliation for her March 2021 complaint to the Department of Personnel; and a sexually discriminatory hostile work environment. In retaliation for her Charge of Discrimination, Defendants subjected her to increased hostility, disparate treatment, ongoing course of adverse acts and selective and disproportionate disciplinary actions including, but not limited to, as set forth below herein.

24. The Sergeants increasingly assigned Ms. Suddard to the least desirable shift assignments after she filed her Charge of Discrimination (e.g. she was assigned to a housing unit on approximately 91% of her shifts in the month-and-a-half after she filed her Charge). She was also increasingly forced for overtime, which often came directly before and after her regular shift and, contrary to the Jail's standard practice, the Sergeants frequently refused to let her choose her assignment on forced overtime shifts and on her regular shifts coming directly off overtime.

25. Sergeant Faubert frequently and intentionally placed her in dangerous situations at work, undermined her in front of inmates, interfered with her work performance, and engaged in conduct designed to get her fired and/or to force her to quit. For example, on March 10, 2022, a fight broke out between two inmates on her floor and, while she and two other COs were trying to break the altercation up, Sergeant Faubert and three others COs, including Dunham, came on scene and two of the COs (not Dunham) assisted in trying to separate the inmates. Ms. Suddard was knocked to the ground during the altercation and one of the inmate's proceeded to climb on top of her and repeatedly tried to stab the other inmate with a pen and struck her with the pen. Contrary to his duty as Sergeant, Faubert did not provide any back up and, instead, merely stood in the doorway watching. Upon information and belief, Faubert "was trying to get Suddard hurt" during the incident, Sheriff David Favro had given Faubert the "greenlight" to get rid of her.

26. On the morning of March 17, 2022, Ms. Suddard was admitted to the emergency room with chest pains which were determined to have stemmed from work-related anxiety. She notified Sergeant Threlkeld that she was admitted to the hospital and unlikely to make it to her forced overtime shift later that day. Threlkeld took her off the schedule that day, but forced her for overtime the very next day, her day off.

27. On May 8, 2022, an inmate was screaming at Ms. Suddard, refusing her orders, and threw batteries at her. She reported the incident to her Jail Sergeant, Sergeant Thompson,

who responded and talked to the inmate and, shortly thereafter, Sergeant Faubert, though not Jail Sergeant for her assigned floor, came to her floor and talked to the inmate. Despite the inmate's disobedient and physically aggressive behavior toward her, neither Sergeant disciplined him. Later that week, Faubert witnessed the same inmate refusing Ms. Suddard's orders to lock-in and engaging in similar unruly and aggressive behavior toward her. Contrary to his duty as Sergeant and the Jail's Institutional Rules of Conduct, Faubert did not provide any backup to Ms. Suddard, walked away before the inmate locked-in and without saying anything to Ms. Suddard, and did not discipline the inmate for his misconduct.

28. On December 15, 2022, an inmate on Ms. Suddard's floor began punching the wall because he could not reach someone on the phone and she ordered the inmate to stop. The inmate hit the phone off the receiver and began hitting the wall again so Ms. Suddard ordered him to lock-in, after which the inmate repeatedly slammed his gate before closing it. Ms. Suddard logged that the inmate was locked-in for disobeying block rules and ordered him to give her the tablet in his cell, to which he refused and said, "Get Nathan [Faubert] now, bitch" and threatened to spit on her. Ms. Suddard called Sergeant Faubert and reported what transpired and, a few minutes later, Faubert came and spoke to the inmate but not his misconduct, but about getting Ms. Suddard fired. While on her floor, Faubert observed Ms. Suddard do a security check through the unit block window and thereafter left the block without checking in or saying anything to Ms. Suddard and signed a security check for her floor without having walked the floor in the unit blocks. The inmate thereafter asked Ms. Suddard if he could go to medical because he twisted his ankle, so she inquired with a fellow CO if the Jail Nurse was aware of the inmate's complaint about his ankle and the CO answered in the affirmative. Ms. Suddard informed the inmate of the same and he insisted she call "Nate [Faubert]" and began kicking his cell gate and subsequently made several threats to her, including "I'm going to throw piss and

shit on you next time you come in”, “you better be careful walking to your car tonight, you never know who will be waiting for you”, and that “Nate [Faubert] told me to write down everything about you, I’ll have your job.” Later that shift, Faubert ordered Ms. Suddard to open that same inmate’s cell door and went in and spoke with him and obtained a request form he (Faubert) had Dunham get him earlier.

29. On January 11, 2023, Captain Desso informed Ms. Suddard that she was on administrative leave effectively immediately and provided her a letter from Sheriff Favro stating she was scheduled for a meeting on January 13, 2023 “for the purpose of notification of discipline on you with regard to misconduct and incompetence in accordance with Section 75 of the New York State Civil Service Law.” At the meeting, which Sheriff Favro and Captain Desso were present for, Clinton County’s attorney informed Ms. Suddard she is on thirty-days unpaid administrative leave for denying an inmate medical attention on December 15, 2022 and failing to enter the unit block during her security checks (i.e. because she did a visual security check through the unit block window), and that the charges were based on a report by Sergeant Faubert. The County’s attorney also provided Ms. Suddard the written Section 75 Charges which accuse her of failing to enter the housing unit block during security checks on December 15, 20 and 21, 2022 and falsifying the Shift Log Entry in entering that she did security checks on those dates.

30. Defendants’ actions in bringing Section 75 charges against Ms. Suddard, manufactured by Faubert, were a malicious act of retaliation and ongoing discriminatory hostility toward her. Though Jail rules state COs must enter each cellblock during security checks, the majority of COs, if not all, did visual security checks through the window outside the cellblock and were not disciplined for it. In fact, some Sergeants explicitly instructed COs not to enter cellblocks during security checks (e.g. in December 2022, Sergeant Mark Fountain instructed Ms. Suddard not to enter the unit blocks during her security checks). Moreover, on December 15,

2022, Sergeant Faubert failed to do his required security check on Ms. Suddard's floor, falsified the Shift Log Entry in stating he had done them, and also failed to check-in with Ms. Suddard which he was required to do twice during her shift. However, Faubert was not disciplined for "misconduct or incompetence".

31. Ms. Suddard's hearing on the Section 75 charges was set for March 21, 2023 and, if found guilty, she would be subject to penalties including dismissal. Ms. Suddard felt she had no choice but to resign because there was no possibility she would receive a fair hearing on the merits given the retaliatory, obstructive and malicious tactics of Defendants which included tampering with and withholding evidence material to her defense, failure to produce material evidence in a timely manner, and even waiting until the day of her hearing to produce evidence.

32. Ms. Suddard submitted her letter of resignation to the Sheriff Favro prior to her hearing on March 21, 2023 and did so upon the Sheriff's express agreement to accept her resignation in lieu of the Section 75 Charges against her. Despite this agreement, on March 22, 2023, Sheriff Favro notified the New York State of Division of Criminal Justice Services ("DCJS") that Ms. Suddard was removed from her position at the Sheriff's Office for cause "due to incompetence or misconduct" and, as a consequence, caused her peace officer basic training certification to be invalidated.

33. On May 18, 2023, Ms. Suddard filed a second Charge of Discrimination with the EEOC alleging, among other unlawful discriminatory conduct, constructive discharge due to retaliatory disciplinary action and a sexually discriminatory hostile and intolerable work environment at Clinton County Jail.

**COUNT I: CONTINUOUS HOSTILE WORK ENVIRONMENT BASED ON GENDER
AND SEXUAL HARASSMENT IN VIOLATION OF TITLE VII AND NYSHRL**

34. Plaintiff incorporates by reference and re-alleges Paragraphs 1 through 33 above as if set forth fully herein.

35. At all times relevant, Defendant Clinton County, individually and through Sheriff Favro, Faubert and other supervising officers at the Jail, had a duty to maintain a work environment free from sexual harassment, discrimination based on sex, and hostility toward Ms. Suddard and other female employees on account of sex.

36. Because of Ms. Suddard's sex, Defendants permitted her to suffer sexual harassment, discriminatory policies and practices, disparate treatment and adverse acts continuously throughout her employment including, but not limited to, as set forth in this Complaint and as set forth below.

- a) Unfair and disparate treatment in shift assignments and denial of training opportunities.
- b) Ongoing incidents of workplace sexual harassment and overt gender hostility at the hands of CO Dunham over multiple years which included constant attempts to hug her, weekly incidents of unwelcome sexual advances most often consisting of him placing his genital area directly in front of her face while she was seated and then calling attention to the fact that his genitals were in her face, and frequent incidents of him intentionally brushing up against her including with his genital area; countless comments about shooting and/or raping female inmates; a comment to Ms. Suddard that he wanted to "rape [her] in the parking lot" in November 2020; and acts of intimidation, retaliation, workplace sabotage, and creation of safety hazards endangering Ms. Suddard.
- c) Sergeant Faubert and COs Brean and Dunham frequently and routinely made derogatory and sexually offensive comments about female employees and inmates and their intimate body parts in Ms. Suddard's presence.
- d) Frequent and routine incidents of sexually harassing and physically threatening conduct by male inmates which included threats of forced touching, threats of violence, and incidents of indecent exposure and exhibitionist masturbation directed at Ms. Suddard.
- e) Supervising officers including, but not limited to, Sergeants Faubert and Threlkeld, treated Ms. Suddard with overt hostility and disparately from male COs, frequently ridiculed her in front of co-workers and inmates, frequently undermined her authority in front of inmates, and routinely allowed inmates to engage in repeated sexually harassing, violent, threatening and insubordinate behavior toward her and other female COs.
- f) Ms. Suddard was subject to selective and unfounded reprimand and disciplinary action on account of her sex on numerous occasions including by Captain Desso

and Sergeant Threlkeld on September 18, 2020, Major Smith on November 9, 2020, Sergeant Threlkeld on April 29, 2021, Sergeants Threlkeld and Faubert and Captain Desso on August 10, 2021, and Sheriff Favro and Sergeant Faubert on January 13, 2023.

- g) Ms. Suddard's right to union representation was denied in connection with a baseless disciplinary action brought against her by Sergeants Faubert and Threlkeld on August 10, 2021.
- h) On April 23, 2021, approximately one month after Ms. Suddard's complaint, Undersheriff Craig made an announcement to Ms. Suddard and other COs explicitly discouraging COs from making workplace sexual harassment and discrimination complaints, threatened to fire anyone who spoke about Faubert and Dunham's suspension for the same, and that COs who complained about shift assignments would be fired.
- i) Ms. Suddard was subject to two hostile interrogations at work regarding a criminal investigation into a matter she was not involved in and that concerned a female CO who complained in March 2021, including on June 2, 2021 during which Sheriff's Deputy Todd repeatedly accused her of lying and on June 10, 2021 during which Major Leon repeatedly accused her of lying, accused the female CO being investigated of lying, and threatened to fire Ms. Suddard and to charge her with "obstruction of justice".
- j) Sheriff Favro gave Sergeant Faubert the "greenlight" to get rid of Ms. Suddard and, on March 10, 2022, Faubert intentionally exposed her to injury when he failed to provide backup or any assistance after she got knocked to the ground during a physical altercation between male inmates and watched while the inmate climbed on top of her and repeatedly tried to stab the other inmate with a pen and struck Ms. Suddard with the pen.
- k) As part of an ongoing effort to fire or force Ms. Suddard to quit, Defendants brought manufactured and disproportionate disciplinary action (Section 75 Charges) against her on January 13, 2023 for conduct COs had consistently been permitted to engage in without consequence, used deceptive and obstructive tactics in bringing those Charges against her, and denied her the opportunity for a fair hearing on the Charges, thereby forcing her resign.
- l) Other acts of retaliation to be determined during discovery in this action.

37. The discriminatory practices, disparate treatment, sexual harassment and adverse and hostile acts Defendants subjected Ms. Suddard to were severe and concerted, continuous throughout her employment, and created a discriminatory hostile work environment on account of her sex.

38. At all times relevant, Defendant Clinton County knew and/or should have known of the ongoing and pervasive sexual harassment, discriminatory practices and adverse treatment that female employees, including Ms. Suddard, were subjected to on account of their sex but failed to take timely or appropriate remedial action.

39. Defendant Clinton County violated Title VII and NYSHRL in allowing the sexually discriminatory hostile work environment at Clinton County Jail to persist throughout the entirety of Ms. Suddard's employment.

40. Defendants Favro and Faubert violated Title VII and NYSHRL by and through their knowing actions and omissions that contributed to the sexually discriminatory hostile work environment at Clinton County Jail and allowed it to persist.

41. As a direct and proximate result of Defendants' unlawful conduct, Ms. Suddard suffered damages including, but not limited to, fear for her safety at work, physical injury, emotional distress, anxiety, depression, Adjustment Disorder, worry, humiliation, damage to her reputation and career, loss of her position at the Sheriff's Office, and past and future lost earnings and employee benefits.

COUNT II: RETALIATION IN VIOLATION OF TITLE VII AND NYSHRL

42. Plaintiff incorporates by reference and re-alleges Paragraphs 1 through 41 above as if set forth fully herein.

43. On March 18, 2021, Ms. Suddard submitted a complaint to the Clinton County Department of Personnel alleging workplace discrimination and harassment by COs Brean and Dunham, Sergeant Faubert and other male officers at the Clinton County Sheriff's Office. Ms. Suddard's complaint constitutes a protected activity under Title VII and NYSHRL.

44. At all times relevant, Defendants were aware of Ms. Suddard's complaint and also shared information about her complaint with other officers at the Sheriff's Office.

45. Following and because of her complaint to the Department of Personnel, Defendants subjected Ms. Suddard to increased hostility and disparate treatment, workplace sabotage, dangerous and threatening working conditions, and adverse employment actions including, but not limited to, as set forth below:

- a) On April 23, 2021, Undersheriff Craig announced during briefing, including to Ms. Suddard and other female COs who complained to and/or cooperated in the Department of Personnel's investigation, that Faubert and Dunham "were found guilty" and "will be back tomorrow business as usual", that "the last 5 weeks have been a huge pain", and explicitly discouraged them from making complaints about sexual harassment and discrimination and threatened to fire anyone who spoke about Dunham and Faubert's suspension.
- b) On or about April 26, 2021, Sergeants Faubert and Martineau knowingly disregarded a female CO's report that several male inmates in A-pod made threatening statements to her which included, but were not limited to, "If Dunham and Faubert can get away with grabbing you, why can't we"; "They don't have to listen so we don't need to"; and "Let's see what we can get away with". On May 25, 2021, an emboldened inmate in A-Pod said to Ms. Suddard, while making a slapping motion with his hand, "If [Faubert and Dunham] can do this, what's stopping us from doing that too?".
- c) The Sergeants increasingly gave Ms. Suddard the least desirable assignments and increasingly forced her for overtime.
- d) Sergeant Threlkeld announced to multiple COs that the complaints were "bullshit" and that Dunham and Faubert "were suspended for nothing."
- e) Ms. Suddard was interrogated at work on June 2, 2021 by Sheriff's Deputy Todd and again on June 10, 2021 by Major Leonin connection with a criminal investigation into a matter she had no involvement in and that concerned a female CO who also made a complaint in March 2021. During the interrogations, she was repeatedly accused of lying and threatened with termination and obstruction of justice charges.
- f) On or about August 11, 2021, Sergeants Faubert and Threlkeld knowingly used false and fabricated information to take disciplinary action against Ms. Suddard relating to an incident when an inmate broke a TV and denied her request for and right to union representation during the disciplinary formal counseling.
- g) After returning from suspension on April 24, 2021, CO Dunham engaged in repeated acts of hostility and workplace sabotage against Ms. Suddard and exposed her to dangerous working conditions including refusing to speak with her at work for several months; he did not relieve her for breaks on numerous occasions when he was her Rover, including on April 26, 2021; on April 29,

2021, he refused to take the Pod keys from her when relieving her a break; on May 6, 2021, he gave her false information regarding an inmate security check; on June 3, 2021, while speaking to a male CO about his suspension in Ms. Suddard's presence, Dunham said "I knew it was bullshit and I wasn't getting fired"; and, on June 8, 2021, Dunham radio checked each on-duty CO except Ms. Suddard.

46. On December 10, 2021, Ms. Suddard filed a Charge of Discrimination with the EEOC alleging unremedied workplace sexual harassment by male inmates and officers including, but not limited to, Sergeant Faubert and CO Dunham; ongoing discriminatory policies and practices on account of her sex; disparate and adverse treatment by supervising officers including, but not limited to, Sergeants Faubert and Threlkeld; selective discipline on account of her sex; retaliation for complaining about sexual harassment and discrimination to the Department of Personnel; and a continuous sexually discriminatory hostile work environment. Ms. Suddard's Charge of Discrimination constitutes a protected activity under Title VII and NYSHRL.

47. At all times relevant, Defendants were aware of Ms. Suddard's Charge of Discrimination.

48. After filing and because she filed a Charge of Discrimination, Ms. Suddard was subjected to increased acts of hostility and disparate treatment, workplace sabotage and adverse employment actions that were perpetrated by Sergeant Faubert, Sheriff Favro and other superior officers, designed to get her hired or to force her to quit and included, but are not limited to, as set forth in this Complaint and below.

- a) The Sergeants increasingly assigned Ms. Suddard to the least desirable shift assignments and increasingly forced her for overtime.
- b) Sheriff Favro gave Sergeant Faubert the "greenlight" to get rid of Ms. Suddard and, on March 10, 2022, Faubert intentionally exposed her to injury when he failed to provide backup after she got knocked to the ground during a fight between inmates on March 10, 2022 and watched an inmate climb on top of her and repeatedly try to stab an inmate with a pen and strike her with the pen.

- c) Sergeant Faubert intentionally exposed Ms. Suddard to hazardous and problematic working conditions by failing to take corrective action in response to her reports of inmates engaging in violent, physically threatening, unruly and insubordinate behavior toward her including on May 8, 2022, May 13, 2022, and December 15, 2022.
- d) On December 15, 2022, Sergeant Faubert instructed an inmate “to write down everything about [Ms. Suddard]” in order to get her fired.
- e) Sergeant Faubert made a false report to the Sheriff that Ms. Suddard denied an inmate medical attention on December 15, 2022.
- f) Sheriff Favro placed Ms. Suddard on unpaid administrative leave for “misconduct and incompetence” and brought Section 75 Charges against her on January 13, 2023 because she did security checks through the cellblock window, though it had been common and accepted practice for COs to do security checks through block windows.
- g) Defendants forced Ms. Suddard to resign on March 21, 2023 by and through their actions in bringing manufactured and disproportionate disciplinary action against her for conduct COs consistently were permitted to engage in without consequence, and engaging in obstructive and malicious tactics during the Section 75 proceeding including tampering with evidence material to her defense, withholding evidence material to her defense, failing to produce material evidence in a timely manner, creating a working environment in which Ms. Suddard’s co-workers were unwilling to testify on her behalf due to fear of retaliation, and denying her the opportunity for a fair hearing.
- h) Sheriff Favro maliciously breached his agreement to accept Ms. Suddard’s resignation in lieu of the Section 75 Charges in notifying DCJS that she was removed from her position for cause “due to incompetence or misconduct”, thereby causing her basic peace officer training certification to be invalidated
- i) Other acts of retaliation to be determined through discovery in this action.

49. The increased hostility and disparate treatment, workplace sabotage and adverse acts that Defendants subjected Ms. Suddard to were carried out in retaliation for her complaint to the Department of Personnel and Charge of Discrimination and would have been dissuaded a reasonable worker from making or supporting a complaint of discrimination.

50. As a direct and proximate result of Defendants’ unlawful retaliatory conduct in violation of Title VII and NYSHRL, Ms. Suddard suffered damages including, but not limited to, fear for her safety at work, physical injury, emotional distress, anxiety, depression, Adjustment

Disorder, worry, humiliation, damage to her reputation and career, loss of her position at the Sheriff's Office, invalidation of her basic peace officer training certification, and past and future lost earnings and employee benefits.

**COUNT III: GENDER DISCRIMINATION IN VIOLATION OF TITLE VII
AND NYSHRL**

51. Plaintiff incorporates by reference and re-alleges Paragraphs 1 through 50 above as if set forth fully herein.

52. Ms. Suddard, as a woman, is a member of protected class and, at all times relevant, was qualified for the position she held with the Sheriff's Office at Clinton County Jail.

53. At all times, Defendant Clinton County, individually and through its superior officers at the Sheriff's Office, including Defendants Favro and Faubert, prohibited from discriminating against any employee, including Ms. Suddard, on the basis of sex pursuant to Title VII and NYSHRL.

54. Defendants violated Title VII and NYSHRL by subjecting Ms. Suddard to adverse employment actions on account of her sex including, but not limited to, as follows:

- a) Denying Ms. Suddard the opportunity to train to work Intake in favor of similarly situated male COs and despite her qualification and experience.
- b) Taking baseless and selective disciplinary action against Ms. Suddard for use of excessive force on November 9, 2020, while allowing the male CO who responded to the incident with her and used more force than her to go undisciplined.
- c) On August 11, 2021, Sergeants Faubert and Threlkeld knowingly used false and fabricated information to discipline Ms. Suddard for an incident when an inmate broke a TV and denied her right to union representation during the formal counseling, while the male inmate who caused the damage went undisciplined.
- d) On January 13, 2023, Sheriff Favro brought retaliatory Section 75 Charges against Ms. Suddard for conduct similarly situated were COs routinely permitted to engage in, and also selectively placed her on unpaid administrative leave in connection with the Section 75 Charges, as male officers who engaged in more severe conduct than that which she was charged were consistently placed on paid suspension.

- e) Defendants' forced Ms. Suddard to resign by subjecting her to a hostile and intolerable discriminatory work environment on account of her sex, bringing retaliatory Section 75 Charges against her, and denying her the opportunity for a fair hearing in connection with the Charges including by tampering with and withholding evidence material to her defense and failing to produce material evidence in a timely manner.
- f) Sheriff Favro breached his March 21, 2023 agreement to accept Ms. Suddard's resignation in lieu of the Section 75 Charges by notifying DCJS she was removed from her position for cause "due to incompetence or misconduct", thereby causing her basic peace officer training certification to be invalidated. Whereas, the Sheriff did not notify DCJS of numerous male officers' removal for cause due to misconduct significantly more severe than that which Ms. Suddard was charged.
- g) A continuous discriminatory hostile work environment on account of her sex.

55. As a direct and proximate result of Defendants' unlawful discrimination, Ms. Suddard suffered damages including, but not limited to, fear for her safety at work, emotional distress, anxiety, depression, Adjustment Disorder, worry, humiliation, damage to her reputation and career, loss of her position at the Sheriff's Office, invalidation of her peace officer basic training certification, and past and future lost earnings and employee benefits.

**COUNT IV: CONSTRUCTIVE DISCHARGE IN VIOLATION OF TITLE VII
AND NYSHRL**

56. Plaintiff incorporates by reference and re-alleges Paragraphs 1 through 55 above as if set forth fully herein.

57. Throughout Ms. Suddard's employment at Clinton County Jail, Defendants' subjected her to severe and pervasive incidents of hostile and adverse conduct on account of her sex; frequent unremedied incidents of sexual harassment and threatening conduct by male inmates, male COs, Sergeant Faubert and other supervising officers; intentionally hazardous working conditions; retaliation for engaging in protected activities and, as set forth in Count I of this Complaint, a hostile and intolerable work environment on account of her sex that Clinton County continuously condoned.

58. In an ongoing campaign of retaliation designed to get Ms. Suddard fired or force her to quit, Defendants brought manufactured and unwarranted Section 75 Charges against her for conduct COs had consistently been permitted to engage in without consequence, engaged in malicious and obstructive tactics during the Section 75 Charges proceeding including tampering with and withholding evidence material to her defense and failing to produce evidence in a timely manner, and forced her to resign prior to her hearing on the Charges because there was no possibility she would receive a fair hearing under the circumstances created by Defendants.

59. Ms. Suddard felt compelled to resign due to the objectively hostile and intolerable work environment at Clinton County Jail on account of her sex and retaliatory and malicious Section 75 Charges Defendants brought against her and she did so on March 21, 2023.

60. As a direct and proximate result of her constructive discharge due to Defendants' conduct in violation of Title VII and NYSHRL, Ms. Suddard suffered damages including, but not limited to, emotional distress, anxiety, depression, Adjustment Disorder, worry, humiliation, damage to her reputation and career, loss of her position at Clinton County, invalidation of her peace officer basic training certification, and past and future lost earnings and employee benefits.

WHEREFORE, the Plaintiff respectfully requests the Court enter judgment against Defendants and issue an order awarding Plaintiff the following relief:

- a) Compensatory damages;
- b) Economic Losses;
- c) Pre-judgment and post-judgement interest;
- d) Plaintiff's attorney fees and costs; and
- e) Such other relief that the Court deems just and proper.

PLAINTIFF DEMANDS TRIAL BY JURY

DATED at Burlington, Vermont this 29 day of August, 2023.

Respectfully Submitted By,

MAKAYLA SUDDARD

By Counsel

KAPLAN AND KAPLAN



Stephanie M. Greenlees, Esq.
Attorney for Plaintiff
95 St. Paul Street, Suite 405
Burlington, Vermont 05401
(802) 651-0013
sgreenlees@kaplanlawvt.com

KAPLAN AND KAPLAN

/s/ Robert J. Kaplan

Robert J. Kaplan, Esq.
Attorney for Plaintiff
95 St. Paul Street, Suite 405
Burlington, Vermont 05401
(802) 651-0013
rkaplan@kaplanlawvt.com