

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

KATHERINE BELCASTRO-GONZALEZ,)

Case No. 8:19-cv-572

Plaintiffs,)

vs.)

**MOTION FOR JUDGMENT AS A
MATTER OF LAW OR FOR A
NEW TRIAL**

THE CITY OF OMAHA, a municipal)
corporation, and TODD SCHMADERER, Chief)
of Police of the Omaha Police Department, in)
his official and individual capacity,)

Defendants.)

COME NOW the Defendants City of Omaha and Todd Schmaderer, by and through their undersigned counsel of record, and pursuant to Fed. R. Civ. P. 50 hereby move the Court for an order for judgment as a matter of law for the jury trial in the above-captioned matter that occurred from September 6-9, 2022. This motion is based on the grounds that a reasonable jury would not have had a legally sufficient evidentiary basis to find in favor of the Plaintiff. In the alternative, Defendants move for a new trial pursuant to Fed. R. Civ. P. 59. Defendants rely upon the follow issues that were errors as a matter of law and/or cause for new trial:

1) The misconduct of at least one juror who had inappropriate communications with a non-juror during the trial. Said non-juror was a former police officer with the Omaha Police Department.

2) The misconduct of the jury wherein they engaged in “jury nullification” by disregarding the law as instructed by this Court and by relying on extraneous evidence in order “to send a message” to the City.

3) Evidence, admitted over Defendants’ objections and Motion in Limine, of witnesses regarding discrimination or harassment by Kerry Neumann; specifically, the testimony of Staci Witkowski and her charges of discrimination filed in 2010/2011 regarding Kerry

Neumann, which clearly the jury relied heavily upon in reaching their verdict. And similar evidence by Plaintiff that she (and others) were discriminated against by Plaintiff.

4) Evidence, again admitted over Defendants' objections and Motions in Limine, regarding the City's stated reasons for failing to promote Plaintiff to Deputy Chief as set forth in the City's response to the NEOC/EEOC charge of discrimination were different than reasons Defendant Schmaderer stated in deposition and at trial. Such evidence was heavily relied upon by Plaintiff and argued during closing. The Court admitted there was no case law to support this conclusion that the Defendants were bound by the reasons for not promoting Plaintiff as stated in their response to the NEOC.

WHEREFORE, Defendants respectfully request that this Court issue an Order overturning the jury verdict in favor of the Plaintiff and granting a judgment as a matter of law in favor of Defendants. In the alternative, Defendants would request that the Court grant Defendants' Motion for a New Trial.

DATED this 6th day of October, 2022.

CITY OF OMAHA, *et al.*, Defendants,

/s/ Michelle Peters

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Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of October, 2022, I filed the foregoing **MOTION FOR JUDGMENT AS A MATTER OF LAW AND MOTION FOR NEW TRIAL** with the Clerk of the Court and sent notification of such filing by U.S. Postal Service, postage prepaid, to attorneys Tom White and Amy Jorgensen, WHITE AND JORGENSEN, 3114 St. Mary's Ave., Omaha, NE 68105.

/s/ Michelle Peters