

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

_____	)	
UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 11-CV-839
v.	)	
	)	Jury Trial Demanded
TOWN OF ROME, WISCONSIN,	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT**

Plaintiff, United States of America, alleges:

1. This action is brought by the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* (“Title VII”).
2. This Court has jurisdiction over the action under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. § 1345.
3. Defendant, Town of Rome, Wisconsin (“Rome”), is a corporate, governmental body, and a political subdivision of the State of Wisconsin, established pursuant to the laws of the State of Wisconsin. Rome is located in Adams County, Wisconsin, within the jurisdiction of this Court. Pursuant to authority from Wisconsin Statutes Sections 60.56 and 60.57, Rome established the Rome Police Department and created a Police and Fire Commission to oversee the Police Departments operation. The Rome Police Department is part of Rome and not a separate legal entity.
4. Rome is a “person” within the meaning of 42 U.S.C. § 2000e(a), and an employer within the meaning of 42 U.S.C. § 2000e(b).

5. Jolene Orłowski filed a timely charge of discrimination (sex) and retaliation (Charge No. 26G-2006-01506) against Rome with the Equal Employment Opportunity Commission (“EEOC”) on or around July 27, 2006.

6. Pursuant to Section 706 of Title VII, 42 U.S.C. § 2000e-5, the EEOC investigated the charge of discrimination and retaliation filed by Orłowski, issued a Letter of Determination finding reasonable cause to believe Rome violated Title VII by retaliating against Orłowski, and unsuccessfully attempted to conciliate the charge. The EEOC subsequently referred the matter to the United States Department of Justice.

7. All conditions precedent to the filing of suit have been performed or have occurred.

#### **RETALIATION COUNT**

8. In spring 2005, Rome hired Orłowski as a part-time boat patrol officer. In January 2006, Rome promoted Orłowski to a full-time probationary police officer. During her tenure with Rome, Orłowski was Rome’s only female police officer.

9. During the entire time period that Rome employed Orłowski as a police officer, Police Chief Adam Grosz supervised the day-to-day operations of the Rome Police Department.

10. On or about February 3, 2006, Orłowski began a phase of her probationary police officer training where she would work a patrol shift accompanied by a certified Field Training Officer (“FTO”).

11. On February 3, 4, and 5, 2006, Mark Stashek was Orłowski’s FTO during part of her shift. Stashek was not Orłowski’s FTO again until April 11, 2006. During the intervening time period, other Rome police officers served as Orłowski’s FTO during her patrols.

12. On April 3, 2006, Grosz sent Orłowski an email stating that he reviewed her training schedule and that she should soon complete her current phase of training and progress to solo patrols (the final stage of training) by April 24.

13. On April 7, 2006, Grosz wrote a memorandum to Rome's Police and Fire Commission ("Commission"), which oversees the Rome Police department, indicating that Orłowski was progressing in her training.

14. Stashek was Orłowski's FTO on April 11, 14, and 15, 2006.

15. On April 11, Stashek began surreptitiously tape-recording his training sessions with Orłowski. Stashek tape-recorded his conversations with Orłowski on April 11, 14, and 15, 2006.

16. Upon information and belief, Stashek tape-recorded his training sessions with Orłowski because of his belief that she might complain that she was experiencing discrimination based on her sex.

17. All FTOs were required to fill out a Daily Observation Report ("DOR") form each day they trained a probationary officer. The forms allowed the FTOs to numerically rate the probationary officer in different categories based on their observations of the probationary officer's performance. A probationary officer is regularly given a copy of the DORs of his or her daily performance.

18. Stashek consistently rated Orłowski with lower numerical scores on the DORs than the other FTOs who observed her performance.

19. Orłowski believed that Stashek rated her more harshly on the DORs than the other FTOs because of her sex.

20. On April 14, 2006, Orłowski contacted Grosz by phone and asked to meet him at some location other than the police department. Grosz agreed to meet with her. At the meeting,

Orlowski told Grosz that she felt intimidated and harassed by Stashek's training methods. She also complained that she thought Stashek and another FTO were treating her unprofessionally by smirking at her. Grosz told her that he would talk to Stashek about her complaint.

21. Shortly after Orlowski left the April 14 meeting with Grosz, Grosz called Stashek by telephone and told him about Orlowski's complaints about Stashek. Stashek denied that he had been unprofessional.

22. On April 15, 2006, Stashek and Orlowski again went on patrol and she believed that he was intentionally intimidating her with his manner and questions. Later in the afternoon, they argued about his training methods and her complaint to Grosz.

23. On the evening of April 15, 2006, Orlowski again called Grosz to complain about Stashek's treatment of her.

24. In response to Orlowski's April 15, 2006 complaint about Stashek, Grosz set up a meeting in his office with both Orlowski and Stashek the following morning, April 16, 2006.

25. On April 16, 2006, Orlowski and Stashek met with Grosz in Grosz's office.

26. Stashek tape-recorded part of the April 16, 2006 meeting without the other participants' knowledge.

27. At the April 16, 2006 meeting, Orlowski complained about her treatment by Stashek.

28. At the April 16, 2006 meeting, Orlowski's complaints about Stashek included what she reasonably believed to be his discrimination and harassment of her, at least in part, because of her sex.

29. By the end of the April 16, 2006 meeting, Stashek understood that Orlowski's complaint about his treatment of her was in part a complaint of discrimination based on sex.

30. By the end of the April 16, 2006 meeting, Grosz understood that Orlowski's complaint about Stashek's treatment of her was in part a complaint of discrimination based on sex.

31. The day after the meeting with Orlowski and Stashek – April 17, 2006 – Grosz reviewed Orlowski's DORs and reassigned Orlowski to a different FTO.

32. After the April 16, 2006 meeting with Grosz and Stashek, Orlowski worked four day shifts with the new FTO: April 19, 20, 24 and 25, 2006.

33. On April 20, 24 and 25, 2006, Rome allowed Orlowski to conduct solo patrols for the first time in her probationary training. Rome's training program provided for advancement to solo patrols as the final stage of the probationary training.

34. On April 27, 2006, Grosz wrote a memorandum to the Commission recommending that Rome terminate Orlowski's employment.

35. One of the reasons Grosz listed in his April 27, 2006 memorandum to the Commission for recommending that Rome terminate Orlowski's employment was that she had "accused, without merit, field training officers of 'setting her up to fail.'"

36. On April 27, 2006, the Commission unanimously adopted Grosz's recommendation to terminate Orlowski's employment based solely on Grosz's recommendation and the information he provided.

37. At the time the Commission reviewed Grosz's recommendation, it did not know about Orlowski's complaint that Stashek's treatment of her was discriminatory based on her sex.

38. On April 28, 2006, Grosz told Orlowski that her employment with Rome was terminated.

39. Upon information and belief, Grosz's recommendation that Orłowski's employment with Rome be terminated was motivated in part by Orłowski's complaint about Stashek's treatment of her, which Grosz should have understood under the circumstances included a complaint of discriminatory treatment based on her sex.

40. Rome's termination of Orłowski's employment would not have occurred in the absence of her expressed opposition to sex discrimination.

41. Because Orłowski complained of sex discrimination in April 2006, Rome retaliated against her, in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a), by subsequently terminating her employment in April 2006.

**PRAYER FOR RELIEF**

WHEREFORE, the United States prays that the Court grant the following relief:

(a) reinstate Orłowski in her former position of full-time police officer, together with back pay, interest and retroactive seniority as if she had not been terminated from that position;

(b) enjoin Rome, its officers, agents, employees, successors and all persons in active concert or participation with it, from further retaliation against Orłowski in violation of Title VII;

(c) award compensatory damages to Orłowski to fully compensate her for the pain and suffering caused by Rome's retaliatory conduct as alleged in this Complaint, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a;

(d) remove from Orłowski's personnel files and any other employer files any negative references pertaining to Orłowski's sex discrimination and retaliation complaints, and her retaliatory termination;

(e) order Rome to take remedial steps to ensure a non-discriminatory workplace for its employees, including providing adequate training to all employees and officials responsible for making determinations regarding complaints of discrimination and retaliation; and

(f) award such additional relief as justice may require, together with the United States' costs and disbursements in this action.


**JURY DEMAND**

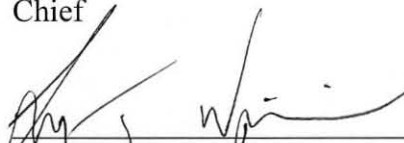
The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

Respectfully submitted,

THOMAS E. PEREZ  
Assistant Attorney General  
Civil Rights Division

BY:


  
\_\_\_\_\_  
DELORA L. KENNEBREW (GA Bar No. 414320)  
Chief

  
\_\_\_\_\_  
AUDREY WIGGINS (DC Bar No. 461662)  
Deputy Chief

  
\_\_\_\_\_  
JEFFREY G. MORRISON (MO Bar No. 44401)  
Senior Trial Attorney  
U.S. Department of Justice  
Civil Rights Division  
Employment Litigation Section  
950 Pennsylvania Avenue, NW  
Patrick Henry Building, Room 4613  
Washington, DC 20530  
Telephone: (202) 353-1845  
Facsimile: (202) 353-8961  
Email: jeffrey.morrison@usdoj.gov

JOHN VAUDREUIL  
U.S. Attorney  
Western District of Wisconsin

BY:

 12/20/11

Leshe Herie  
Assistant United States Attorney  
P.O. Box 1585  
Madison, WI 53701-1585  
Telephone: (608) 264-5158  
Attorneys for the United States of America