

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

OCT 19 2017

JAMES W. McCORMACK, CLERK
By: [Signature] DEP CLERK

PLAINTIFFS

**JULIE WOODWARD and
MARY JOHNSON**

v. CASE NO. 4:17-cv-679-JM

**SHELIA BELLOTT, INDIVIDUALLY and
IN HER OFFICIAL CAPACITY AS
DIRECTOR OF THE OFFICE OF
EMERGENCY MANAGEMENT OF
FAULKNER COUNTY, ARKANSAS;
JIM BAKER, INDIVIDUALLY and
IN HIS OFFICIAL CAPACITY AS
COUNTY JUDGE OF FAULKNER
COUNTY, ARKANSAS; TOM ANDERSON,
INDIVIDUALLY and IN HIS OFFICIAL
CAPACITY AS COUNTY ADMINISTRATOR
OF FAULKNER COUNTY, ARKANSAS;
and FAULKNER COUNTY, ARKANSAS**

This case assigned to District Judge Moody
and to Magistrate Judge Volpe

DEFENDANTS

COMPLAINT

COMES NOW, the Plaintiffs, Julie Woodward and Mary Johnson, by and through their attorneys, Thomas W. Mickel and Brooklyn R. Parker, and for their Complaint against the Defendants, Shelia Bellott, Individually and In Her Official Capacity as Director of the Office of Emergency Management of Faulkner County, Arkansas (“Defendant Bellott”); Jim Baker, Individually and In His Official Capacity as County Judge of Faulkner County, Arkansas (“Defendant Baker”); Tom Anderson, Individually and in His Official Capacity as County Administrator Of Faulkner County, Arkansas (“Defendant Anderson”); and Faulkner County, Arkansas (the “County” or the “Defendant County”), states as follows:

1. Plaintiffs, Julie Woodward and Mary Johnson, are residents and citizens of Faulkner County, Arkansas. At all times relevant to this lawsuit, each of them have and currently work for the Defendants in the Eastern District of Arkansas. Julie is a Public Service Answering Point Deputy and Mary is an Administrative Assistant at the Faulkner County Office of Emergency Management ("OEM"), in an office located on Acklin Gap Road near Conway, Faulkner County, Arkansas. Julie and Mary were and are each an "employee" of the Defendants as that term is defined by 42 U.S.C. § 2000e(f).

2. Defendants Bellott, Anderson, Baker and the Defendant County are an "employer" as that term is defined by 42 U.S.C. § 2000e(b) and Ark. Code Ann. § 16-123-102(5). At all times relevant to this lawsuit, Defendant Bellott is a citizen and resident of Faulkner County, Arkansas, is the Director of OEM, a subdivision of the Defendant County, whose duties include day-to-day management of Plaintiffs and the rest of her staff. Defendant Baker is a citizen and resident of Faulkner County, Arkansas, and is the County Judge and chief elected official of the Defendant County, whose duties include management and control of the County's workforce and personnel decisions. Likewise, Defendant Anderson is a citizen and resident of Faulkner County, Arkansas, and as County Administrator, has duties which include management and control of the County's workforce and personnel decisions. Defendant, Faulkner County, Arkansas, is a political and corporate body created by the General Assembly of the State of Arkansas. Service upon the Defendant County is made pursuant to Fed.R.Civ.P. 4(j)(2) and Ark.R.Civ.P. 4(d)(7).

3. Plaintiffs bring this action against the Defendants for discrimination and retaliation in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et.

seq., as amended, in violation of the Arkansas Civil Rights Act of 1993, Ark. Code Ann. § 16-123-101, et. seq., and in violation of the common law of the State of Arkansas.

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331, as the Plaintiffs' claims arise under the laws of the United States. This Court also has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367(a), as the conduct that forms the bases of those claims arise from the same common nucleus of operative fact as Plaintiffs' claims under Federal law.

5. Venue for this action is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2), as the events giving rise to Plaintiffs's claims occurred within this District.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PROCEDURE

6. Plaintiffs separately filed Charges of Discrimination related to these claims with the Equal Employment Opportunity Commission. Julie filed her Charge of Discrimination on August 2, 2017 and Mary filed her Charge of Discrimination on July 17, 2017. Plaintiffs's charges were filed within 180 days of the alleged unlawful employment practices complained of herein. The Equal Employment Opportunity Commission thereafter issued Plaintiffs Right-To-Sue Letters, and these claims are filed within 90 days of receipt of those letters. See Exhibit A and Exhibit B, Right-To-Sue Letters.

FACTS IN SUPPORT OF CLAIMS

7. Defendant Bellott has been Director of OEM since February, 2008, and remains in that position.

8. Julie was hired by Defendant Bellott to be an Administrative Assistant at OEM on or about May 21, 2011. Julie was later promoted to the position of Public Service Answering Point Deputy and continues to be so employed. Mary was hired by Defendant

Bellott on June 13, 2011, to be an Administrative Assistant at OEM and continues to be so employed.

9. On May 23, 2017, Defendant Bellott entered Julie's office that morning to tell her about her "date" the night before. Mary was also in Julie's office. Defendant Bellott stated to Julie and Mary that she had "butt dialed" Defendant Anderson, and that he called her back and allegedly, Bellott and Anderson discussed the "drive of shame". Defendant Bellott proceeded to tell Julie that she was going to have sex with her date (using vulgar words) that coming night, and that Defendant Bellott would come into the OEM office the next day with the date's bodily fluids still inside her.

10. Julie interjected at that point and asked Defendant Bellott to stop talking as it was extremely distasteful and uncomfortable for her to hear it. Thereafter, Defendant Bellott walked around the office openly and obviously smelling her fingers. Julie asked Defendant Bellott to stop this activity as well. In response, Defendant Bellott laughed at Julie.

11. Julie got up from her desk and walked into the break room to get away from Defendant Bellott. Defendant Bellott followed Julie into the break room and got close to Julie's back, while continually smelling her fingers. Julie told Defendant Bellott, "For someone I told to stop, you're awfully close to me."

12. Mary witnessed the incident described in paragraphs 10-11 and heard what was said by Defendant Bellott to Julie. Mary was shocked, disgusted, and very uncomfortable with Defendant Bellott's talk.

13. On the next day, May 24, 2017, Defendant Bellott told Mary that she woke up at her date's house, put her clothes on, her shirt was inside out, and almost forgot her bra

hanging over his bed, and that she had left her panties there. Mary did not ask for any details, as she did not even inquire about Defendant Bellott's date. Mary was afraid to speak up for fear of repercussions such as losing her job and has been subjected to a hostile work environment.

14. Julie and Mary have endured unwanted sexual comments from Defendant Bellott for many years, even before the above described incident. Defendant Bellott would talk about vibrators serving as sexual toys and other similar subjects on a continuous basis.

15. The other two employees at OEM have witnessed Defendant Bellott use "obscene language" and have heard inappropriate stories about Defendant Bellott's lack of sex since her divorce and her explanation of the purpose of a vibrator. These other two employees have stated that it was customary for Defendant Bellott to go into Julie's office and go "on and on", and they overheard Julie telling Defendant Bellott that she "didn't want to hear it" when the conversation became sexually explicit. Further, the other two employees would try to not leave Julie and Mary in the OEM office by themselves with Defendant Bellott, for fear that Defendant Bellott might further harass Julie and Mary.

16. On May 25, 2017, all four employees of OEM, including Julie and Mary, filed written complaints with County Human Resources Director Whitney Doolittle, and an investigation by Doolittle and County Attorney David Hogue followed, and then another investigation was conducted by the then Prosecuting Attorney, acting as a special county civil attorney for that limited purpose.

17. Within only a few weeks after the complaints were made, Defendant Bellott informed OEM employees that they were to complete an "ICS 214" form each day, providing a document of every detail of the day; e.g., phone calls received and made, email sent and

received, etc. OEM employees had not been required to complete these forms in years past. When Tyler Lachowsky, OEM Deputy Director, was presented with a “Rules and Operations” form purporting to address the OEM employees’s concerns about having to complete the form, the document stated that suggestion number 2 was that “employees will not complete ICS 214 forms.”

18. At a Quorum Court meeting on July 20, 2017, Plaintiffs’ complaints were discussed. The Quorum Court voted 9-2 to have the Prosecuting Attorney perform an independent investigation of the Plaintiffs’ complaints. At that meeting, County Civil Attorney David Hogue stated that after his investigation, he had recommended to Defendant Baker, who has sole authority to fire Defendant Bellott, that she should be terminated.

19. Instead, in mid-June, after Hogue's investigation, Baker first assigned Defendant Bellott to work from home, and then he assigned her to an office in the county's old courthouse on Locust Avenue while the office staff still works in a facility on Acklin Gap Road, more than 5 miles away. Further, Bellott is allowed to communicate by phone with only one employee, Tyler Lachowsky, who in turn relays her information to the other workers. Per Defendant Baker, Defendant Bellott and the employees are not to discuss sex while at work.

20. In an interview in the subsequent investigation conducted by the acting county civil attorney, Defendant Bellott did not deny, among other things, the conversation described in paragraphs 9-11 above. Defendant instead stated that she said “I had met a guy for lunch, I could smell his cologne on my hands, I smelled them (Bellott’s fingers) and teased her. . .I told her I could come back with his cum on me.”

21. After the acting county civil attorney completed his investigation, he presented his findings to Defendants Baker and Anderson. On Julie's complaint, the attorney found that Defendant Bellott's conduct on May 23, 2017, constituted verbal conduct related to unwanted sexual comments in violation of the Faulkner County Personnel Manual, Section XXIII, Harassment Policy Section (A)(1), page 26, and was a violation of same. He also found that Defendant Bellott acted punitively toward all the OEM employees, including Julie and Mary, by requiring them to fill out forms that the County itself discouraged. A copy of the above section of the Manual is attached hereto as Exhibit "C".

22. On Mary's complaint, the acting county civil attorney found what Mary directly heard and witnessed on May 23, 2017 violated the same provision of the personnel manual cited in paragraph 21 of this Complaint, and made the same findings as to Defendant Bellott's punitive actions toward all OEM employees as described above.

23. The independent investigation completed by the acting county civil attorney found that Defendant Bellott violated the provisions of the Faulkner County Personnel Manual, Section XXIII, Harassment Policy Section (A)(1), page 26. His recommendation to Defendant Baker was to also terminate Defendant.

24. In spite of the advice of two competent and qualified attorneys to terminate Defendant Bellott, Defendant Baker has decided to take no further action that what is described above. The arrangement described in paragraph 19 does not relieve the hostile work environment. Defendant Bellott, with the apparent authority of Defendants Anderson and Baker, has continued to place tedious and harassing requirements on the OEM employees, including Julie and Mary. Such behavior on the part of all Defendants

demonstrate unwelcome harassment and unprofessional conduct, and reckless conduct from which malice may be inferred.

CLAIMS UNDER TITLE VII: HOSTILE WORK ENVIRONMENT

25. Plaintiffs restate and incorporate all of the allegations in each of the foregoing paragraphs.

26. Plaintiffs are female and are a member of a protected class under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et. seq.

27. Plaintiffs were the subject of unwelcome harassment from Defendants in the form of verbal harassment, and unprofessional conduct on behalf of Defendants.

28. The harassment visited upon Plaintiffs affected a term, condition, or privilege of their employment, which ultimately led to Plaintiffs exhausting their internal complaints-handling procedure. Alternatively, as shown above, Defendants' complaints-handling procedure is a sham and in this case, has clearly failed to effectively conciliate the situation in a reasonable manner.

RETALIATION

29. Plaintiffs restate and incorporate all of the allegations in each of the foregoing paragraphs.

30. Plaintiffs engaged in a protected activity under Title VII by complaining about the discriminatory treatment suffered by them.

31. Plaintiffs suffered an adverse employment action as a result of their protected activity because after complaining about the conduct of Defendant Bellott, they were subjected to the facts described in paragraphs 17, 19 and 24 of this Complaint.

32. Defendants' conduct toward the Plaintiffs as outlined above constitutes an unlawful employment practice under 42 U.S.C. §§ 2000e-2(a) and 2000e-3(a).

33. As a direct and proximate result of the Defendants' conduct, the Plaintiffs have suffered damages including anxiety, humiliation, emotional distress and anguish, and loss of reputation.

34. The Defendants intentionally engaged in the complained-of conduct, and the Plaintiffs are entitled to affirmative relief in the form of compensatory damages, and all other equitable relief the Court deems appropriate under 42 U.S.C. §§ 2000e-5(g)(1), 2000e-5(e)(3)(B), and 1981a(a)(1).

35. Plaintiffs are also entitled to a reasonable attorney's fee under 42 U.S.C. § 2000e-5(k).

36. The conduct complained of herein was a willful, malicious, intentional, reckless, wanton, and knowing violation of Plaintiffs' rights under Title VII, and Plaintiffs are entitled to punitive damages under 42 U.S.C. §§ 2000e-5(e)(3)(B) and 1981a(a)(1).

CLAIMS UNDER THE ARKANSAS CIVIL RIGHTS ACT

37. Plaintiffs restate and incorporate all of the allegations in each of the foregoing paragraphs.

38. As a direct and proximate result of the Defendants' conduct, Plaintiffs have suffered damages including anxiety, humiliation, emotional distress and anguish, and loss of reputation.

39. The conduct complained of herein was willful, malicious, intentional, reckless, wanton, and knowing, and Plaintiffs should be awarded punitive damages.

40. Defendants' conduct toward Plaintiffs as outlined above was intentional and entitles them to relief under Ark. Code Ann. § 16-123-107(c)(1)-(2). Plaintiffs are entitled to affirmative relief from the Court in the form of the costs of litigation, a reasonable attorney's fee, compensatory damages, and punitive damages.


WHEREFORE, Plaintiffs request that judgment be entered in their favor against the Defendants on all claims as follows:

- (1) For all compensatory and special damages suffered by Plaintiffs;
- (2) For punitive damages against the Defendants for their willful, malicious, intentional, reckless, wanton, and knowing violation of Plaintiffs' rights;
- (3) For all litigation costs related to bringing these claims;
- (4) For reasonable attorney's fees related to bringing these claims; and
- (5) For all other relief claimed herein and that this Court deems appropriate.

PLAINTIFFS REQUEST A TRIAL BY JURY.

Respectfully submitted,

**JULIE WOODWARD AND
MARY JOHNSON, Plaintiffs**

By: 

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Brooklyn Parker, ABA 2016152
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Attorneys for Plaintiffs
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Fax: 501-499-9841

EEOC Form 161 (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Julie D. Woodward
1435 Hathaway Drive
Conway, AR 72034

From Little Rock Area Office
820 Louisiana
Suite 200
Little Rock, AR 72201

Empty checkbox

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

Table with 3 columns: EEOC Charge No., EEOC Representative, Telephone No.
Row 1: 493-2017-01286, Tyrone Y. Blanks, Investigator, (501) 324-5083

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- 7 checkboxes with text descriptions of reasons for closing the file. The 5th checkbox is checked (X).

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you.

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment.

On behalf of the Commission

Handwritten signature of William A. Cash, Jr.

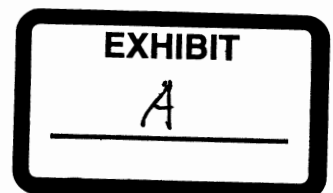
William A. Cash, Jr.,
Area Office Director

AUG 07 2017

(Date Mailed)

Enclosures(s)

cc: David Hogue
County Attorney
FAULKNER COUNTY
801 Locust Street
Conway, AR 72034



EEOC Form 161 (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Mary K. Johnson
5 Kimberly Drive
Vilonia, AR 72173

From: Little Rock Area Office
820 Louisiana
Suite 200
Little Rock, AR 72201

Empty checkbox

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

Table with 3 columns: EEOC Charge No., EEOC Representative, Telephone No.
Row 1: 493-2017-01285, Ivonne A. Knutson, Investigator, (501) 324-5469

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- List of reasons for closing file with checkboxes. Option 5 is checked (X).
1. The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
2. Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
3. The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
4. Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
5. [X] The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
6. The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
7. Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

Handwritten signature of William A. Cash, Jr.

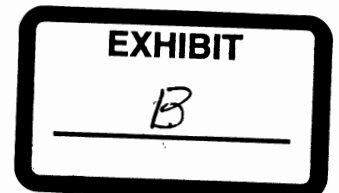
William A. Cash, Jr.,
Area Office Director

Enclosures(s)

JUL 25 2017

(Date Mailed)

cc: David Hogue
County Attorney
FAULKNER COUNTY
801 Locust Street
Conway, AR 72032



the second test.

- I. An employee suspected of unlawful use of drugs or abuse of alcohol while on duty, as established by the Rules, or who is involved in an accident as defined in 49 CFR 390.5 (and receives a citation for a moving traffic violation in this section) by the Rules, shall be suspended immediately with pay until the results of the drug or alcohol test are received by the Official.

XXIII. HARASSMENT POLICY

- A. Faulkner County is committed to providing a work environment free of unlawful harassment. Faulkner County's anti-harassment policy applies to all persons involved in the operations of the County and prohibits unlawful harassment by any employee of Faulkner County including supervisors and co-workers. Unlawful harassment in any form, including verbal, physical, and visual conduct, threats, demands, and retaliation is prohibited. Unlawful harassment includes but is not limited to:
 1. Verbal conduct such as epithets, derogatory comments, slurs, or unwanted sexual advances, invitations, or comments.
 2. Visual conduct such as derogatory posters, photography, cartoons, drawings, or gestures.
 3. Physical conduct such as assault, unwanted touching, blocking normal movement, or interfering with work.
 4. Threats and demands to submit to sexual requests in order to remain employed or to avoid some other loss, and offers of job benefits in return for sexual favor.
 5. Retaliation for having reported or threatened to report harassment.
- B. An employee may have a claim of harassment even if he or she did not lose a job or some other economic benefit. The law prohibits any form of protected-basis harassment that impairs working ability or emotional well-being at work.
- C. Employees have a right to redress for unlawful harassment. In order to secure this right, the employee must provide a written charge to his or her supervisor, official, the County Attorney, and the Human Resource Officer as soon as possible after any incident he or she feels is prohibited harassment. The charge should include the details of the incident or incidents, the names of the individuals involved and the names of any witnesses. Supervisors will refer all harassment complaints to the County Attorney. The County Attorney will immediately undertake an effective, thorough, and objective investigation of the harassment allegations. This investigation will be completed and a

EXHIBIT

C

determination regarding the harassment alleged will be made and communicated to the employee as soon as practical.

- D. If the County Attorney determines that unlawful harassment has occurred, Faulkner County will take effective remedial action commensurate with the severity of the offense. Appropriate action will also be taken to deter any future harassment. Whatever action is taken against the perpetrator will be made known to the victim. Faulkner County will take appropriate action to remedy any loss to the employee resulting from harassment. Faulkner County will not retaliate against the employee for filing a charge and will not knowingly permit retaliation by management employees or co-workers.
- E. Faulkner County encourages all employees to report any incidents of harassment forbidden by this policy immediately so that charges can be quickly and fairly resolved. Employees should also be aware that the United States Equal Employment Opportunity Commission (EEOC) investigates and prosecutes charges of prohibited harassment in employment. If an employee has been harassed or retaliation has been taken for resisting or charging, such employee may file a charge with the EEOC. The nearest area office of the EEOC is 820 Louisiana Street, Suite 200, Little Rock, AR, 72201, and may be reached at 1-800-669-4000. Go to www.eeoc.gov for information on how to file a charge. The EEOC will investigate the charge. If the charge has merit, the EEOC will attempt to resolve it. If no resolution is possible, the EEOC may prosecute the case with its own attorney before an administrative tribunal which may order the harassment stopped and can require the employer to pay monetary damages, reinstate the employee, or give other appropriate relief.

See the EEOC website at www.eeoc.gov for additional details.

XXIV. EMPLOYEE SPEECH POLICY

A. General Statement Regarding Employee Speech Right and Obligations

County employees have a constitutional protection to engage in free speech activities, including work related criticism and complaints. This employee speech policy is designed to promote protected speech while providing guidelines to ensure that employee speech does not unnecessarily harm legitimate County interests. Employees are encouraged to express their views in a responsible and productive manner.

B. Speech Unprotected as a Matter of Law

Employees enjoy the same speech rights as other citizens except for restrictions imposed by law. Employees are subject to employment termination for speech constituting treason, libel, slander, perjury, incitement to riot, or false statements regarding County operations or personnel when such speech is known to be