

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT – LAW DIVISION

DENA LEWIS-BYSTRZYCKI,

Plaintiff,

v.

CITY OF COUNTRY CLUB HILLS, *et al.*,

Defendants.

No. 2012 L 009916

Honorable Brigid Mary McGrath

**PLAINTIFF’S RESPONSE TO DEFENDANTS’  
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiff DENA LEWIS-BYSTRZYCKI, through her undersigned counsel, respectfully submits this Response in opposition to Defendants’ Motion for Partial Summary Judgment. Defendants’ motion for partial summary judgment is premised solely on the argument that the continuing violation theory does not apply to Plaintiff’s hostile work environment and retaliation claims. For the reasons set forth below, Defendants’ motion should be denied.

**I. INTRODUCTION**

Defendants’ Motion for Partial Summary Judgment argues that this Court does not have jurisdiction over some of the acts alleged in Counts II and III because the acts occurred prior to the 180 day window for filing a charge with the IDHR. However, Defendants’ Motion should be denied as Defendants have subjected Plaintiff to discrimination and a hostile work environment consistently, beginning in the early days of her employment and continuing up until she was put on administrative leave on August 27, 2015. (*See* Exhibit 1, Pl.’s 2nd Amend. Compl. ¶¶ 14-119.) As explained in more detail below, Plaintiff has consistently alleged throughout these proceedings and her IDHR Charge that Defendants’ conduct was a continuing violation from the beginning of her employment continuing through the date Defendants suspended because she complained. (*See* Exhibit 1, ¶ 199.) Defendants never sought to clarify the allegations of the continuing violation, or filed a 2-615 motion on those allegations or the continuing violation doctrine. (*See* Exhibit 2,

9/15/15 Ct. Trans. (excerpts) at 24-25 (The Court: “Those 2-615 motions have passed.”). Defendants completely ignore the entire pattern of conduct by Defendants, including Defendant City of Country Club Hills, that make up Plaintiff’s claims of a continuing violation in subjecting her to a hostile work environment “throughout her employment,” and retaliating against her each time she complained. Defendants also ignore the case law that mandates that all of the actions towards Plaintiff, which constitute the hostile work environment, are in fact a continuing violation. Defendants also ignore the case law that holds that it is up to the fact finder to determine if the conduct and incidents are part of one “unlawful employment practice.” As such, Defendants’ partial motion for summary judgment must be denied.

## II. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

On or about February 27, 2012, Plaintiff Lewis-Bystrzycki filed a charge of discrimination with the Illinois Department of Human Rights (“IDHR”) claiming discrimination, hostile work environment, and retaliation against her employer, Defendant City of Country Club Hills, and Defendant Carl Pycz. (*See* Exhibit 3, IDHR Charge.) The charge of discrimination states: “***and on a continuing and ongoing basis,***” and “***Throughout my employment*** continuing through the present, Respondent subjected me to harassment based on my gender (female), including but not limited to the following. . . .” and “Respondent’s conduct constitutes ***a continuing violation.***” (*Id.* at I(B)(4), II(B)(2) and (5) and (6), and III(B)(2) and (4) and (4)(k) (emphasis added).) The charge also alleges that Defendants “***engaged in systemic harassment*** against [Plaintiff Lewis-Bystrzycki] on account of [her] sex/gender (female) in that [Defendants] and its command staff and agents knowingly subjected [Plaintiff Lewis-Bystrzycki] to a hostile work environment, harassment and gender discrimination.” (*See Id.* II(B)(2) (emphasis added).) On or about March 21, 2013, Plaintiff received a notice of dismissal from the IDHR (Exhibit 4, IDHR Dismissal), which was required in order for her to file her Illinois Human Rights Act (“IHRA”) claims in state court. *See Zugay v. Progressive Care, S.C.*, 180 F.3d 901, 902 (7th Cir. 1999) (“[I]n a state like Illinois, which provides an

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 2 of 22

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 3 of 22

administrative remedy for employment discrimination, a plaintiff must give the state agency an opportunity to conciliate the employment dispute before pursuing federal remedies” and can only file suit once a dismissal is received).<sup>1</sup>

On April 15, 2013, after Plaintiff received her notice of dismissal from the IDHR, Plaintiff filed her First Amended Complaint. This Complaint included three counts against Defendants, including violations of the Illinois Whistleblower Protection Act (Count I), gender discrimination and hostile work environment claims in violation of the Illinois Human Rights Act (Count II), and a retaliation claim in violation of the Illinois Human Rights Act (Count III). This complaint clearly set forth the continuing violation doctrine as applicable to Plaintiff’s claims, which included the following allegations:

Defendants’ actions as alleged herein constitute ***a continuing violation***.

\* \* \*

Plaintiff Lewis began working for the City of Country Club Hills as a Fire Fighter in the Fire Department in or about May 1998. ***Throughout her employment*** and even more recently, Defendants subjected Plaintiff Lewis to harassment and a hostile work environment based on her gender (female). Defendants’ perpetuation of a hostile work environment against women and against Plaintiff more specifically has occurred on an ongoing basis and constitutes a continuing violation.

\* \* \*

***On a continuing and ongoing basis***, Defendant City, through its agents and employees, has also subjected Plaintiff to discriminatory and disparate treatment based on her gender, including but not limited to, those incidents identified above, and further: ***subjecting her to a hostile work environment and harassment***, subjecting her to unwarranted and disproportionate disciplinary action; denying Plaintiff promotions; denying Plaintiff training, and treating Plaintiff differently in the terms and conditions of her employment.

(Defs.’ Ex. D, Pl.’s First Amend. Compl. ¶¶ 2, 13-14, 72 (emphasis added).)

On June 2, 2015, Plaintiff filed a motion for leave to file a Supplemental Complaint, which continued to include the same allegations of a continuing violation and hostile work environment as in the amended complaint noted above. The supplemental complaint added Chief Agpawa, the current Chief of the Fire Department, as a Defendant because of the ongoing harassment,

<sup>1</sup> The original complaint filed on August 31, 2012 did not include the IHRA claims because Plaintiff had not yet received her right to sue from the IDHR.

discrimination, and retaliation against Plaintiff. On June 11, 2015, the Court granted Plaintiff leave to file Plaintiff's supplemental complaint (6/11/15 Order), which Plaintiff filed separately via the Court's ECF on July 7, 2015.

On August 19, 2015, Plaintiff filed another motion to supplement her complaint based on evidence obtained through depositions and discovery. Plaintiff's motion for leave stated in relevant part:

Plaintiff's allegations of a continuing violation have become even more apparent with the discovery in this case and the more recent events of ongoing harassment. For example, Defendant Pycz admitted in his deposition that he has seen male employees watching pornographic material, and Lieutenant Dangoy, whose shift Plaintiff was transferred to after she filed her IDHR charge, admitted that he saw male employees watching pornographic material in the fire station and he himself also watched pornography at the station. He did not think anything was wrong with it.

(Exhibit 5, Pl.'s Mot for Leave (w/o exhibits) ¶ 8.) Defendants and Defendant's agents also admitted that they never disciplined any male employees for viewing pornographic material while at work and took no action against those employees to discipline them or to prevent the conduct from occurring. Plaintiff also included additional acts of harassment, discrimination and retaliation that had occurred since the filing of the first supplemental complaint just the month before, as noted in the motion for leave:

[O]n or about July 14, 2015, the day after Plaintiff's deposition in this case in which Chief Agpawa was present, Plaintiff was informed by another firefighter that Lieutenant Kilburg had told him that he was now in charge of organizing the 2015 MDA Boot Drive; the male firefighter also told Plaintiff that Lieutenant Kilburg had met with Chief Agpawa over Plaintiff's removal. Plaintiff complained about the reassignment of the MDA Boot Drive by writing a memorandum to Chief Agpawa. Plaintiff also stated in the memo that she was being retaliated against and requested "once again" that the Chief "truly address these actions of harassment, retaliation, and discrimination, both on your part and the rest of the members of Country Club Hills." In response to Plaintiff's memorandum, Chief Agpawa disciplined Plaintiff for the memorandum complaining about the ongoing retaliation and being removed from the MDA Boot Drive. Further, when Plaintiff grieved this discipline, it was upheld and the Chief stated in his memo denying the grievance that she could have been discharged.

(Exhibit 5, Pl.'s Mot for Leave ¶ 6.)

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 4 of 22

Defendants did *not object* to Plaintiff's motion for leave to file Plaintiff's second amended (supplemental) complaint. (Exhibit 2, 9/15/15 Ct. Trans. at 16.) The Court granted Plaintiff's motion. (See 8/27/15 Order). As such, Plaintiff filed her Second Amended (Supplemental) Complaint on September 1, 2015. The Second Amended Complaint is the controlling complaint. See *Foxcroft Townhome Owners Ass'n v. Hoffman Rosner Corp.*, 96 Ill. 2d 150, 154 (1983) ("Where an amendment is complete in itself and does not refer to or adopt the prior pleading, the earlier pleading ceases to be a part of the record for most purposes, being in effect abandoned and withdrawn."); see also *PAE Gov't Servs., Inc. v. MPRI, Inc.*, 514 F.3d 856, 858 (9th Cir. 2007) (finding that differences in pleadings are irrelevant and should not be considered). As such, all of Defendants' arguments about the prior version of the complaint are irrelevant and should not be considered. Even setting this aside, the Second Amended Complaint (like the original amended complaint) documents the continuing violation of the hostile and discriminatory conduct by Defendants, which began immediately after Plaintiff began her employment at the Country Club Hills Fire Department and which continued through the filing of the Second Amended Complaint. The Second Amended Complaint also describes the continuing nature that led up to the retaliation against Plaintiff due to her reporting the sexual harassment, hostile work environment, and gender discrimination and what she believed was illegal conduct by Defendants. After Plaintiff filed her IDHR Charge, Plaintiff continued to be harassed, discriminated against, and retaliated against in an abusive and sexual manner, and Defendants continued to alter the terms and conditions of her employment up through the date they suspended her "through the date of the trial" because she complained. Defendants stated in writing that Plaintiff was being suspended "through the date of the trial in your pending suit against the City." (See Exhibit 1, ¶¶ 2, 15-26, 32-39, 42-70, 74-92, 94-119.) Even to this day, Defendants have kept Plaintiff on a suspended status without the opportunity for promotions, training, and overtime, which has continued to have an adverse impact on the terms and conditions of her employment. (*Id.* ¶ 119.)

On September 4, 2015, Defendants filed a motion to move the trial that was set in this matter for October 5, 2015 (*see* 4/15/15 Order and 5/28/15 Order), which had been previously moved at Defendants’ request from January 12, 2015 (*see* 7/21/14 Order). At the hearing on Defendants’ motion to continue the trial, the Court suggested that it would vacate the prior order granting Plaintiff’s motion for leave to file the second amended complaint if Plaintiff continued to object to moving the trial. (*See* Exhibit 2, 9/15/15 Ct. Trans. at 24-25.) The Court stated: “If you want a continuation of the trial date, we can leave [the Second Amended Complaint], but this has got to go to trial.” Defendants’ counsel responded: “I prefer a continuance.” (*Id.*) As such, the allegations in the Second Amended Complaint stand. The trial was then rescheduled for April 11, 2016. (*See* 9/16/15 Order.) On February 8, 2016, Defendants filed another motion to move the trial, which the Court granted. (*See* 2/23/16 Order.) The trial was rescheduled to September 5, 2017. (*See* 11/9/16 Order.) This trial date was also stricken as a result of Defendants’ delay in complying with this Court’s orders on discovery. (*See* 8/4/17 Order.) No new trial date has been set.

### **III. PLAINTIFF’S RESPONSE TO DEFENDANTS’ FACTS**

Defendants’ Statement of Facts grossly misstates the controlling complaint (as well as the other complaints) and pleadings, depositions, and facts. For example, Defendants claim that “all specifically dated allegations of discrimination based on gender (female) in the prima facie allegations for issues I, II, and III [of the IDHR charge] are dated no earlier than September 2011.” (*See* Defs.’ Mot. at 2.) Defendants similarly misstate the allegations in Plaintiff’s First Amended Complaint and Supplemental Complaint. (*Id.* at 4-6.) In fact, Plaintiff’s IDHR Charge, First Amended Complaint, Supplemental Complaint, and Second Amended Complaint, which is the controlling pleading, *see Foxcroft Townhome Owners Ass’n and PAE Gov’t Servs., Inc., supra*, all clearly state that Plaintiff’s claims are based on a “continuing violation,” and allege that the hostile work environment has continued *throughout her entire employment* with the City of Country Club Hills, which began in 1998, and that “on a continuing and ongoing basis” and “[t]hroughout [her]

employment,” Defendants subjected Plaintiff to discrimination, harassment, and a hostile work environment based on her gender. (*See, e.g.*, Exhibit 3, IDHR Charge and Particulars I(B)(4), II(B)(2) and (5) and (6), and III(B)(2) and (4) and (4)(k); Defs.’ Ex. D, Pl.’s First Amend. Compl. ¶¶ 2, 13-14, 72 (“Defendants’ actions [] constitute a continuing violation,” “Throughout her employment,” since she began working in May 1998, and “On a continuing and ongoing basis, Defendant City. . . has also subjected Plaintiff to discriminatory and disparate treatment based on her gender . . . [by] subjecting her to a hostile work environment and harassment.”); Defs.’ Ex. E, Pl.’s Supp. Compl. ¶¶ 2, 14-15, 112; Exhibit 1, Second Amend. Compl. ¶¶ 2, 15, 16, 125.)

Defendants also erroneously claim that Plaintiffs’ Second Amended Complaint does not “identify a specific date before September 2011.” (Defs.’ Mot. at 7.) At worst this argument is frivolous, and at best it is disingenuous. The Second Amended Complaint clearly states that *on the first day of Plaintiff’s employment* “the former Chief [said] to her that he ‘wanted to cum in [Plaintiff’s] pussy and eat it back out.’” (Exhibit 1, ¶ 16.) The Second Amended Complaint also states that harassment has occurred “*throughout her employment*” (¶ 15), and “started *on the very first day of [her] employment and has continued to the present*” (¶ 16). The Second Amended Complaint also cites to the Plaintiff’s deposition testimony<sup>2</sup> and interrogatory answers, which discuss some of the specific instances and dates of harassment and discrimination that have occurred consistently and continuously throughout her employment. (¶ 16.)

Regardless of Defendants’ false assertions that “no dates” have been included in the complaint prior to September 2011, Illinois courts have found that a plaintiff does not have to state specific dates in order to allege the ongoing nature of a hostile work environment claim. *See Jenkins v. Lustig*, 354 Ill. App. 3d 193, 197 (3d Dist. 2004) (In finding that the plaintiff had timely alleged all incidents, the court stated that even though the plaintiff “did not provide specific dates on which

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<sup>2</sup> Defendants deposed Plaintiff for 3 days and had a full opportunity to ask her about all of her allegations.

pre-limitations incidents occurred, the allegations indicated the same offensive conduct, office, and perpetrator as the incidents that occurred within the 180-day time period.”).

Defendants also cite to the IDHR investigative report (Defs.’ Mot. at 3-4), which is inadmissible and irrelevant to these proceedings. *See, e.g., Wells v. Berger, Newmark & Fenchel, P.C.*, 2008 WL 4365972, \*4 (N.D. Ill. Mar. 18, 2008) (“[T]he conclusions of the administrative findings do not have any bearing on Wells’ common law claims.”), and cases cited therein. IDHR investigators are not lawyers and their investigations are poor and incomplete. The IDHR is under a federal injunction order that they are not allowed to make credibility determinations, *Cooper v. Salazar*, 196 F.3d 809, 817 (7th Cir. 1999), yet they did in this investigation by not crediting Plaintiff’s statements to the investigator that in fact she had previously complained about the hostile work environment. The only requirement for filing an IHRA claim in the Circuit Court is that a charge of discrimination must be filed in order for a plaintiff to exhaust the administrative requirement to bring a lawsuit. *See Zugay*, 180 F.3d at 902 (reversing the district court’s dismissal of the plaintiff’s claim where the plaintiff withdrew her charge before the fact-finding conference, and holding that plaintiff exhausted her administrative remedies by merely filing the charge and waiting 60 days); *see also McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 798 (1973) *holding modified by Hazen Paper Co. v. Biggins*, 507 U.S. 604 (the jurisdictional prerequisites to a lawsuit are: (i) filing timely charges of employment discrimination with the Commission, and (ii) receiving and acting upon the Commission’s statutory notice of the right to sue or dismissal). In fact, this Court struck Defendants’ fourth affirmative defense (*see* 4/12/16 Order), which stated: “To the extent Plaintiff purports to assert any claims that are not included in the Charge of Discrimination that Plaintiff filed with the Illinois Department of Human Rights, Plaintiff has failed to exhaust her administrative remedies” (*see* Defs.’ Ex. A, Fourth Affirmative Defense).

The IDHR investigative report only purports to address Plaintiff’s “complaints” to former Chief Kasper in 1998, 1999, and 2005, and does not address the underlying events about which Plaintiff

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 8 of 22



complained.<sup>3</sup> The investigative report does not address these facts, which obviously Plaintiff reported to the investigator in order for him to make note of the fact that she complained to the former Chief at least in 1998, 1999, and 2005. Plaintiff denies that she only “complained” to former Chief Kasper in 1998, 1999, and 2005; she testified in her deposition about numerous other times she reported the hostile work environment to him to no avail. Further, the investigative report is not admissible evidence or even an admission by Plaintiff. Defendants also make note of the comment in the investigative report that “Complainant is unable to provide any evidence other than her own assertion that she complained of discrimination in 1998, 1999, and 2005.” (Defs.’ Mot. at 3.) Setting aside the fact that such documents would be in the possession and control of Defendants and it is simply not relevant to the issue raised in Defendants’ motion, Plaintiff believes that the search of Defendants’ computers will reveal documented evidence of at least some of Plaintiff’s complaints to Chief Kasper. It is no wonder why Defendants have continually stalled for over a year now in complying with the Court’s orders on the ESI search of Defendants’ computers and why Defendants failed to disclose the other computer servers that were in existence as required by the Court’s orders (see Pl.’s Memorandum of Law in support of discovery sanctions). Further, Defendant City produced documents to the IDHR from as early as 1998 and through the date of the charge in 2012, which provides further support for the relevant timeframe in this case. (Exhibit 6, Moreno Affidavit.)

Defendants’ argument that Plaintiff “did not complain about any pornography she allegedly saw,” (Defs.’ Mot. at 6 (citing Plaintiff’s July 13, 2015 Deposition at 249-252)), is frivolous and

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<sup>3</sup> Defendants argue that “[i]t is inconceivable that Plaintiff would forget to mention the alleged acts predating the 180 day period during the investigation by the IDHR. . . .” (Defs.’ Mot. at 14.) Plaintiff did not “forget” to mention Defendants’ harassing conduct and the events that created the hostile working environment predating the 180 days prior to her IDHR Charge. It is clear that she did mention these events, as the investigator had to have at least asked whether she complained about the events in order to note that she did complain in 1998, 1999, and 2005. Moreover, Plaintiff directly mentioned them in the Charge itself by reference to the allegation that the hostile work environment occurred on a “continuing and ongoing basis,” “[t]hroughout [her] employment.”

sanctionable under Illinois Supreme Court Rule 137 in light of Plaintiff's deposition testimony that she repeatedly complained (*see, e.g.*, Defs.' Ex. F, 6/22/16 Lewis-Bystrzycki Dep. 235:24-242:24<sup>4</sup>; Defs.' Ex. I, 4/20/16 Lewis-Bystrzycki Dep. 81:19-83:6 (she talked to Defendant Pycz about male employees watching pornography when he was her lieutenant), 84:22-85:11 (she talked to all of the Chiefs and supervisors asking them to deal with the fact that male employees were watching pornography), 88:10-91:21 (she went to former Chief Kasper about it repeatedly), 92:13-92:24 (complaining to Lt. Dangoy when he was her Lieutenant), and in light of Plaintiff's interrogatory answers, where she details numerous incidents throughout her employment, and who she complained to (Exhibit 7, Pl.'s Ans. to Defs.' Interrog. No. 3). Defendants also grossly misstate Plaintiff's deposition testimony at 249-252, when they claim that she "did not complain about any pornography she allegedly saw." (Defs.' Mot. at 6 (citing Plaintiff's July 13, 2015 Deposition at 249-252).) Plaintiff's testimony was related only to the issue of Norman Boyd putting a pornographic screen saver on Brendan Baldwin's computer. Plaintiff testified as follows:

Q And you saw Norman Boyd put this on Brendan Baldwin's computer?

A I said I want that off the computer, I want it off now, I'm not going to say anything, I have no right to saying anything, we're the same rank, I don't want to see that again. And he's like, well, this is going on Baldwin's. I said I don't know of anything happening and I'm out of this room right now.

Q Did you complain to anyone at that time that Norman Boyd was putting any porn on Brendan Baldwin's computer?

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<sup>4</sup> For example, when asked about Larry Gillespie, Plaintiff testified that he would masturbate while watching pornography "more times than I can count," and that "everyone knows that he watched," and that he has viewed pornography "from the time that he started working until the time that you guys suspended me." She further testified that she talked to Lt. McCauliff, her supervisor, about the fact that Gillespie and Marcus Craft had porn up, and "it was black-on-black porn," and that Gillespie was not waking up for the call to a fire, so she had to go wake him up and "his pants were off and down and his penis was out and all of the tissue papers were next to him" and that Craft was watching the same program about 80 feet away, and Craft was saying to Gillespie "'Larry, Larry, you see that one? See that bitch?' Se he was like yelling. She told McCauliff that she was sick of seeing this. She told Lt. McCauliff that Gillespie was masturbating, "diddling the dally," while watching pornography in the fire station.

Plaintiff's testimony that some male employees were watching black-on-black porn is supported by Plaintiff's expert report. (*See, e.g.*, Exhibit 10, Pornography Report, Attachment F at 1097 (rebuilt because of attempted deletion but showing "Nicki likes Big Black Cocks"), 1110, 1229 ("bigbrosblackporn.com"), 1245 ("blonde-enjoying-hard-sex-with-black-guy/. . ."), 1249 ("monster-black-cocks-sharing-horny-brunette"), 1261, 1270, etc.)

A They do not do anything about Larry watching porn every single night. There's no one to complain to, Mister. I forgot your last name all of a sudden. Sorry. There's no one to complain to. No, I didn't.

Q Did you complain to anyone at the City of Country Club Hills about Norman Boyd putting porn on Brendan Baldwin's computer?

A No, I did not. I did speak to Chief Agpawa briefly about how it was an unfair termination, and I asked him to reconsider it.

(Defs.' Ex. H, 7/13/15 Lewis-Bystrzycki Dep. 251:14-252:10.)

Plaintiff continually witnessed, on an almost daily basis, supervisors and coworkers watching pornography on either their computers or on the fire house television. (*See, e.g.*, Defs.' Ex. I, 4/20/16 Lewis-Bystrzycki Dep. 52:20-53:2 (“There’s been so many of them that – have watched this stuff. Offhand, right now, you can – you can almost name the – all of the men there.”); 53:19-22 (“Q. Is there somebody else that you think is part of these male firefighters that you’ve seen watching pornography allegedly on a regular basis? A. There’s a lot of them. It’s on every night.”); 54:3-22 (“To give you an exact number, that would be impossible. I’ve worked there for 18 years.”); 59:10-16 (“Every single day shift that I worked with [Larry Gillespie], he had it on. It always was on.”).) Even more egregious, Plaintiff’s coworkers would often masturbate openly in front of Plaintiff. (Defs.' Ex. F, 6/22/16 Lewis-Bystrzycki Dep. 231:22-232:10 (“Larry has masturbated numerous times. He watches porn every night he’s at work.”).) Even though supervisors watched it themselves, including Defendant Lt. Carl Pycz, Lt. Dangoy, and others, and nothing was ever done and no employee was ever reprimanded even to this day, Plaintiff continually complained about male employees watching pornography, and even about the male employees masturbating while they were watching the pornographic material. (*See, e.g.*, Defs.' Ex. F, 6/22/16 Lewis-Bystrzycki Dep. 235:24-242: 24; Defs.' Ex. I, 4/20/16 Lewis-Bystrzycki Dep. 81:19-83:6, 84:22-85:11, 88:10-91:21, 92:13-92:24.) Plaintiff’s last “complaint” on August 22, 2015 about male employees watching pornographic material in the workplace, resulted in the Defendant Chief Agpawa suspending her on August 27, 2015 “through the date of the trial in your pending suit against the City.” (Exhibit 1, Second Amend. Compl. ¶ 119; *see also* Exhibit 8, 8/22/15 Pl.’s Email

to Deputy Chief Kopec; Exhibit 9, 8/27/15 Agpawa Memo suspending Plaintiff through the date of the trial.)

As is evidenced by the Second Amended Complaint, deposition testimony, and Plaintiff's answers to interrogatories, Plaintiff has suffered a constant barrage of harassment and abuse at the hands of Defendants, and their employees. This conduct has been consistent and continuous from 1998 to the date Defendants suspended her, creating a hostile work environment over the many years of Plaintiff's employment. All of the acts are related and are an affirmative effort to discriminate, offend, abuse, and retaliate against Plaintiff because of her gender, and created a hostile work environment that affected the terms and conditions of her employment in violation of the IHRA. As such, Defendants' motion should be denied.

#### **IV. SUMMARY JUDGMENT STANDARD**

Summary judgment is only proper when there is not a genuine issue of material fact. *Williams v. Manchester*, 228 Ill. 2d 404, 417 (2008). In determining the existence of a material fact, this Court "must construe the pleadings, depositions, admissions, and affidavits strictly against the movant and liberally in favor of the opponent." *Id.* Summary judgment is not appropriate where material facts are in dispute or reasonable persons might draw different inferences from the undisputed facts. *Bagent v. Blessing Care Corp.*, 224 Ill. 2d 154, 163 (2007).

#### **V. ARGUMENT**

Defendants have subjected Plaintiff to discrimination and a hostile work environment consistently, beginning in the early days of her employment and continuing up until she was put on administrative leave on August 27, 2015. (Exhibit 1, ¶ 119.) Defendants' Motion for Partial Summary Judgment argues that this Court does not have jurisdiction over the acts that occurred prior to the 180 day window for filing a charge with the IDHR. However, the cases they cite are favorable to Plaintiff and hold that "in order for the charge to be timely, the employee need only file a charge within 180 or 300 days of *any act* that is part of the hostile work environment." *Gusciara*

*v. Lustig*, 346 Ill. App. 3d 1012, 1019 (2004) (emphasis added); *see also National R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 117 (2002) (hereinafter “*Morgan*”) (“As long as the employer has engaged in enough activity to make out an actionable hostile environment claim, an unlawful employment practice has ‘occurred,’ even if it is still occurring. Subsequent events, however, may still be part of the one hostile work environment claim and a charge may be filed *at a later date* and still encompass the whole.”) (emphasis added).

Plaintiff Lewis-Bystrzycki’s pleadings, interrogatory answers, and deposition testimony, along with other discovery, clearly narrate the continuing and related nature of Defendants’ conduct. Plaintiff alleges among the following incidents up to the date of the filing of her IDHR Charge (there are numerous incidents after the filing of her Charge as reflected in Plaintiff’s second amended complaint and her interrogatory answers, as well as the 3 days of her deposition testimony, and other discovery taken in this case, which are not addressed herein):

- “Plaintiff Lewis began working for the City of Country Club Hills as a Fire Fighter in the Fire Department in or about May 1998.” (Exhibit 1, Second Amend. Comp. ¶ 14.)
- “[On] the first day on the job, the former Chief saying to her that he ‘wanted to cum in [Plaintiff’s] pussy and eat it back out.’” (Exhibit 1, ¶ 16; Exhibit 7, Pl.’s Interrogatory Ans. No. 3(1).)
- Mid 1998, Plaintiff was told by a supervisor, Engineer Scott Tebo, when Plaintiff asked for a paramedic scholarship, that he was “not sponsoring a useless bitch.” (Exhibit 7, No. 3(2).)
- In 1998, Defendants’ fire instructors during fire trainings would only let Plaintiff use steel tanks, which were obsolete and never used, and far heavier than the new tanks used in fires and for training. Supervisors would make comments that this was done to “make a man out of her.” (Exhibit 7, No. 3(3).)
- In or about 1998, Plaintiff was in the day room at the Fire House when Erik Hoffman threw his cockring at Plaintiff. Lt. Kilburg was present. (Exhibit 7, No. 3(38).)
- In or about 1999, “When Plaintiff was taking a shower at the fire house, a male employee broke the bathroom door down. Plaintiff shouted ‘Chief!’ but former Chief Kasper was already in the hallway, holding a towel to hand to Plaintiff as she exited the shower; the former Chief then reprimanded Plaintiff and wrote her up for not properly locking the bathroom door.” (Exhibit 1, ¶ 16; Exhibit 7, No. 3(39).)

- In or about 1999 or 2000, “[a] male firefighter took Plaintiff’s house keys and made a copy and broke into her home without her knowledge or permission, and when Plaintiff complained to the Chief, nothing was done.” (Exhibit 1, ¶ 16; Exhibit 7, No. 3(40).)
- In 2000, Chief Kasper calling Plaintiff “Hazel” and “bitch” and “bimbo.” (Defs.’ Ex. H, 7/13/15 Lewis-Bystrycki Dep. 43:18-44:4, 45:13-46:24.)
- Throughout Plaintiff’s employment and on an ongoing basis from the beginning of her employment up to the date she was suspended indefinitely pending the trial in this matter, Plaintiff has witnessed male firefighters and supervisors watching pornography on the computer and televisions in the fire station. (Exhibit 1, ¶ 16; Exhibit 7, No. 3(41).)
- “Current Lieutenants have admitted that they are aware of male employees watching pornography in the fire stations. One Lieutenant admitted he saw nothing wrong with it. That same Lieutenant also testified that he himself watched pornography at the fire station, even since he has been a Lieutenant.” (Exhibit 1, ¶ 16; Exhibit 7, No. 3(41).)
- From 1998 up to the date of the imaging of Defendants’ computers in January and April 2017, Defendants have continued to allow male employees to watch pornographic material. (Exhibit 10, Pornography Report by Andrew Garrett (pursuant to the Court’s 8/4/17 Order employees’ names have been redacted).)<sup>5</sup> Defendants even continued to allow male employees to view pornographic material on the Fire Department computers after their so-called “investigation,” where they claim there was no evidence that male employees were viewing pornography, but trumped up allegations that it was Plaintiff that was looking at it. (*Id.* § 8.0 (“There is no evidence that Plaintiff was intentionally searching the internet for pornographic material.”); *see also* Attachment C and D.) Defendants also allowed male employees to view pornographic material at work, on the Fire Department computers, and while on the clock. (*See generally* Exhibit 10, Pornography Report; and Section 5.1; *see also* 1/23/17 Order). Even supervisors, who denied under oath viewing pornographic material, conducted active searches for pornographic material while at work. (*See, e.g.*, Exhibit 10, Attachment F at 0016-23 (searching such things as: “huge+cock” and “gay+anal+sex”).) Defendants have never disciplined any of these male employees for watching pornographic material, or the supervisors that allowed them to watch it without incident. (Exhibit 11, Kopec Dep. at 93:9-15.)
- At various times during Plaintiff’s employment, especially at the beginning of her employment, male firefighters would lean into kiss her, would hug her, and hit on her in a romantic way. Lt. Kilberg was one male employee that Plaintiff recalls hugging her. (Exhibit 7, No. 3(46).)
- At various times during Plaintiff’s employment, male firefighters would walk around the fire house with their pants off or pulled down while in Plaintiff’s presence. (Exhibit 7, No. 3(47).)

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<sup>5</sup> Plaintiff would have been able to obtain even more evidence of male employees viewing pornographic material on the Fire Department computers if Defendants had not run “disk cleanup” and “disk wipe” programs on the computers and spoliated evidence. (*See* Exhibit 10, § 2.0 at 4; *see also* Pl.’s Memorandum of Law in support of discovery sanctions.)

- One such male co-worker in 2001, Lt. Mike Kilburg, told Plaintiff he “was a shower not a grower” while exposing himself to her. (Exhibit 7, No. 3(47); Defs.’ Ex. F, 6/22/16 Lewis-Bystrzycki Dep. 144:6-15.)
- Plaintiff was constantly called a “bimbo” or a “bitch” and her supervisors and employees would constantly walk around naked, in a towel, or expose themselves, or would watch pornography out in the open, masturbate, and compare Plaintiff to the actors onscreen. (See Defs.’ Ex. H, 7/13/15 Lewis-Bystrzycki Dep. 41:3-42:7; see also Defs.’ Ex. F, 6/22/16 Lewis-Bystrzycki Dep. 144:1-6, 145:11-18, 146:21-147:6, 147:17-148:8, 231:22-232:18, 233:2-4, 235:11-18; see also Defs.’ Ex. I, 4/20/16 Lewis-Bystrzycki Dep. 51:12-15, 52:15-53:11; 53:22, 56:19-24, 58:10-18, 59:10-16, 80:2-5, 84:14-18.)
- From 2002 to 2009, Lt. Mike Kilburg walked around the firehouse with his pants pulled down. (Defs.’ Ex. F, 6/22/16 Lewis-Bystrzycki Dep. 147:1-11),
- In 2004, male firefighters would walk around the firehouse naked or with just a towel on. (Defs.’ Ex. F, 6/22/16 Lewis-Bystrzycki Dep. 145:11-23.)
- In 2004, a Country Club Hills Police Officer, Edison Torres, began stalking Plaintiff. Plaintiff obtained a restraining order against him. Former Chief Kasper told Plaintiff that she had to drop the restraining order against Torres if she wanted to keep her job. Torres then broke into Plaintiff’s home while she was on shift. Torres was later charged and convicted. Members of the Fire Department and Plaintiff’s supervisors still mock Plaintiff over this incident. (Exhibit 7, No. 3(5).)
- In 2004, Plaintiff accidentally scratched a fire truck resulting in a scratch approximately 18 inches long; she was taken off duty and sent for a drug test. There have been many instances where male employees have had vehicle accidents and were not taken off duty or sent for a drug test. (Exhibit 7, No. 3(4).)
- In or about November of 2005, Plaintiff was responding to a possible structure fire and parked the fire engine and it sunk a foot into the ground. She was removed from duty, sent for drug testing, and required to take a driving course, which was not done to male firefighters when they had even more egregious vehicle accidents. (Exhibit 7, No. 3(6).)
- In May of 2008, Plaintiff was in a car accident and suffered severe facial trauma. Former Deputy Chief Pycz subjected Plaintiff to endless rants and insults including but not limited to, “cracked faced cunt.” (Exhibit 7, No. 3(7).)
- From 2009 to 2015, male firefighters would walk around in their boxer shorts “wide open.” (Defs.’ Ex. F, 6/22/16 Lewis-Bystrzycki Dep. 152:3-14.)
- In or about 2009, when Plaintiff was sleeping in her bunk, several different male firefighter would climb into Plaintiff’s bunk with her and say “cuddle with me,” or something similar. These firefighters would climb into her bunk late at night, or in the early morning, around 12 - 2 a.m. This happened on at least 3-5 occasions over a 2 month time period. On one occasion, two male firefighters climbed in Plaintiff’s bunk at the same time. (Exhibit 7, No. 3(42).)

- In or about June 2011, Plaintiff was first on the promotion list for Lieutenant. Lt. Cochran put in for his retirement 1 day after that promotion list expired, stating that Plaintiff “will not get the fucking promotion.” Lt. Cochran waited until the day after the promotion list expired so that Plaintiff could not be promoted to Lt. (Exhibit 7, No. 3(8).) Defendant Chief Ellington admitted to hearing Lt. Cochran making this statement, and admitted he did nothing in response.
- In September 2011, Defendant Ellington delegated the task of writing one fourth of the promotion exam questions to Steven Pycz. Plaintiff complained that it was unfair and illegal due to the fact that Steven Pycz’s son, Carl Pycz, would be taking the test. Later, Carl Pycz confronted Plaintiff with a big smile and said, “Let the best *man* win.” (Exhibit 7, No. 3(9).)
- On or about October 10, 2011, Defendant Pycz singled Plaintiff out. “In or about the week of November 7, 2011, Plaintiff complained to Defendant Ellington that Defendant Pycz was singling out Plaintiff and treating her differently than others in the station. Defendant Ellington’s response to Plaintiff was in effect, ‘just deal with him.’” (Exhibit 1, ¶ 34; Exhibit 7, No. 3(10).)
- “On or about November 18, 2011, Plaintiff Lewis received a phone call informing her that her daughter was having a medical emergency, so Plaintiff informed Defendant Pycz that she was taking the Department car to check on her daughter and would respond if there was a call. When Plaintiff returned to the station, Defendant Pycz informed her that she was not to take the Department car for personal reasons. When Plaintiff responded that the Department car was often used for personal reasons in the past, Defendant Pycz yelled at Plaintiff, ‘I don’t care what we have always done’ and ‘I am in charge, this is my shift, I won, I’m Lieutenant,’ and also called Plaintiff a ‘fucking bitch.’” (Exhibit 1, ¶ 34; Exhibit 7, No. 3(11) and (48).)
- On or about January 8, 2012, Plaintiff was again left out of dinner. Defendant Carl Pycz was sleeping, so Plaintiff told FF Sam Wilson and FF Erik Goodloe that she was going to get food and asked if they needed anything while she was out, as was typical practice. Plaintiff announced out loud into the Lt.’s room that she was going to the store. Upon Plaintiff’s return, Defendant Pycz told Plaintiff he was going to write her up for stealing a vehicle and threatened that he was going to call the police and have her arrested. (Exhibit 7, No. 3(12).)
- On or about January 11, 2012, Plaintiff was told to wash and wax all of the fire engines. Defendant Carl Pycz came out later and told Plaintiff that she needed to rewash and rewash them. Plaintiff responded by saying that was ridiculous. Defendant Pycz left and returned with Defendant Ellington. Both Pycz and Ellington berated Plaintiff verbally, yelling at her in front of other firefighters; Ellington told Plaintiff that he did not want her there; Defendants later suspended Plaintiff. (Exhibit 7, No. 3(13).)
- “On January 26, 2012, the day Plaintiff served her suspension, her locker was broken into. When Plaintiff returned to work, she reported the break in to Defendant Ellington, but he just said there was nothing he could do and ignored Plaintiff’s complaint.” (Exhibit 1, ¶ 42; Exhibit 7, No. 3(14).)



ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 17 of 22

As iterated above, Defendants’ conduct was a continuing violation. They constantly and continually discriminated against Plaintiff and subjected her to a hostile work environment because of her gender. *See Gusciara*, 346 Ill. App. 3d at 1020.

Similar to *Gusciara*, where the court found that the charge timely alleged a “single unlawful employment practice . . . resulting in an intimidating, hostile, or offensive working environment,” Plaintiff Lewis-Bystrzycki has alleged a long, continuing, unlawful employment practice, which resulted in a hostile work environment, discrimination, and retaliation. *Id.* at 1022. The plaintiff in *Gusciara* complained that the CEO where she was employed “made provocative remarks and touched her” and when she rebuffed his advances, he retaliated by changing her job duties, demoting her and reducing her salary. *Id.* at 1014. The defendants argued that the plaintiff “had not been able to allege any incidents of sexual harassment occurring after July 16, 2000 (and thus within 180 days of when she filed her charge).” *Id.* at 1015. The defendants further argued that “the only two incidents occurring fewer than 180 days before the charge was filed were ‘minor and non-sexual in nature’” and that the incidents within the 180 day time period were not related to the prior incidents. *Id.* at 1016. The court, however, found that the defendants “committed a variety of sexually harassing acts that cumulatively created a hostile work environment” and a charge based on the alleged conduct is timely “as long as *an act* contributing to that hostile environment took place within the statutory time period.” *Id.* at 1020 (emphasis added).

Similarly here, Defendants committed numerous abusive, harassing, discriminatory, and retaliatory acts occurring since September 4, 2011, within the 180 days prior to Plaintiff Lewis-Bystrzycki’s IDHR charge, so there is at least “an act” within the statutory time period. As stated above, Defendants and their employees, within the 180 time period, continued to watch pornography, including masturbating while doing so, in the workplace while Plaintiff was present. (Exhibit 1, ¶¶ 16-17.) Defendants continued to single out Plaintiff by excluding her from meals or assigning her to do menial and demeaning tasks such as scrubbing brick walls at the fire house or

washing and rewashing the trucks, and cleaning up after the male employees. (*Id.* ¶¶ 33, 38, 44, 46.) Defendants continued to single Plaintiff out by denying her training. (*Id.* ¶¶ 43, 45, 48-49, 125, 128.) Defendants continued to subject Plaintiff to disproportionate and discriminatory discipline for things male employees were not disciplined. (*Id.* ¶¶ 33, 38, 39, 69-70, 74, 77, 83-84, 117-118, 125-128.) All of Plaintiff’s complaints about the hostile work environment and harassment and discrimination either fell on deaf ears or resulted in retaliation. Each of the discriminatory, harassing, and retaliatory incidents that Plaintiff was subjected to, both before and after the 180 days (from the beginning of her employment to the present) are connected and related, thus creating one single hostile work environment. *See, e.g., Jenkins*, 354 Ill. App. 3d at 196 (“[A] hostile work environment results from the cumulative effect of individual acts. Therefore, an employee need only file a charge within 180 or 300 days of ‘any act that is part of the hostile work environment.’”) (quoting *Morgan*, 536 U.S. at 118); *Jones v. Lockard*, 2011 IL App (3d) 100535, ¶ 29 (“The [Illinois Human Rights Act] does not distinguish different ‘types’ of acts, be they verbal, visual, or physical, to determine whether harassment has occurred. Stated differently, whether the act that causes the harassment is physical or not is irrelevant.”); *see also Sangamon Cty. Sheriff’s Dep’t v. Illinois Human Rights Comm’n*, 233 Ill. 2d 125, 143 (2009) (affirming the Illinois Human Rights Commission’s finding that the defendant “committed a variety of sexually harassing acts that cumulatively constituted a hostile work environment” and that such finding “was not against the manifest weight of the evidence”).

Defendants cite *Jenkins v. Lustig*, 354 Ill. App. 3d 193 (3d Dist. 2004) in an effort to state that the Defendants’ acts are not related due to their temporal distance from each other. However, the *Jenkins* court reversed the IDHR’s finding that the plaintiff’s allegations were time barred finding that the chief legal counsel abused her discretion. *Id.* at 197 (“A fact finder could easily conclude that this conduct was part of the same actionable hostile environment claim.”). The *Jenkins* court went on to hold that the court agreed with sound reasoning in *Gusciara*: “A charge of sexual

harassment is timely if the petitioner files a charge within 180 days *of any act* that is part of the hostile work environment.” *Id.* at 196 (emphasis added). The court stated that the acts “involved the same employer, were committed by the same person, occurred in similar settings, and continued with relative frequency.” *Id.* at 196-97. Further, *Jenkins* holds that even though the plaintiff “did not provide specific dates on which pre-limitations incidents occurred, the allegations indicated the same offensive conduct, office, and perpetrator as the incidents that occurred within the 180-day time period.” *Id.* at 197.

Similar to *Jenkins*, Plaintiff Lewis-Bystrzycki’s allegations include the same employer (the City of Country Club Hills), were committed consistently by the same group of people, occurred in the same setting and continued with relative frequency. Beginning with the first day of Plaintiff’s employment and continuing throughout her employment with similar comments and conduct by Defendants, Plaintiff was consistently and constantly harassed and subjected to a hostile work environment either sexually or otherwise based on her gender. (*See supra* at 13-17.)

While it is true that *Jenkins v. Lustig* states that “a lengthy period between individual incidents and the filing of a charge increases the likelihood that those acts that occurred within the 180-day filing period will be unrelated to those earlier acts,” it does not define what period of time is too long, and further, only states that it “increases the likelihood” that the incidents are unrelated. 354 Ill. App. 3d at 197. However, *Jenkins* puts much more weight on the similarities between incidents (similar actors, location, circumstances and settings) than it does the temporal proximity. *Id.* 196-97. Moreover, this case is distinguishable from the scenario discussed in *Jenkins* because there is not a long period of time between incidents. Plaintiff details events that occurred every year of her employment. (*See supra* at 13-17.) The conduct that Plaintiff Lewis-Bystrzycki was subjected to is not only consistently similar in every way throughout her employment, but was also happening on a consistent and continuing basis. Defendants fail to address Plaintiff’s testimony that she was constantly called a “bimbo” or a “bitch” and that her supervisors and employees would constantly

walk around naked, in a towel, or expose themselves, or would watch pornography out in the open, masturbate, and compare Plaintiff to the actors onscreen from the beginning of her employment up through the date of her suspension. Male employees, including Defendant Pycz and other supervisors, continued to watch pornographic material without reprimand or discipline even after Plaintiffs' suspension, including just days before the inspection and imaging of Defendants' computers and the days in between. (*See* Defs.' Ex. H, 7/13/15 Lewis-Bystrzycki Dep. 41:3-42:7; *see also* Defs.' Ex. F, 6/22/16 Lewis-Bystrzycki Dep. 144:1-6, 145:11-18, 146:21-147:6, 147:17-148:8, 231:22-232:18, 233:2-4, 235:11-18; *see also* Defs.' Ex. I, 4/20/16 Lewis-Bystrzycki Dep. 51:12-15, 52:15-53:11; 53:22, 56:19-24, 58:10-18, 59:10-16, 80:2-5, 84:14-18; *see generally* Exhibit 10, Pornography Report.) These incidents, when taken into consideration with the other, more obscene and abusive actions (and inactions by Defendant City), show that they are very much related to a larger, continuing scheme of discrimination and harassment, creating the hostile work environment, as well as Defendant City's failure to take any effective remedial action to prevent the hostile work environment. *See Morgan*, 536 U.S. at 115 ("Hostile environment claims are different in kind from discrete acts. Their very nature involves repeated conduct. The 'unlawful employment practice' therefore cannot be said to occur on any particular day. It occurs over a series of days or perhaps years and, in direct contrast to discrete acts, a single act of harassment may not be actionable on its own. Such claims are based on the cumulative effect of individual acts."). In *Morgan*, the Supreme Court found that all of the actions of the defendant during the plaintiff's employment were "part of the same actionable hostile environment claim". *Id.* at 121; *see also Jones v. Lockard*, 2011 IL App (3d) 100535, ¶¶ 1, 32 (finding that harassment beginning weeks after the plaintiff was hired (August, 2000) that continued until her discharge in April, 2004, was timely filed as a continuing violation of a hostile work environment). Because the conduct and actions alleged and testified to by Plaintiff Lewis-Bystrzycki were performed by the same actors, and ultimately condoned by the City throughout Plaintiff's entire employment, occurred constantly

during the work day, in the common space, in the showers, and around the fire house, and were consistent and continuous in nature, they can be found to be related to the conduct that occurred within the 180 day time period. As such, they should not be dismissed by this Court under Plaintiff's continuing violation theory.

Ultimately, it is up to the fact finder to determine if the conduct and incidents are part of one "unlawful employment practice." *See Jenkins*, 354 Ill. App. 3d at 197; *see also Lively v. Flexible Packaging Ass'n*, 830 A.2d 874, 896 (D.C. 2003) ("Reasonable jurors could regard these comments and incidents as part of one 'unlawful employment practice,' [occurring over five years time] even though there were gaps in the occurrence of the acts constituting the hostile work environment claim."). As such, Defendants' motion must be denied.

### CONCLUSION

For the reasons stated above, Defendants' motion for partial summary judgment should be denied.

Respectfully Submitted,

DENA LEWIS-BYSTRZYCKI

*/s/Dana L. Kurtz*

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ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 21 of 22

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing **PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT** was served via the Court's ECF system and via email upon the parties designated below on September 25, 2017.

Daniel Boddicker  
John Murphey

dboddicker@keefe-law.com  
jmurphey@rmcj.com

*s/Dana L. Kurtz*

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Dana L. Kurtz

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 22 of 22

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT – LAW DIVISION

DENA LEWIS-BYSTRZYCKI,

Plaintiff,

v.

CITY OF COUNTRY CLUB HILLS, *et al.*,

Defendants.

No. 2012 L 009916

Honorable Brigid Mary McGrath

**Exhibit List**

1. Plaintiff's Second Amended Complaint
2. 9/15/15 Court Hearing Transcript (excerpts)
3. IDHR Charge
4. IDHR Dismissal
5. Plaintiff's Motion for Leave to File Second Supplemental Complaint
6. Declaration of Karen Moreno
7. Plaintiff's Second Supplemental Answers to Defendants' First Set of Interrogatories
8. Plaintiff's 8/22/15 Email to Deputy Chief Kopec
9. 8/27/15 Agpawa Memo suspending Plaintiff until the trial
10. Pornography Report by Andrew Garrett (redacted for names pursuant to the Court's 8/4/17 Order)
11. 7/18/17 Deposition of Robert Kopec

# EXHIBIT 1



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT – LAW DIVISION

DENA LEWIS-BYSTRZYCKI,

Plaintiff,

v.

CITY OF COUNTRY CLUB HILLS, a  
municipal corporation, and CARL PYCZ,  
JOSEPH ELLINGTON, and ROGER  
AGPAWA, in their individual capacity,

Defendants.

No. 2012 L 009916

Honorable Brigid Mary McGrath

Plaintiff Demands Trial By Jury

**SECOND AMENDED COMPLAINT**

Plaintiff DENA LEWIS-BYSTRZYCKI, through her counsel, KURTZ LAW OFFICES, LTD., seeks redress against Defendants CITY OF COUNTRY CLUB HILLS, CARL PYCZ, JOSEPH ELLINGTON, and ROGER AGPAWA, and states as follows:

1. Plaintiff Dena Lewis-Bystrzycki (“Lewis”) seeks redress for retaliation in violation of the Illinois Whistleblower Protection Act (740 ILCS § 174/15) against Defendants City of Country Club Hills, Carl Pycz, Joseph Ellington, and Roger Agpawa (Count I); for gender discrimination and for creating a hostile work environment in violation of the Illinois Human Rights Act (“IHRA”) (775 ILCS § 5/1-102) against Defendant City of Country Club Hills (Count II); and for retaliation also in violation of the IHRA against Defendant City of Country Club Hills (Count III). Plaintiff also seeks declaratory and injunctive relief as well as damages for her injuries.

2. Defendants’ actions as alleged herein constitute a continuing violation.

**Jurisdiction**

3. The court has jurisdiction over this matter pursuant to 735 ILCS § 5/2-209 in that Plaintiff Lewis and the Defendants City of Country Club Hills, Carl Pycz, and Joseph Ellington are citizens of the State of Illinois.

4. This Court also has jurisdiction pursuant to the IHRA, 775 ILCS § 5/7A-102. Plaintiff filed a charge of discrimination, hostile work environment, and retaliation with the Illinois Department of Human Rights (“IDHR”).

5. Plaintiff received the IDHR notice of dismissal on or about March 25, 2013. Plaintiff’s claims are made within 90 days of the IDHR’s notice, giving her the right to file her claims in state court, and are therefore timely filed under the IHRA, 775 ILCS § 5/7A-102.

6. Venue is proper in this court pursuant to 735 ILCS § 5/2-101 in that Defendants are residents of Cook County, and all or a substantial part of the events giving rise to the cause of action, occurred within Cook County.

**The Parties**

7. Plaintiff Dena Lewis-Bystrzycki is female.

8. At all relevant times, Plaintiff was one of only two full-time female firefighters employed by Defendant City of Country Club Hills.

9. Defendant City of Country Club Hills (“City” or “Country Club Hills”) is a municipal corporation, organized under the laws of the State of Illinois and conducting business in Cook County and the State of Illinois.

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 3 of 108

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 6 of 108

10. At all relevant times, Defendant Country Club Hills employed Defendant Joseph Ellington (“Ellington” or “Fire Chief Ellington”). Defendant Ellington at all relevant times served as the “Fire Chief” for the City of Country Club Hills. Defendant Ellington is sued in his individual capacity.

11. Beginning in or about June of 2012, Defendant Country Club Hills employed Defendant Roger Agpawa (“Agpawa” or “Fire Chief Agpawa”). Defendant Agpawa at all relevant times served as “Fire Chief” for Country Club Hills. Defendant Roger Agpawa is sued in his individual capacity.

12. The Fire Chief is the Chief Executive Office of the Fire Department of the City of Country Club Hills and is responsible for putting into effect and enforcing the rules, orders, policies, regulations, practices and procedures of the Fire Department. The Fire Chief is also responsible for the enforcement of rules, ordinances, and statutes within the Fire Department.

13. At all relevant times, Defendant Country Club Hills employed Defendant Carl Pycz (“Pycz” or “Carl Pycz”). Defendant Pycz at all relevant times served as either “Firefighter” or “Fire Lieutenant” for Country Club Hills. Defendant Carl Pycz is sued in his individual capacity.

**Facts Upon Which Plaintiff’s Claims Are Based**

14. Plaintiff Lewis began working for the City of Country Club Hills as a Fire Fighter in the Fire Department in or about May 1998.

15. Throughout her employment, Defendants subjected Plaintiff Lewis to harassment and a hostile work environment based on her gender (female). Defendants' perpetuation of a hostile work environment against women and against Plaintiff more specifically has occurred on an ongoing basis and constitutes a continuing violation.

16. The continuing violation started from the first day of Plaintiff's employment and has continued to the present, and includes but is not limited to such things as the following: the first day on the job, the former Chief saying to her that he "wanted to cum in [Plaintiff's] pussy and eat it back out;" a male employee throwing his cockring at Plaintiff while she was in the dayroom at the fire house; when Plaintiff was taking a shower at the fire house, a male employee broke the bathroom door down. Plaintiff shouted "Chief!" but former Chief Kasper was already in the hallway, holding a towel to hand to Plaintiff as she exited the shower; the former Chief then reprimanded Plaintiff and wrote her up for not properly locking the bathroom door; a male firefighter took Plaintiff's house keys and made a copy and broke into her home without her knowledge or permission, and when Plaintiff complained to the Chief, nothing was done; at various times during Plaintiff's employment, certain male firefighters would lean in to kiss her, would hug her, and hit on her in a romantic way; certain male firefighters would walk around the fire house with their pants off or pulled down, and one commented that he "was a shower not a grower;" at other times, when Plaintiff was sleeping in her bunk at the fire station late at night, or in the early morning, several different male firefighters would climb into Plaintiff's bunk and try to

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 5 of 108

“cuddle” with her; throughout Plaintiff’s employment, and on an ongoing basis, Plaintiff has witnessed male firefighters and supervisors watching pornography on the computer and televisions in the fire station; and Plaintiff continues to be treated in a hostile manner by certain supervisors, including the Chief, because of her gender and because she has complained. There are additional incidents that are set forth in Plaintiff’s deposition testimony and interrogatory answers in this case.

17. Current Lieutenants have admitted that they are aware of male employees watching pornography in the fire stations. One Lieutenant admitted he saw nothing wrong with it. That same Lieutenant also testified that he himself watched pornography at the fire station, even since he has been a Lieutenant.

18. Supervisors did and have done nothing to remedy the conduct.

19. From September 2011 to present, Defendants also subjected Plaintiff Lewis to retaliation for reporting what she believed to be a violation of law.

20. Defendants continue to retaliate against Lewis to the present.

21. In or about September 2011, a promotion exam was announced for the rank of Fire Lieutenant. Plaintiff Lewis was on the list of candidates to take the Lieutenant Promotion Exam.

22. In or about September 2011, Fire Chief Ellington informed Plaintiff that he had delegated the task of writing a quarter of the questions for the written portion of the Lieutenant Promotion Exam to Deputy Fire Chief Steven Pycz.

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 6 of 108

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 7 of 108

23. Plaintiff Lewis immediately complained to Fire Chief Ellington that she believed the delegation was improper and illegal, as Deputy Fire Chief Steven Pycz's son, Carl Pycz, was taking the exam.

24. After Plaintiff complained to Fire Chief Ellington, Defendant Carl Pycz, confronted her and said in effect "lose your school girl attitude" and "let the best man win."

25. Despite Plaintiff's complaints about the impropriety and illegality of Defendant Ellington's conduct, Deputy Chief Steven Pycz wrote 18 questions for the written portion of the Lieutenant Promotion Exam, which Chief Ellington then combined with the 7 questions he had drafted.

26. At least 20 of the 25 questions drafted and submitted by Deputy Pycz and Chief Ellington were used on the written portion of the Lieutenant Promotion Exam.

27. On or about October 7, 2011, Plaintiff Lewis took the written portion of the Lieutenant Promotion Exam, along with several other candidates, including Defendant Carl Pycz.

28. In or about October 2011, the promotion list was posted, and Carl Pycz was first on the promotion list. Carl Pycz scored higher than everyone else on the written portion of the promotional examination to Lieutenant.

29. Had Carl Pycz not had access to the questions, he would not have scored highest on the exam.

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 8 of 108

30. After the promotion list was posted, Plaintiff again complained to Defendant Ellington about his conduct in delegating the writing of the Lieutenant Promotion Exam questions to Carl Pycz's father.

31. In or about October, 2011, Defendant Carl Pycz was promoted to Fire Lieutenant and was assigned to the same shift as Plaintiff Lewis.

32. On or about November 3, 2011, Defendant Pycz called Plaintiff Lewis into his office and accused her of insubordination, accusing her of refusing to follow his orders and disrespecting him.

33. Since Defendant Pycz's promotion, he has subjected Plaintiff Lewis to continuing retaliation by, among other things, excluding Plaintiff from meals in the station, assigning Plaintiff menial tasks such as washing the floors and department vehicles, forcing Plaintiff to repeat the task after its completion, and unfairly disciplining her.

34. In or about the week of November 7, 2011, Plaintiff complained to Defendant Ellington that Defendant Pycz was singling out Plaintiff and treating her differently than others in the station. Defendant Ellington's response to Plaintiff was in effect, "just deal with him."

35. On or about November 18, 2011, Plaintiff Lewis received a phone call informing her that her daughter was having a medical emergency, so Plaintiff informed Defendant Pycz that she was taking the Department car to check on her daughter and would respond if there was a call. When Plaintiff returned to the station, Defendant

Pycz informed her that she was not to take the Department car for personal reasons. When Plaintiff responded that the Department car was often used for personal reasons in the past, Defendant Pycz yelled at Plaintiff, "I don't care what we have always done" and "I am in charge, this is my shift, I won, I'm Lieutenant," and also called Plaintiff a "fucking bitch."

36. On or about November 21, 2011, Plaintiff was called into a meeting with Defendant Ellington and Deputy Chief Johnson, where she was informed that a two-page written report had been filed for her taking the Department car and disrespecting Defendant Pycz. During the meeting, Deputy Chief Johnson agreed with Plaintiff Lewis that employees of the Fire Department had been allowed to use the Department car for personal reasons, such as a family emergency, in the past.

37. On or about January 8, 2012, while on duty, Plaintiff informed other firefighters on duty that she was going to go out to pick up some food for dinner. Defendant Pycz, though on duty, was sleeping at the time Plaintiff left the station. Upon Plaintiff's return, Defendant Pycz informed Plaintiff that he was going to write her up for leaving the station without his permission.

38. On or about January 11, 2012, Defendant Pycz ordered Plaintiff to wash and wax all of the vehicles and the floors in the station. After Plaintiff had completed washing and waxing two fire engines, Defendant Pycz ordered her to wash and wax the fire engines again. When Plaintiff immediately complained about the amount of work

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 8 of 108



she was being required to do, she was informed by Defendant Ellington that she would be disciplined.

39. On or about January 11, 2012, Defendants filed disciplinary charges against Plaintiff Lewis for using a Department vehicle without a supervisor's knowledge and for insubordination. Plaintiff was suspended without pay for one twenty-four hour shift. Plaintiff complained that she was not being disciplined pursuant to the progressive discipline policy, but she was still suspended without pay.

40. Defendant Pycz made the decision, or at the very least directed or influenced the decision, to discipline and suspend Plaintiff Lewis.

41. Defendant Ellington, as Fire Chief, made the decision, or at the very least directed or influenced the decision, to discipline and suspend Plaintiff Lewis.

42. On January 26, 2012, the day Plaintiff served her suspension, her locker was broken into. When Plaintiff returned to work, she reported the break in to Defendant Ellington, but he just said there was nothing he could do and ignored Plaintiff's complaint.

43. On approximately March 8, 2012, Defendant Pycz took the entire crew out for training but did not tell Plaintiff about it. Plaintiff saw everyone leaving and asked Defendant Pycz what was going on. Despite the fact that the training was mandatory, Defendant Pycz told Plaintiff that she could either go to the training with them or stay behind.

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 9 of 303

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 110 of 1308

44. On approximately March 11, 2012, Defendant Pycz and Lt. Hullinger again paid for a meal for the whole shift, but excluded Plaintiff.

45. On approximately March 14, 2012, Defendant Pycz again excluded Plaintiff from a training session. Instead, Defendant Pycz only asked two male firefighters to go to the training.

46. On approximately March 26, 2012, Plaintiff was assigned by Defendant Pycz to wash a cinderblock wall brick-by-brick.

47. Since Plaintiff has been employed by the City, no male has ever been assigned to wash a cinderblock wall.

48. On approximately March 29, 2012, the entire shift was again taken to training, and Plaintiff was excluded. Defendant Pycz instructed Plaintiff to stay behind and clean the bathrooms.

49. For the rest of March and at various times in April 2012, Defendants gave other males on Plaintiff's shift training opportunities, while excluding Plaintiff and assigning her to clean various parts of the station.

50. On approximately April 27, 2012, Lt. Brenadisus (male) assigned Plaintiff a heavy list of cleaning chores. After Plaintiff had been cleaning for about two hours, she noticed that no one else on her shift was cleaning. Plaintiff went to find out where everyone was and found all the men sitting on the back porch smoking cigars while she had been inside cleaning.

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 12 of 108

51. Since Plaintiff filed her IDHR complaint in March of 2012, Plaintiff has been denied, refused and/or looked over for overtime shifts on a regular and ongoing basis by her supervisors and Lt. Hullinger, who has the primary responsibility for scheduling. Chief Agpawa admitted in his deposition to reviewing the overtime sheets and seeing that Plaintiff had less overtime than other employees. He did nothing about it, despite admitting to knowing Plaintiff complained about it.

52. On approximately April 30, 2012, Defendant Ellington informed Plaintiff that he was switching her to another shift.

53. Plaintiff had been on the same shift for fourteen years.

54. Plaintiff was replaced on her former shift by a probationary Firefighter who was not qualified to do Plaintiff's job as an Engineer.

55. Defendants' reassignment of Plaintiff's shift was further and ongoing retaliation for Plaintiff's complaints.

56. On approximately May 8, 2012, Plaintiff's first day on her new shift, a male Lieutenant told Plaintiff that she was not wanted on that shift.

57. On approximately May 17, 2012, someone placed a sticker on Plaintiff's locker that read "Beaver Creek." Plaintiff complained to Defendant Ellington and even showed him the sticker. Defendants did no investigation into the incident, and nothing was done in response to Plaintiff's complaint about the incident.

58. On or about June 10, 2012, Plaintiff discovered a figurine placed on top of her locker at the firehouse. The figurine was a little girl doll with her hands covering

her mouth. Plaintiff found this offensive and a suggestion that she should keep her mouth shut and not complain.

59. Plaintiff asked Defendant Ellington orally to investigate the incident. Defendant Ellington did not investigate the incident or direct anyone else to.

60. Plaintiff also requested that Defendant Ellington have the figurine taken down. Defendant ignored Plaintiff's request.

61. On approximately August 14, 2012, Lt. Hullinger took a picture of the figurine, sent it to Plaintiff via text message, laughed, and asked Plaintiff if she knew how it got there.

62. Instead of taking the figurine down, Defendants allowed the figurine to remain above Plaintiff's locker and allowed Plaintiff and Plaintiff's complaints to be mocked by others in the Fire Department.

63. It was not until approximately October 2012 that the figurine was finally taken down.

64. On approximately September 8, 2012, Plaintiff became violently ill while at work. She had vomiting, diarrhea, and a rapid heart beat. When Plaintiff explained her symptoms to Firefighter Estock (male), he suggested that someone may have "messed with" Plaintiff's food. Plaintiff's food was in her refrigerator, but the refrigerator was unlocked and anyone could go in there. That night, Plaintiff went to the urgent care clinic, and the lab results showed that the source of her symptoms was not a bacterial infection, but was a chemical introduced into her body. Because Plaintiff

did not knowingly take any medications that day, the only way she would have ingested a chemical like that would have been if it was put into her food.

65. Plaintiff complained to Battalion Chief Agpawa (male) about the poisoning immediately upon returning from the urgent care clinic.

66. Defendants did no investigation into the incident.

67. After someone poisoned Plaintiff's food, Plaintiff bought a lock for her refrigerator to keep her food safe. However, on February 9, 2013, the lock for her refrigerator was stolen.

68. Defendants also did not investigate who stole Plaintiff's lock.

69. No one was disciplined for the theft of Plaintiff's lock or for poisoning her food.

70. On approximately December 7, 2012, Station 2 was missing some items from its drug box. Lt. Dangoy (male) called Plaintiff in and stated that there was no proof that the missing items from the drug box were not her fault. He and the other investigators then proceeded to question Plaintiff for hours about the incident. Lt. Dangoy told Plaintiff that no matter what, they were going to find a way to make this her fault. However, there was evidence that Plaintiff was not at fault because she did not work at that station or drive the rigs with the missing drugs on the day they went missing. Eventually, it was discovered that someone took too much of one drug and not enough of another when re-supplying the drug box. The person responsible for the mistake was not disciplined or even threatened with discipline. Defendants would have

disciplined Plaintiff had there not been this exculpatory evidence that she was not even working at the time of the incident.

71. Defendants know that employment decisions cannot be made in retaliation for the employee reporting what she believed to be a violation of a state or federal law, rule, or regulation.

72. Defendants retaliated against Plaintiff Lewis within weeks of her reporting her belief that Defendant Ellington's conduct in delegating the writing of 25 of the written questions for the Lieutenant's Promotion Exam to Deputy Chief Steven Pycz was illegal and improper.

73. Defendant Agpawa became the Fire Chief of the City of Country Club Hills on or about June 2012.

74. On or about November 6, 2013, Defendant Pycz wrote a memorandum to Defendant Agpawa requesting that Plaintiff be put on administrative leave because of her lawsuit, claiming for "our own safety and peace of mind" (emphasis in the original). He further states in the memorandum to the Chief that "I'm not surprised she hasn't requested this for her own best interest yet, due to the fact she is just waiting for something else to put into the lawsuit." Defendant Agpawa said nothing to Pycz in response to this memorandum and did not discipline him or admonish him for the appearance of retaliating against her because of this lawsuit. This memorandum, along with Defendants other conduct in this case, was very upsetting to Plaintiff.

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 16 of 108

75. On or about December 26, 2013, Firefighter Rodriguez gave Plaintiff false orders and stated that these were the chief's orders.

76. The Chief himself notified Plaintiff that these orders were false.

77. Plaintiff wrote up FF Rodriguez for this incident, but Plaintiff's supervisors never disciplined Rodriguez for this.

78. On April 10, 2014, at about 7:15 a.m., Plaintiff was awoken by her supervisor and informed that another firefighter had not shown up to work without notice and was unreachable.

79. Plaintiff's supervisor ordered Plaintiff to cover the other firefighter's shift.

80. Plaintiff complied with the order and went to work.

81. However, at about 9:00 a.m., two hours after the start of the shift, the other firefighter arrived.

82. Defendant Agpawa allowed the other firefighter to work the remainder of the shift and ordered Plaintiff to leave.

83. The other firefighter was not disciplined for his failure to show up on time for his scheduled shift.

84. Plaintiff, however, has been disciplined for less severe infractions.

85. Later, Plaintiff verbally complained to Chief Agpawa and asked the Chief if she could ask him a "stupid question," saying "how is it possible that a guy comes in to work 2 hours late, no call no show, and then gets his shift back?"

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 176 of 180

86. Defendant Agpawa told Plaintiff, “If you have a problem, put it in writing.”

87. The next shift, Defendant Agpawa called Plaintiff and demanded to know why he had not received her write-up regarding the situation with the other firefighter.

88. Plaintiff explained that she had decided not to write anything because Defendant Agpawa had given her an option to write something or not, and because she was simply asking a question.

89. Defendant Agpawa claimed that he had given Plaintiff an order and that she was required to submit a memorandum to him about the incident.

90. Plaintiff did as she was then ordered and submitted a written memorandum to Defendant Agpawa.

91. Only a few minutes after Plaintiff delivered the memorandum to Defendant Agpawa, he sought Plaintiff out and told her that she should “forget the past,” and that Plaintiff “cannot insist that others get better treatment” than Plaintiff.

92. In response, Plaintiff gave Defendant Agpawa several examples of situations in which other firefighters had been treated more favorably than Plaintiff.

93. After that conversation, Defendant Agpawa took no action in regards to Plaintiff’s complaint or the ongoing discrimination and retaliation against Plaintiff.

94. Instead, on June 3, 2014, almost two months later, Defendant Agpawa suspended Plaintiff for alleged insubordination for calling him “stupid” regarding the incident.



ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 18 of 108

95. Plaintiff organized the Muscular Dystrophy Association (“MDA”) Boot Drive at the Country Club Hills Fire Department, and had been organizing it for many years since she first started it.

96. In May of 2014, Plaintiff wrote the city manager and copied the Chief with her request for times and dates, as she has done every year she had participated in the MDA Fill the Boot Drive.

97. Chief Agpawa told Plaintiff that she did not give him proper notification of the Boot Day and that a letter was not sufficient.

98. Chief Agpawa also told Plaintiff “you are lucky that I am not suspending you for illegal activity.”

99. Plaintiff had received approval from City Hall for the Boot Drive.

100. Plaintiff told the Chief that she did not know this was a problem and informed him that she had City Hall’s permission and that she gave him a letter a month in advance as she had done in the past.

101. As part of the ongoing discrimination and retaliation against Plaintiff, on or about May 25, 2014, Plaintiff arrived early for work and was napping in the female bunk room until the shift started.

102. Plaintiff accidentally slept through the call because someone had turned off the speaker in that room.

103. Plaintiff is the only female in that station and only one to use that room. She never turned the speaker off.

104. When the call came in, no one told Plaintiff or tried to wake her up, despite the fact that it is normal practice for someone to come over the speaker and call for the person that is missing or running late to the call.

105. Lieutenant Dangoy wrote Plaintiff up for missing the call.

106. Male firefighters and engineers have missed calls and have not been written up.

107. Plaintiff complained to Lt. Dangoy and Chief Agpawa about the unfair treatment. Nothing was done to remedy Plaintiff's complaints.

108. In or about December 2014, Plaintiff was denied vacation time due to the Chief stating he needed her to be in charge of a shift.

109. On or about February 17, 2015, Plaintiff was informed that she would be switching shifts as of March 22, 2015.

110. Chief Agpawa stated that the Department could not have a shift without an Engineer, and the switch was made so that all shifts have one Lieutenant and one Engineer. This was despite the fact that when Plaintiff was originally switched in April of 2012, that switch resulted in a shift not having an engineer.

111. Plaintiff complained to the new Deputy Chief, Kopec, and Engineer Morowczynski about this. Nothing was done to remedy Plaintiff's complaints or the discriminatory or retaliatory treatment.

112. On April 30, 2015, Plaintiff was informed that on Memorial Day a few years ago Defendant Pycz instructed Lt. Glenn McAuliff to use a department vehicle in order to go home and get a uniform hat.

113. Defendant Pycz and Lt. McAuliff were not disciplined for this. Other male employees who have engaged in the same or similar conduct also have not been disciplined.

114. Plaintiff has been called a “bitch” by Defendant Pycz on multiple occasions and Lt. Hullinger has called Plaintiff a “bitch” over the fire house intercom.

115. On or about July 14, 2015, the day after Plaintiff’s deposition in this case in which Chief Agpawa was present, Plaintiff was informed by another firefighter that Lieutenant Kilburg had told him that he was now in charge of organizing the 2015 MDA Boot Drive. The male firefighter also told Plaintiff that Lieutenant Kilburg had met with Chief Agpawa over Plaintiff’s removal.

116. Plaintiff complained about the reassignment of the MDA Boot Drive by writing a memorandum to Chief Agpawa. Plaintiff also stated in the memo that she was being retaliated against and requested “once again” that the Chief “truly address these actions of harassment, retaliation, and discrimination, both on your part and the rest of the members of Country Club Hills.”

117. In response to Plaintiff’s memorandum, Chief Agpawa disciplined Plaintiff for the memorandum complaining about the ongoing retaliation and being removed from the MDA Boot Drive.

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 20 of 108

118. When Plaintiff grieved this discipline, it was upheld and the Chief stated in his memo denying the grievance that she could have been discharged.

119. On or about August 27, 2015, Plaintiff was placed on administrative leave with pay, effective immediately, and the notice Plaintiff received stated that “[t]he City anticipates that this paid leave will extend through the date of the trial in your pending suit against the City.”

120. Defendants City of Country Club Hills, Carl Pycz, Joseph Ellington, and Roger Agpawa violated the Illinois Whistleblower Protection Act by retaliating against Plaintiff Lewis for reporting illegal and improper conduct on the part of Defendant Ellington.

121. Defendants retaliated against Plaintiff Lewis for reporting what she believed to be illegal and improper conduct.

122. Defendants retaliated against Plaintiff Lewis for complaining of illegal and improper conduct to then Fire Chief Ellington and Fire Chief Agpawa, who were and are responsible for the enforcement of rules, ordinances and statutes within the Fire Department.

123. Plaintiff Lewis had reasonable cause to believe that the actions of Defendants were a violation of state or federal law, rule or regulation.

124. When Defendants discovered that Plaintiff Lewis made these complaints, Defendants caused Plaintiff to suffer adverse employment actions, including a suspension without pay.

125. On a continuing and ongoing basis, Defendant City, through its agents and employees, has also subjected Plaintiff to discriminatory and disparate treatment based on her gender, including but not limited to, those incidents identified above, and further: subjecting her to a hostile work environment and harassment, subjecting her to unwarranted and disproportionate disciplinary action; denying Plaintiff promotions; denying Plaintiff training, and treating Plaintiff differently in the terms and conditions of her employment.

126. Male employees are not disciplined for engaging in egregious violations of the City's policies and procedures, including but not limited to the following examples:

a. On approximately June 8, 2012, Engineer Boyd (male) came to a fire scene intoxicated (and he admitted that he was drunk). Engineer Boyd was belligerent with other officers and with residents. Firefighter Perry (male) wrote a report detailing Boyd's infractions that day, but Boyd was not disciplined.

b. On or about June 25, 2012, Firefighter Richards (male) drove through the ambulance bay doors. This accident caused extensive damage to both the door and the rig Richards was driving. Despite the amount of damage he caused, Richards was not sent for a drug test pursuant to the City's policies. Plaintiff, however, has been sent for drug testing when she caused as little as \$1.50 damage to a rig.

127. Plaintiff repeatedly complained about the hostile work environment and discrimination to supervisors and command staff to no avail.

128. Defendant City, through its agents and employees, also subjected Plaintiff to retaliatory treatment because of her complaints of discrimination, including but not limited to, those incidents identified above, and further: subjecting her to harassment, subjecting her to unwarranted and disproportionate disciplinary action; denying Plaintiff promotions; denying Plaintiff training; and treating Plaintiff differently in the terms and conditions of her employment.

129. By failing and refusing to investigate Plaintiff's complaints, Defendants have condoned the harassment, hostile work environment, and retaliation against Plaintiff.

130. Defendant City has failed to provide proper training to its managers, supervisors, and employees to prevent gender discrimination, hostile work environment, and retaliation. Defendant City's failure to train was deliberately indifferent to the rights of employees within its purview.

131. Defendant's harassment, discrimination, and retaliation against Plaintiff, continues through the present.

132. Because of the nature of firefighters' work and the danger they face in performing their jobs, it is important that they have the trust, support, and backup of their co-workers, crew members, peers and supervisors.

133. All of Defendants' actions as described above cause Plaintiff to be in fear for her safety at work and on fire calls.

134. Defendants' actions against Plaintiff and failure to take her complaints seriously or remedy her complaints created not only a safety issue for Plaintiff and other firefighters, but also created a public safety issue.

135. As a result of Defendants' actions, Plaintiff has suffered substantial losses, including, but not limited to, lost wages and benefits, overtime, mental and emotional anguish, embarrassment, and humiliation.

## COUNT I

### **(Violation of the Illinois Whistleblower Protection Act)**

136. Plaintiff restates and realleges by reference paragraphs 1 through 134 above as though fully set forth herein against all Defendants.

137. Defendants disciplined Plaintiff and/or caused her to be suspended without pay and subjected her to other forms of retaliation because Plaintiff had complained of violations of state or federal law, rule or regulation to the Fire Chief, Joseph Ellington, who was the head of the Fire Department and who was responsible for the enforcement of rules, ordinances and statutes within the Fire Department.

138. Plaintiff Lewis had reasonable cause to believe that the actions of Defendants were a violation of state or federal law, rule, or regulation.

139. Plaintiff Lewis was disciplined and involuntarily transferred in violation of rights guaranteed to her by the Illinois Whistleblower Act, 740 ILCS § 174/15, and she

has suffered substantial losses as a result, including, but not limited to, lost wages and benefits, mental and emotional anguish and embarrassment and humiliation.

**WHEREFORE**, Plaintiff prays that this Court:

- A. Enter judgment against Defendants, declaring that Defendants have violated the Illinois Whistleblower Act;
- B. Permanently enjoin Defendants from continuing to violate Plaintiff's rights under Illinois law, by ordering Defendants to: (1) stop engaging in the retaliatory practices complained of herein; (2) vacate Plaintiff's suspension and compensate her for her lost pay and pension benefits; and (3) adopt employment practices and policies in accord and conformity with the requirements of state law;
- C. Award Plaintiff compensatory damages in amounts that will reasonably compensate her for her losses;
- D. Assess punitive damages Defendants against the individual Defendants and as allowed by law;
- E. Award Plaintiff her costs and attorneys' fees in this action; and
- F. Grant such further and other relief as is just and proper.

**COUNT II**

**(Gender Discrimination & Hostile Work Environment  
in Violation of the Illinois Human Rights Act)**

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 24 of 108



140. Plaintiff restates and realleges by reference paragraphs 1 through 134 above as though fully set forth herein against Defendant City of Country Club Hills.

141. Defendant City of Country Club Hills is an “employer” within the meaning of the IHRA.

142. Plaintiff is an “employee” within the meaning of the IHRA.

143. Plaintiff has performed all conditions precedent to filing this case under the IHRA.

144. Defendant violated the statute by subjecting Plaintiff to gender discrimination and a hostile work environment.

145. Defendant, as an employer and government entity, is subject to the requirements of the IHRA.

146. Defendant, as an employer and government entity, should not discriminate against its employees because of their gender.

147. Defendant, as an employer and government entity, has an obligation to ensure that its employees are not discriminated against based on their gender.

148. Defendant knows that employment decisions cannot be made on the basis of an employee’s gender.

149. Defendant knows that it has an obligation to ensure that employees are not subjected to a hostile work environment based on gender.

150. Defendant knows that it has an obligation to ensure that employees are not subjected to a hostile work environment based on the fact that an employee has

complained about unlawful conduct, discrimination, and/or a hostile work environment.

151. Defendant, as an employer and government entity, should have a policy against discrimination and harassment.

152. Defendant violated that policy by discriminating against Plaintiff based on her gender.

153. As a result of Defendant's unlawful conduct, Plaintiff has suffered compensatory damages, lost wages, back pay and front pay, lost future wages, future pecuniary damages, humiliation and embarrassment, damage to her reputation, emotional distress, and other make whole damages.

**WHEREFORE**, Plaintiff prays that this Court:

- A. Award Plaintiff compensatory damages in amounts that will reasonably compensate her for her losses and any other damages required to make Plaintiff whole;
- B. Award Plaintiff back pay and front pay as a result of the discrimination;
- C. Enter judgment against Defendants, declaring that Defendants have violated the IHRA;
- D. Permanently enjoin Defendants from continuing to violate Plaintiff's rights under Illinois law, by ordering Defendants to: (1) stop engaging in the discriminatory and harassing practices complained of herein; (2) vacate Plaintiff's suspension and compensate her for her lost pay and

pension benefits; and (3) adopt employment practices and policies in accord and conformity with the requirements of state law;

- E. Promote Plaintiff to the position of Lieutenant she would have had but for the discrimination and harassment;
- F. Award pre-judgment interest;
- G. Award Plaintiff her costs and attorneys' fees in this action; and
- H. Grant such further and other relief as is just and proper.

### COUNT III

#### **(Retaliation in Violation of the Illinois Human Rights Act)**

154. Plaintiff restates and realleges by reference paragraphs 1 through 134 above as though fully set forth herein against Defendant City of Country Club Hills.

155. Defendant City of Country Club Hills is an "employer" within the meaning of the IHRA.

156. Plaintiff is an "employee" within the meaning of the IHRA.

157. Plaintiff has performed all conditions precedent to filing this case under the IHRA.

158. Defendant violated the statute by subjecting Plaintiff to retaliation.

159. Defendant, as an employer and government entity, is subject to the requirements of the IHRA.

160. Defendant, as an employer and government entity, has an obligation to ensure that its employees are not retaliated against.

161. Defendant knows that it has an obligation to ensure that employees are not subjected to retaliation.

162. Defendant, as an employer and government entity, should have a policy against retaliation.

163. Defendant violated that policy by allowing retaliation against Plaintiff.

164. As a result of Defendant's unlawful conduct, Plaintiff has suffered compensatory damages, lost wages, back pay and front pay, lost future wages, future pecuniary damages, humiliation and embarrassment, damage to her reputation, emotional distress, and other make whole damages.

**WHEREFORE**, Plaintiff prays that this Court

- A. Award Plaintiff compensatory damages in amounts that will reasonably compensate her for her losses and any other damages required to make Plaintiff whole;
- B. Award Plaintiff back pay and front pay as a result of the retaliation;
- C. Enter judgment against Defendants, declaring that Defendants have violated the IHRA;
- D. Permanently enjoin Defendants from continuing to violate Plaintiff's rights under Illinois law, by ordering Defendants to: (1) stop engaging in the retaliatory practices complained of herein; (2) vacate Plaintiff's

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 28 of 108

suspension and compensate her for her lost pay and pension benefits; and  
(3) adopt employment practices and policies in accord and conformity  
with the requirements of state law;

- E. Promote Plaintiff to the position of Lieutenant she would have had but for  
the discrimination and harassment;
- F. Award pre-judgment interest;
- G. Award Plaintiff her costs and attorneys' fees in this action; and
- H. Grant such further and other relief as is just and proper.

ELECTRONICALLY FILED  
9/25/2015 11:35 AM  
2012-L-009916  
PAGE 39 of 108

Respectfully Submitted,

DENA LEWIS-BYSTRZYCKI

*s/Dana L. Kurtz*

---

Attorney for Plaintiff

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Facsimile: 630.604.9444  
Firm No. 43132

**PROOF OF SERVICE**

The undersigned, an attorney, on oath states that I served this notice by electronic filing and by United States mail to the parties shown below on September 1, 2015.

Daniel Boddicker  
Keefe, Campbell, Biery & Associates, LLC  
118 North Clinton Street, Suite 300  
Chicago, Illinois 60661

*s/Dana L. Kurtz*

---

Dana L. Kurtz

Under penalties as provided by law pursuant to ILL. REV. STAT.,  
CHAP. 100, Sec. 1-109, I certify that the statements set forth herein are true and  
correct.

ELECTRONICALLY FILED  
9/25/2015 10:35 AM  
2012-L-009916  
PAGE 30 of 100

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 32 of 103

# EXHIBIT 2

STATE OF ILLINOIS)  
 ) ss:  
COUNTY OF C O O K)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT - LAW DIVISION

DENA LEWIS-BYSTRZYCKI, )  
 )  
Plaintiff, )  
 )  
-vs- ) No. 2012 L 009916  
 )  
CITY OF COUNTRY CLUB HILLS, )  
a municipal corporation, )  
and CARL PYCZ and JOSEPH )  
ELLINGTON, in their )  
individual capacity, )  
 )  
Defendants. )

Record of proceedings before the Honorable  
Judge BRIGID MARY McGRATH, Judge of the Circuit Court of  
Cook County, Illinois, commencing at 9:30 a.m. on the  
15th day of September, A.D 2015 upon the trial of the  
above-entitled case.



1 him, and then she's disciplined for complaining about  
2 being removed from the MDA Boot Drive. Chief Agpawa  
3 also claims that Brian -- that she threatened  
4 Brian Kostanski, which is nowhere in the memo.

5 So they have done their investigation  
6 internally --

7 THE COURT: I just find it disingenuous for you to  
8 be filing amended complaints -- and I know Judge Taylor  
9 had granted leave to file the amended complaint, amended  
10 complaints on the eve of trial where we aren't even at  
11 issue then yet as to that complaint and then conceive  
12 that this trial is still going to go forward and then  
13 filing past the deadline amended experts where all of a  
14 sudden you add two new experts. How -- what -- okay.  
15 They have 28 days to answer or otherwise plead to a  
16 complaint -- or they have 14 and now you have a new  
17 supplemental -- second supplemental to the complaint --

18 MS. KURTZ: Your Honor, if I may, they already  
19 answered the complaint. They answered it yesterday, and  
20 they agreed. They did not object to the leave to file  
21 the second amended complaint. Mr. Boddicker did not  
22 make an objection. He asked for 14 days to respond, and  
23 we're prepared to respond to the affirmative defenses.  
24 We can do that within a couple of days.

1           As to the experts, I actually gave prior  
2 notice of the experts back in December. I produced the  
3 reports --

4           THE COURT: Of all three?

5           MS. KURTZ: Yes.

6           MR. BODDICKER: That's --

7           MS. KURTZ: And I produced the reports early. I  
8 told him in December we were going to have an economic  
9 expert, a psych expert and an organizational climate,  
10 which is essentially did they comply with their sexual  
11 harassment policy, et cetera. I mean, it's larger than  
12 that but -- a bigger issue than just that but -- so I  
13 told him that in December when we were talking about  
14 trying settlement discussions.

15           Then I produced the economic expert early  
16 before the deadline. I produced the psych expert  
17 report -- and they're detailed reports. I don't know  
18 that he even needs a deposition. It's not just a  
19 213(f)(3) general disclosure.

20           I produced the psych expert early, and I  
21 produced the organizational expert the day before the  
22 deadline. So I produced those early, not after the  
23 Court's deadline.

24           THE COURT: And defendants aren't going to have any

1 MS. KURTZ: And, I'm sorry, just for clarification,  
2 the continuing violation means things that occurred --  
3 she can't necessarily claim damages on them, but it goes  
4 to show -- and that's why the IDHR doesn't let you  
5 allege, even if it was a continuing violation. So  
6 pursuant to the Supreme Court's ruling in Ehlers and  
7 Fairher (phonetic), they look at what is the prior  
8 conduct. I mean, that kind of conduct can come in for  
9 motive, intent, to show a hostile work environment. So  
10 you allege a continuing violation based off of even  
11 things before the statute of limitations --

12 THE COURT: Then -- okay. Those are new  
13 allegations. Correct? Those are new allegations  
14 contained in your report.

15 MS. KURTZ: They are not new allegations. They've  
16 always been --

17 THE COURT: So the allegation regarding what  
18 happened to her on the first day of work has been in  
19 every complaint filed --

20 MS. KURTZ: It was --

21 THE COURT: -- to date?

22 MS. KURTZ: It was not specifically alleged in the  
23 complaint.

24 THE COURT: Okay. So it's your choice. If you

1 want this trial date you're going to have now, that's  
2 out. It's not going to be brought up in front of a  
3 jury. The prejudice is too much, and there's no reason  
4 not to have alleged it previously. If you want a  
5 continuation of the trial date, we can leave it, but  
6 this has got to go to trial.

7 MS. KURTZ: And I just need to talk to my client,  
8 so maybe we can enter and continue and reach an  
9 agreement on it either way.

10 MR. BODDICKER: Your Honor, I prefer a continuance.  
11 Her client is now making up new allegations, giving us  
12 substantial information and unsubstantial information  
13 with respect to who allegedly was there. We have a  
14 right to talk to and investigate and find out if any of  
15 this --

16 THE COURT: I'm striking the allegations that are  
17 new, that deal with incidents that occurred prior to the  
18 complaint that was filed last spring.

19 MS. KURTZ: If the trial's not continued is what I  
20 understand you saying?

21 MR. BODDICKER: Judge, here's my issue with that is  
22 that she has alleged a hostile work environment,  
23 Your Honor. Again, the complaints don't give anything  
24 specific as far as dates --

1           **THE COURT:** Those 2-615 motions have passed. I got  
2 this from Sherlock. It was already scheduled for trial  
3 at that time.

4           You know, you're pointing to allegations in  
5 the complaints that are very vague, but that complaint  
6 stands. You've answered it now. That's -- I'm not  
7 dealing with 2-615s at this point.

8           MS. KURTZ: Your Honor, we are here for hearing  
9 tomorrow on our notice of -- they filed a motion for  
10 protective order on our notice of inspection. So I can  
11 find out today from my client what she wants to do, and  
12 we can enter an order tomorrow by agreement --

13           THE COURT: And you can discuss --

14           MR. BODDICKER: And if I'm hearing you correctly  
15 then, Judge, any specific fact alleged that occurred  
16 before the filing of that IDHR claim would be barred?

17           THE COURT: Yes, that wasn't --

18           MS. KURTZ: Well, not before --

19           THE COURT: That wasn't contained in that  
20 complaint. So that complaint -- I'm using last spring  
21 as the operative complaint, which is kind of a shot in  
22 the dark, but I'm just using that as the complaint. Any  
23 allegations that deal with occurrences since the filing  
24 of that complaint would be allowed. Any allegations and

1 occurrences that occurred prior to the filing of last  
2 spring's complaint would be barred -- any new  
3 allegations.

4 MR. BODDICKER: And I guess that's my concern,  
5 Judge, is she does have a hostile work environment claim  
6 even in that complaint; again, doesn't specifically  
7 allege anything by date that occurred before  
8 September of 2011. But is she going to be allowed to  
9 say, oh, yeah, this was a hostile work environment, you  
10 know, all these things predating that date?

11 MS. KURTZ: So if I understand the Court right, so  
12 in her deposition she testified about this conversation  
13 with Chief Kasper where he made an explicit sexual  
14 comment to her. That was in her deposition. That's not  
15 specifically in an original complaint.

16 My understanding of the Court's order is  
17 that if we want to proceed with trial, she can't testify  
18 about that specifically.

19 Now the plaintiff contends that all along  
20 these things were complained about, obviously the chief  
21 would know about it, but I understand -- and maybe  
22 Mr. Boddicker wants to call Chief Kasper, so I will talk  
23 to my client. We'll see if we can agree --

24 THE COURT: And the two of you talk as well.

1 MS. KURTZ: Yes.

2 THE COURT: Okay? Have a 201(k) because you know  
3 this case much better than I do.

4 MS. KURTZ: Do you want to just enter and continue  
5 this until to tomorrow?

6 THE COURT: Until tomorrow. So I'll see you  
7 tomorrow.

8 MS. KURTZ: Thank you.

9 And the same on the motion for protective  
10 order?

11 THE COURT: Yes. It sounds like they're closely  
12 tied together.

13 MS. KURTZ: That's really just on Welch's video  
14 deposition.

15 THE COURT: All right. See you tomorrow.

16 MR. BODDICKER: Thank you.

17 MS. KURTZ: Thank you, Your Honor.

18 \* \* \* \* \*

19

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1 STATE OF ILLINOIS )  
 ) ss:  
2 COUNTY OF C O O K )


3 LAURA L. CZARNECKI, being first duly sworn,  
4 deposes and says that she is a Certified Shorthand  
5 Reporter in Cook County, Illinois, and reporting  
6 proceedings in the Courts in said County;

7 That she reported in shorthand and thereafter  
8 transcribed the foregoing proceedings;

9 That the within and foregoing transcript is  
10 true, accurate and complete and contains all the  
11 evidence which was received and the proceedings had upon  
12 the within cause.

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 41 of 103

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LAURA L. CZARNECKI, CSR  
CSR No. 084-003915  
839 Seneca Lane  
Carol Stream, Illinois 60188  
Phone: (630) 244-0488



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9/25/2017 11:15 AM  
2012-L-009916  
PAGE 42 of 103

# EXHIBIT 3

### CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; see Privacy Statement on reverse before completing this form

ENTER CHARGE NUMBER  
 IDHR  
 EEOC

#### ILLINOIS DEPARTMENT OF HUMAN RIGHTS and EEOC (State or local Agency, if any)

NAME (Indicated Mr., Ms., or Mrs.)

**Ms. Dena Lewis-Bystrzycki**

HOME TELEPHONE NO. (Include Area Code)

[REDACTED]

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

[REDACTED]

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

**Country Club Hills and Lt. Carl Pycz**

NO. EMPLOYEES/MEMBERS

**Over 100**

TELEPHONE NUMBER (Include Area Code)

**708-798-2616**

STREET ADDRESS

**4200 West Main Street**

CITY, STATE AND ZIP CODE

**Country Club Hills, Illinois 60478**

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (Month, day, year)

**Continuing violation, and most recently on January 17, 2012**

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

- RACE     COLOR     SEX     RELIGION     NATIONAL ORIGIN
- AGE     RETALIATION     OTHER (Specify)
- Harassment**

THE PARTICULARS ARE (If additional space is needed, attached extra sheet(s)):

**SEE ATTACHED PARTICULARS**

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9/25/2017 11:15 AM  
2012 E-609916  
PAGE 43 of 03

I also want this charge filed with the EEOC. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary to meet State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

[REDACTED]

Date **2-27-12**  
(Signature)

Charging Party

[REDACTED]

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(Day, month (and year) **2/27/12**)

Official Seal  
Dana L Kurtz  
Notary Public State of Illinois  
My Commission Expires 02/17/2015

Ms. Dena Lewis-Bystrzycki

PARTICULARS

**I. A. ISSUE/BASIS**

Discrimination based on my gender (Female)

**B. PRIMA FACIE ALLEGATIONS**

1. I am a member of a protected class in that I am a female.
2. I was hired by Respondent in or about May 1998 as a firefighter. In 2000, I became a paramedic, and in 2009, I became an engineer.
3. I am one of two female firefighters employed by Respondent.
4. Within the last 180 and 300 days, and on a continuing and ongoing basis, Respondent has subjected me to discrimination based on my gender, including but not limited to the following:
  - a. In September 2011, I was informed that Deputy Chief Pycz was writing 25 of the questions for the Lieutenant's promotion examination. I complained to Chief Ellington that I believed the Department was violating the Fire Department Promotion Act, 50 ILCS § 742/65, because Deputy Chief Pycz's son was taking the examination. The Chief's response was that "this is how it is going to be."
  - b. After I complained to Chief Ellington, Deputy Chief Pycz's son, Carl Pycz, confronted me and said in effect "lose your school girl attitude" and "let the best man win."
  - c. In or about October 2011, the promotion list was posted, and Carl Pycz was first on the promotion list. Carl Pycz scored higher than everyone else on the written portion of the promotional examination to Lieutenant.
  - d. After the list was posted, Chief Ellington asked me how I felt about the promotion examination, and I again complained that I felt that the Department had broken some laws.
  - e. Respondent promoted Carl Pycz to Lieutenant over me.
  - f. Following Carl Pycz's promotion to Lieutenant in October 2011, I have been ordered by Lieutenant Pycz to do repeated menial tasks such as washing the floors and rewashing the floors; washing and rewashing the rigs; excluded from meals; called into meetings and screamed at by Lieutenant Pycz and by Chief Ellington; and disciplined unfairly.

- g. In or about the week of November 7, 2011, I complained to Chief Ellington about Lieutenant Pycz singling me out and the differential treatment I was experiencing. Chief Ellington's response was in effect, "just deal with him."
  - h. On or about January 11, 2012, Lieutenant Pycz ordered me to wash and wax all of the vehicles and the floors, and then ordered me to rewash them.
  - i. On or about January 17, 2012, I was served with charges and suspended without pay for one 24-hour shift to be served on January 26, 2012.
  - j. Male employees have engaged in similar alleged misconduct that I was accused of and were not disciplined or suspended.
5. Respondent has engaged in numerous other actions treating me differently and subjecting me to adverse employment actions based on my gender, which has continued through the present.
  6. Respondent has violated the Illinois Human Rights Act and Title VII by discriminating against me based on my gender.

## II. A. ISSUE/BASIS

Harassment/hostile work environment based on sex/gender (Female)

## B. PRIMA FACIE ALLEGATIONS

1. Complainant incorporates her allegations as though fully set forth herein from Issue/Basis I.
2. Within the last 180 and 300 days, and on a continuing and ongoing basis, Respondent has engaged in systemic harassment against me on account of my sex/gender (female) in that Respondent and its command staff and agents knowingly subjected me to a hostile work environment, harassment, and gender discrimination.
3. I was hired by Respondent in or about May 1998 as a firefighter. In 2000, I became a paramedic, and in 2009, I became an engineer.
4. I am one of two female firefighters employed by Respondent.
5. Throughout my employment continuing through the present, Respondent subjected me to harassment based on my gender (female), including but not limited to the following:
  - a. In September 2011, I was informed that Deputy Chief Pycz was writing 25 of the questions for the Lieutenant's promotion examination. I complained

to Chief Ellington that I believed the Department was violating the Fire Department Promotion Act, 50 ILCS § 742/65, because Deputy Chief Pycz's son was taking the examination. The Chief's response was that "this is how it is going to be."

- b. After I complained to Chief Ellington, Deputy Chief Pycz's son, Carl Pycz, confronted me and said in effect "lose your school girl attitude" and "let the best man win."
  - c. In or about October 2011, the promotion list was posted, and Carl Pycz was first on the promotion list. Carl Pycz scored higher than everyone else on the written portion of the promotional examination to Lieutenant.
  - d. After the list was posted, Chief Ellington asked me how I felt about the promotion examination, and I again complained that I felt that the Department had broken some laws.
  - e. Respondent promoted Carl Pycz to Lieutenant over me.
  - f. Following Carl Pycz's promotion to Lieutenant in October 2011, I have been ordered by Lieutenant Pycz to do repeated menial tasks such as washing the floors and rewashing the floors; washing and rewashing the rigs; excluded from meals; called into meetings and screamed at by Lieutenant Pycz and by Chief Ellington; and disciplined unfairly.
  - g. In or about the week of November 7, 2011, I complained to Chief Ellington about Lieutenant Pycz singling me out and the differential treatment I was experiencing. Chief Ellington's response was in effect, "just deal with him."
  - h. On or about January 11, 2012, Lieutenant Pycz ordered me to wash and wax all of the vehicles and the floors, and then ordered me to rewash them.
  - i. On or about January 17, 2012, I was served with charges and suspended without pay for one 24-hour shift to be served on January 26, 2012.
6. Respondent's conduct constitutes a continuing violation.
  7. Respondent has violated the Illinois Human Rights Act and Title VII by creating a hostile work environment towards me and subjecting me to harassment based on my gender/sex (female).

### III.A. ISSUE/BASIS

Retaliation based on prior complaints of discrimination and harassment/hostile work environment.

### B. PRIMA FACIE ALLEGATIONS

1. Complainant incorporates her allegations as though fully set forth herein from Issue/Basis I and II.
2. Within the last 180 and 300 days, and on a continuing and ongoing basis, Respondent has retaliated against me because I have complained about harassment and discrimination based on my gender (female).
3. I was hired by Respondent in or about May 1998 as a firefighter. In 2000, I became a paramedic, and in 2009, I became an engineer.
4. Throughout my employment and continuing to the present, I have complained about the harassment and discrimination. In response to my complaints, I have been subjected to retaliation, including but not limited to the following:
  - a. In September 2011, I was informed that Deputy Chief Pycz was writing 25 of the questions for the Lieutenant's promotion examination. I complained to Chief Ellington that I believed the Department was violating the Fire Department Promotion Act, 50 ILCS § 742/65, because Deputy Chief Pycz's son was taking the examination. The Chief's response was that "this is how it is going to be."
  - b. After I complained to Chief Ellington, Deputy Chief Pycz's son, Carl Pycz, confronted me and said in effect "lose your school girl attitude" and "let the best man win."
  - c. In or about October 2011, the promotion list was posted, and Carl Pycz was first on the promotion list. Carl Pycz scored higher than everyone else on the written portion of the promotional examination to Lieutenant.
  - d. After the list was posted, Chief Ellington asked me how I felt about the promotion examination, and I again complained that I felt that the Department had broken some laws.
  - e. Respondent promoted Carl Pycz to Lieutenant over me.
  - f. Following Carl Pycz's promotion to Lieutenant in October 2011, I have been ordered by Lieutenant Pycz to do repeated menial tasks such as washing the floors and rewashing the floors; washing and rewashing the

rigs; excluded from meals; called into meetings and screamed at by Lieutenant Pycz and by Chief Ellington; and disciplined unfairly.

- g. In or about the week of November 7, 2011, I complained to Chief Ellington about Lieutenant Pycz singling me out and the differential treatment I was experiencing. Chief Ellington's response was in effect, "just deal with him."
- h. On or about January 11, 2012, Lieutenant Pycz ordered me to wash and wax all of the vehicles and the floors, and then ordered me to rewash them.
- i. On or about January 17, 2012, I was served with charges and suspended without pay for one 24-hour shift to be served on January 26, 2012.
- j. Other employees that have not complained about discrimination, harassment, or retaliation have engaged in similar alleged misconduct that I was accused of and were not disciplined or suspended.
- k. Respondent has engaged in a continuing violation of retaliating against me because of my complaints.
- l. Respondent has violated the Illinois Human Rights Act and Title VII by retaliating against me because I complained about the discrimination and harassment.

Respondent's actions constitute a willful violation of the Illinois Human Rights Act.

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 49 of 103

# EXHIBIT 4



STATE OF ILLINOIS  
DEPARTMENT OF HUMAN RIGHTS

IN THE MATTER OF:

DENA LEWIS-BYSTRZYCKI, )

COMPLAINANT, )

AND )

CITY OF COUNTRY CLUB HILLS, )

RESPONDENT. )

CHARGE NO. 2012CF2637

EEOC NO. 21BA21247

**NOTICE OF DISMISSAL**  
**FOR LACK OF SUBSTANTIAL EVIDENCE**

Dana L. Kurtz  
Kurtz Law Offices, Ltd.  
32 Blaine Street  
Hinsdale, IL 60521

John B. Murphey  
Rosenthal, Murphey, Coblenz  
& Donahue Law Offices  
30 N. LaSalle Street  
Suite 1624  
Chicago, IL 60602

DATE OF DISMISSAL: March 21, 2013

1. YOU ARE HEREBY NOTIFIED that based upon the enclosed investigation report, the DEPARTMENT OF HUMAN RIGHTS (DHR) has determined that there is NOT substantial evidence to support the allegations of the charge(s). Accordingly, pursuant to Section 7A-102(D) of the Human Rights Act (775 ILCS 5/1-101 et. seq.) and its Rules and Regulations (56 Ill. Adm. Code. Chapter II, Section 2520.560), the charge is HEREBY DISMISSED.
2. If Complainant disagrees with this action, Complainant may:
  - a) Seek review of this dismissal before the Illinois Human Rights Commission, 100 West Randolph Street, Suite 5-100, Chicago, Illinois, 60601, by filing a "Request for Review" with the Commission by the request for review filing date below. Respondent will be notified by the Human Rights Commission if a Request for Review is filed.

**REQUEST FOR REVIEW FILING DEADLINE DATE: June 24, 2013**

Or,

- b) Commence a civil action in the appropriate state circuit court within ninety (90) days after receipt of this Notice. A complaint should be filed in the circuit court in the county where the civil rights violation was allegedly committed.

Page 2  
Notice of Dismissal for Lack of Substantial Evidence  
2012CF2637

If you intend to exhaust your State remedies, please notify the Equal Employment Opportunity Commission (EEOC) immediately. The EEOC generally adopts the Department's findings.

Please note that the Department cannot provide any legal advice or assistance. Please contact legal counsel, your city clerk, or your county clerk with any questions.

3. Complainant is hereby notified that the charge(s) will be dismissed with prejudice and with no right to further proceed if a timely request for review is not filed with the Commission, or a written complaint with the appropriate circuit court.
4. If an EEOC charge number is cited above, this charge was also filed with the Equal Employment Opportunity Commission (EEOC). If this charge alleges a violation under Title VII of the Civil Rights Act of 1964, as amended, or the Age Discrimination in Employment Act of 1967, Complainant has the right to request EEOC to perform a Substantial Weight Review of this dismissal. Please note that in order to receive such a review, it must be requested in writing to EEOC within fifteen (15) days of the receipt of this notice, or if a request for review is filed with the Human Rights Commission, within fifteen days of the Human Rights Commission's final order. Any request filed prior to your receipt of a final notice WILL NOT BE HONORED. Send your request for a Substantial Weight Review to EEOC, 500 West Madison Street, Suite 2000, Chicago, Illinois 60661. Otherwise, EEOC will generally adopt the Department of Human Rights' action in this case.

**PLEASE NOTE: BUILDING SECURITY PROCEDURES PRESENTLY IN PLACE DO NOT PERMIT ACCESS TO EEOC WITHOUT AN APPOINTMENT. IF AN APPOINTMENT IS REQUIRED, CALL 312-869-8000 OR 1-800-669-4000.**

DEPARTMENT OF HUMAN RIGHTS

HB1509/HB59  
NOD/LSE  
12/10

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 52 of 103

# EXHIBIT 5

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT – LAW DIVISION

DENA LEWIS-BYSTRZYCKI,

Plaintiff,

v.

CITY OF COUNTRY CLUB HILLS, a  
municipal corporation, and CARL PYCZ,  
JOSEPH ELLINGTON, and ROGER  
AGPAWA, in their individual capacity,

Defendants.

No. 2012 L 009916

Honorable Brigid Mary McGrath

**PLAINTIFF'S MOTION FOR LEAVE TO FILE  
SECOND SUPPLEMENTAL COMPLAINT INSTANTER**

Plaintiff Dena Lewis-Bystrzycki, through her undersigned counsel, pursuant to section 2-609 of the Code of Civil Procedure (735 ILCS 5/2-609 (West 2010)), moves to supplement her previously filed First Supplemental Complaint as follows:

1. Plaintiff filed her First Supplemental Complaint on July, 7 2015.
2. Since that date, Defendants have subjected Plaintiff to additional acts of retaliation and harassment. Moreover, additional matters have arisen in the course of discovery.
3. Section 2-609 of the Code of Civil Procedure (735 ILCS 5/2-609 (West 2010)) states, "Supplemental pleadings, setting up matters which arise after the original pleadings are filed, may be filed within a reasonable time by either party by leave of court and upon terms."

4. The Code of Civil Procedure “is to be liberally construed.” *Marsh v. Nellesen*, 235 Ill. App. 3d 998, 1002 (1992); *Patsis v. Zion-Benton Twp. High Sch., No. 126*, 234 Ill. App. 3d 232, 238 (1992). “The purpose of the Code is to provide substantial justice and a resolution on the merits rather than to impose procedural hurdles to litigation.” *Patsis*, 234 Ill. App. 3d at 238.

5. A trial court has broad discretion to allow amendments and supplements to pleadings. *Marsh*, 235 Ill. App. 3d a 1001. “The court may consider whether the amendment would further the ends of justice; the ultimate efficacy of the claim; and the previous opportunities to assert it. The court should consider the timeliness of the amendment and whether other parties have been prejudiced or surprised.” *Id.* (internal citations omitted); *see also Healy v. Bearco Management, Inc.*, 216 Ill. App. 3d 945, 960 (1991) (not an abuse of discretion to permit defendant to plead additional affirmative defense four days before trial).

6. Plaintiff seeks leave of Court to file *instanter* the attached Second Supplemental Complaint (*see* Exhibit 1), which sets forth facts recently revealed during the course of discovery and facts related to Defendants’ actions against Plaintiff which occurred subsequent to the filing of the First Supplemental Complaint. For example, on or about July 14, 2015, the day after Plaintiff’s deposition in this case in which Chief Agpawa was present, Plaintiff was informed by another firefighter that Lieutenant Kilburg had told him that he was now in charge of organizing the 2015 MDA Boot Drive; the male firefighter also told Plaintiff that Lieutenant Kilburg had met with Chief

ELECTRONICALLY FILED  
9/25/2015 13:33 PM  
2012-L-009916  
PAGE 4 of 103

Agpawa over Plaintiff's removal. Plaintiff complained about the reassignment of the MDA Boot Drive by writing a memorandum to Chief Agpawa. Plaintiff also stated in the memo that she was being retaliated against and requested "once again" that the Chief "truly address these actions of harassment, retaliation, and discrimination, both on your part and the rest of the members of Country Club Hills." In response to Plaintiff's memorandum, Chief Agpawa disciplined Plaintiff for the memorandum complaining about the ongoing retaliation and being removed from the MDA Boot Drive. Further, when Plaintiff grieved this discipline, it was upheld and the Chief stated in his memo denying the grievance that she could have been discharged.

7. The Second Supplemental Complaint also makes corrections to the facts as learned in discovery in this case, for example, Plaintiff's complaint alleged that Steve Pycz wrote 25 of the questions for the promotional examination, when in fact he wrote 18 of the questions, and Chief Ellington wrote the remaining 7 of the total 25 questions. Chief Ellington simply told Plaintiff that Pycz was writing a quarter of the test. Plaintiff was not privy to the actual questions that Pycz wrote until they were produced in discovery in this case.

8. Moreover, Plaintiff's allegations of a continuing violation have become even more apparent with the discovery in this case and the more recent events of ongoing harassment. For example, Defendant Pycz admitted in his deposition that he has seen male employees watching pornographic material, and Lieutenant Dangoy, whose shift Plaintiff was transferred to after she filed her IDHR charge, admitted that

ELECTRONICALLY FILED  
9/25/2015 13:33 PM  
2012-L-009916  
PAGE 5 of 103

he saw male employees watching pornographic material in the fire station and he himself also watched pornography at the station. He did not think anything was wrong with it.

9. Plaintiff has requested leave to file the Second Supplemental Complaint within a reasonable time since these matters have arisen or been revealed in the time since the First Supplemental Complaint was filed on July 7, 2015 and discovery in this case is still open.

10. Plaintiff should be allowed to file the Second Supplemental Complaint because it will further the ends of justice by allowing her to litigate all the factual allegations relating to the claims in her First Complaint.

11. Defendants will not be prejudiced or surprised by Plaintiff's Second Supplement because Plaintiff has asserted that the retaliation, harassment, and hostile work environment she has been subject to on the basis of her gender is ongoing. (*See* First Supplemental Complaint, ¶¶ 15, 112)

12. Additionally, Defendants will not be prejudiced or surprised because this information has been disclosed in discovery in this case.

WHEREFORE, for the above stated reasons, Plaintiff asks this Court to enter an order allowing her to file the attached Second Supplemental Complaint *instanter*, and for any other relief that the Court deems just.

ELECTRONICALLY FILED  
9/25/2015 13:33 PM  
2012-L-009916  
PAGE 6 of 103

Respectfully Submitted,

DENA LEWIS-BYSTRZYCKI

*s/Dana L. Kurtz*

---

Attorney for Plaintiff

KURTZ LAW OFFICES, LTD.  
32 Blaine Street  
Hinsdale, Illinois 60521  
Phone: 630.323.9444  
Facsimile: 630.604.9444  
Firm No. 43132

ELECTRONICALLY FILED  
9/25/2013 11:33 AM  
2012-L-009916  
PAGE 7 of 103



**PROOF OF SERVICE**

The undersigned, an attorney, on oath states that I served this notice by electronic filing and by United States mail to the parties shown below on August 19, 2015.

Daniel Boddicker  
Keefe, Campbell, Biery & Associates, LLC  
118 North Clinton Street, Suite 300  
Chicago, Illinois 60661

*s/Dana L. Kurtz*

---

Dana L. Kurtz

Under penalties as provided by law pursuant to ILL. REV. STAT., CHAP. 100, Sec. 1-109, I certify that the statements set forth herein are true and correct.

ELECTRONICALLY FILED  
9/25/2015 13:33 PM  
2012-L-009916  
PAGE 8 of 103

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 59 of 103

# EXHIBIT 6

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT – LAW DIVISION

DENA LEWIS-BYSTRZYCKI,

Plaintiff,

v.

CITY OF COUNTRY CLUB HILLS, CARL  
PYCZ, JOSEPH ELLINGTON, and ROGER  
AGPAWA,

Defendants.

No. 2012 L 009916

Honorable Brigid Mary McGrath

**DECLARATION OF KAREN MORENO**

I, Karen Moreno, declare pursuant to 28 U.S.C. § 1746, under penalty of perjury and based on personal knowledge that the following facts are true and correct to the best of my knowledge, information, and belief:

1. I am a Paralegal with Kurtz Law Offices, Ltd. (“KLO”). I have personal knowledge of the matters set forth below.
2. I reviewed the Illinois Department of Human Rights (IDHR) file produced by the IDHR.
3. The documents produced by Defendant City of Country Club Hills to the IDHR range from 1998 to 2012.

Further declarant sayeth not.



Karen Moreno

Dated: September 5, 2017.

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-00916  
PAGE 61 of 103

# EXHIBIT 7

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT – LAW DIVISION

DENA LEWIS-BYSTRZYCKI,

Plaintiff,

v.

Case No. 12-L-00916

CITY OF COUNTRY CLUB HILLS, a  
municipal corporation, and CARL PYCZ,  
JOSEPH ELLINGTON, and ROGER  
AGPAWA,

Honorable Brigid Mary McGrath

Defendants.

**PLAINTIFF'S SECOND SUPPLEMENTAL ANSWERS TO DEFENDANTS'  
FIRST SET OF INTERROGATORIES**

Plaintiff Dena Lewis-Bystrzycki, through her counsel undersigned, submits her supplemental answers to Defendants' First Set of Interrogatories as follows:

**GENERAL OBJECTION TO EACH INTERROGATORY**

Plaintiff incorporates her general objections into each and every interrogatory as if fully set forth therein. Plaintiff objects to each interrogatory to the extent it seeks information subject to the attorney-client privilege, the work product doctrine and any other applicable privilege or doctrine, and no such information will be provided. By answering, Plaintiff does not waive, intentionally or otherwise, her attorney-client privilege, work product doctrine protection or any other privilege, doctrine or right protecting their communications or records from disclosure. Plaintiff objects to each interrogatory to the extent it calls for information within Defendant's possession or control to obtain and demands production thereof.

**ANSWERS TO INTERROGATORIES**

1. Identify all persons providing responses to these Interrogatories and/or who assisted in the preparation of answering these interrogatories, setting forth for each such person the interrogatory to which they provided information and/or documents and the information and/or documents provided.

**ANSWER:**

Plaintiff states that Dena Lewis-Bystrzycki provided the information and content of each of these responses with the assistance of her attorneys.

2. Identify all persons who you contend have or claim to have knowledge of and/or information relating to the facts and/or allegations contained in the Action, setting forth for each such person what you contend is the extent of their knowledge and/or information.

**ANSWER:**

Plaintiff objects to this request in that it is overly broad and unduly burdensome and to the extent it calls for attorney work product privilege. Subject to said objection and without waiver, Plaintiff states that discovery is in its infancy and Plaintiff's investigation continues and is ongoing. Plaintiff also further states the following:

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 63 of 103

1.	Plaintiff Dena Lewis-Bystrzycki	Will testify about the facts relating to the allegations in the complaint and any amendments thereto, and Defendants' answers and affirmative defenses, and the ongoing harassment, discrimination, and retaliation against her, and her damages.
2.	Jeff Bystrzycki	General knowledge of events and Plaintiff's damages.
3.	Corey Lewis, Plaintiff's son	General knowledge of events and Plaintiff's damages.
4.	Patience Lewis, Plaintiff's daughter	General knowledge of events and Plaintiff's damages.
5.	Barbara Lewis, Plaintiff's mom	General knowledge of events and Plaintiff's damages.
6.	Firefighter Sam Wilson	Believed to have knowledge of harassment, discrimination and retaliation.
7.	Former Firefighter Brendan Baldwin	Believed to have knowledge of harassment, discrimination and retaliation.
8.	All firefighters on dep't	Believed to have knowledge of harassment, discrimination and retaliation.
9.	Chief's secretary [FNU] [LNU]	Believed to have knowledge of harassment, discrimination and retaliation.
10.	Former Chief Kasper	Believed to have knowledge of harassment, discrimination and retaliation.
11.	Former Firefighter Richards	Believed to have knowledge of harassment, discrimination and retaliation.

12.	Defendant Carl Pycz	Believed to have knowledge of harassment, discrimination and retaliation; see complaint and any amendments thereto.
13.	Defendant Joseph Ellington	Believed to have knowledge of harassment, discrimination and retaliation; see complaint and any amendments thereto.
14.	Former Deputy Chief Steve Pycz	Believed to have knowledge of harassment, discrimination and retaliation; see complaint and any amendments thereto.
15.	Firefighter Wilson	Believed to have knowledge of harassment, discrimination and retaliation.
16.	Former Firefighter Erik Goodloe	Believed to have knowledge of harassment, discrimination and retaliation.
17.	Former Firefighter Chris Perry	Believed to have knowledge of harassment, discrimination and retaliation.
18.	Chikita Smith	Believed to have knowledge of harassment, discrimination and retaliation.
19.	Chief Agpawa	Believed to have knowledge of harassment, discrimination and retaliation. Plaintiff's current chief.
20.	Glen McCauliff	Plaintiff's current Lieutenant; knowledge of Plaintiff's performance; and believed to have knowledge of harassment, discrimination and retaliation.
21.	Kevin Vanbuskirk	Believed to have knowledge of harassment, discrimination and retaliation.
22.	Valda Washington	Believed to have knowledge of harassment, discrimination and retaliation.



23.	Eric Sawatski	Believed to have knowledge of Plaintiff's work as a fire fighter/paramedic/engineer, and policies, practices, and procedures of the CCH Fire Department.
24.	Former Lt. Don Johnson	Plaintiff's former Lieutenant; knowledge of Plaintiff's performance; <i>see also</i> performance evaluations; and may have knowledge of harassment, discrimination, and retaliation.

*See also* Plaintiff's complaint and any amendments thereto; Plaintiff's anticipated deposition testimony; deposition testimony of Defendants and other witnesses; and Plaintiff's and Defendants' production of documents. Plaintiff's investigation continues.

3. State with specificity each and every instance of gender discrimination, harassment and/or retaliation that you claim that you were subjected to by any of the Defendants, setting forth for each instance:

- a. The identity, including the race and gender, of the Defendant, party or person who allegedly discriminated or retaliated against you;
- b. Whether you allege that the act was gender discrimination, harassment and/or retaliation;
- c. The specific act of harassment, discrimination and/or retaliation that you allege occurred;
- d. The date of each alleged instance of discrimination, harassment and/or retaliation;

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 66 of 103

- e. The identify of any and all witnesses to each instance of alleged discrimination, harassment and/or retaliation;
- f. The identity of any person to who you complained of such alleged discrimination, harassment and/or retaliation, whether such complaint was oral or in writing, and, setting for the specific complaint, when made, and the results therefore; and
- g. Identify any documents relating to interrogatory 3 (a-f).

**ANSWER:**

Plaintiff objects to this request as overly broad and unduly burdensome, and compound, and to the extent that it calls for a legal conclusion as to “gender discrimination, harassment and/or retaliation,” and to the extent it requests information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, e.g., asking for race, etc. Plaintiff further objects that discovery is ongoing. Plaintiff also objects to the extent the request calls for a legal conclusion as to “gender discrimination, harassment and/or retaliation.” Subject to said objection and without waiver, Plaintiff states that it would be impossible to list every single incident of sexual and gender based harassment, discrimination, and retaliation, but the following are a few examples:

- (1) **Chief Kasper Incident**
  - a. Former Chief Kasper (male) and the City of Country Club Hills.
  - b. Harassment and gender discrimination.

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 67 of 103

- c. On Plaintiff's first day of work the Chief was meeting new members of the department and leaned over to Plaintiff and whispered that he "wanted to cum in [Plaintiff's] pussy and eat it back out."
- d. May 1998.
- e. Lt. Steve Pycz, Engineer Tebo and Engineer Mike Kilburg were all present and laughed in response to Chief Kasper's statement.
- f. Plaintiff looked at Engineer Kilberg and said in essence "Is this what I am to expect?" His response was "welcome to the fire service."

(2) **Engineer Tebo/Paramedic Sponsorship Incident**

- a. Engineer Tebo (male) and the City of Country Club Hills.
- b. Harassment and gender discrimination.
- c. Plaintiff asked for a paramedic scholarship and was told by Tebo that he was "not sponsoring a useless bitch."
- d. Mid-1998.
- e. Plaintiff complained to Chief Kasper who told her that it was Engineer Tebo's decision.
- f. Plaintiff complained to Chief Kasper verbally who told her that it was Engineer Tebo's decision. Nothing was done in response.

(3) **Steel Tank Incident(s)**

- a. Multiple male supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Throughout her time in the fire academy Plaintiff's instructors would only let her use steel tanks, which were several years obsolete. Lt. Kilberg, Lt. Cochran, Engineer Tebo said that this one done to "make a man out of her."
- d. 1998 while Plaintiff was attending the Fire Academy.
- e. Anyone that was on duty at the time.
- f. Plaintiff made verbal complaints to her supervisors at the time. Nothing was done in response.

(4) **Rig Scratching Incident**

- a. Male supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination and retaliation.
- c. Plaintiff accidentally scratched a fire truck resulting in a scratch approximately 18 inches long; she was taken off duty and sent for a drug test. There have been many instances where male employees have had vehicle accidents and were not taken off duty or sent for a drug test.
- d. 2004.
- e. Anyone that was on duty that day as well as Plaintiff's supervisors.
- f. Plaintiff complained to her supervisors. Nothing was done in response.

(5) **Stalking Incident**

- a. Former Chief Kasper, the rest of the Fire Department and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. A Country Club Hills Police Officer, Edison Torres, began stalking Plaintiff. On one occasion, he pulled Plaintiff over in her vehicle, started screaming at her, and then hit Plaintiff in the head with his gun and continued to hit her, until she could get him off of her and drive away. Torres caused Plaintiff a perforated ear drum. Plaintiff was arrested and had to spend the night in jail as a result of the Country Club Hills Police Officer. Plaintiff obtained a restraining order against him. Former Chief Kasper told Plaintiff that she had to drop the restraining order against Torres if she wanted to keep her job. Kasper also told Plaintiff to "play nice." After this incident, Torres broke into Plaintiff's home while she was on shift. He was caught by the police. Plaintiff obtained another restraining order against Torres after he broke into her home. Torres was later charged and convicted. Members of the Fire Department and Plaintiff's supervisors still mock Plaintiff over this incident.
- d. 2004 is when it started.
- e. Former Chief Kasper, the rest of the firefighters and supervisors at the time.

- f. Plaintiff complained about this incident to her supervisors at the time, including Deputy Chief Shields, Lt. Cochran, Lt. Steven Pycz, and former Chief Kasper. Nothing was done in response.

**(6) Water Main Incident**

- a. Plaintiff's supervisors, including Lt. Burnadibus (male), Lt. Killburg (male), and the former Chief Kasper, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff was responding to a possible structure fire and parked the fire engine and it sunk a foot into the ground. She was removed from duty, sent for drug testing, and required to take a driving course. However, male firefighters were not removed from duty, were not sent for drug testing, and were not required to take a driving course for much more serious vehicle accidents.
- d. In or about November of 2005.
- e. Multiple firefighters on scene and Plaintiff's supervisors as indicated above.
- f. Plaintiff complained to her supervisors, including Former Chief Kasper at the time. Nothing was done in response.

**(7) Car Accident**

- a. Former Deputy Chief Steven Pycz, Plaintiff's supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff was in a car accident and suffered severe facial trauma. Former Deputy Chief Pycz subjected Plaintiff to endless rants and insults including but not limited to, "cracked faced cunt."
- d. May of 2008.
- e. Former Deputy Chief Pycz, multiple members of fire department.
- f. Plaintiff complained to her supervisors and co-workers. Nothing was done in response.

(8) **Retirement Incident**

- a. Lt. Cochran (male), Plaintiff's supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff was first on the promotion list for Lt. Lt. Cochran put in for his retirement 1 day after that promotion list expired, stating that Plaintiff "will not get the fucking promotion." Lt. Cochran waited until the day after the promotion list expired so that Plaintiff could not be promoted to Lt.
- d. In or about June 2011.
- e. Plaintiff believes that Firefighter Chikita Smith may have been present.
- f. Plaintiff complained to Chief Ellington. Nothing was done in response.

(9) **Promotion Incident**

- a. Defendant Chief Ellington and Former Deputy Chief Steven Pycz, Plaintiff's supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Defendant Ellington delegated the task of writing one fourth of the promotion exam questions to Steven Pycz. Plaintiff complained that it was unfair and illegal due to the fact that Steven Pycz's son, Carl Pycz, would be taking the test. Later, Carl Pycz confronted Plaintiff with a big smile and said, "Let the best *man* win." Prior to the test Plaintiff was number one on the promotion list. *See also* Plaintiff's complaint and any amendments thereto.
- d. September 2011 and ongoing.
- e. Defendants Ellington and Pycz, and Former Deputy Chief Steven Pycz; other supervisors and firefighters also knew that Defendants gave Steven Pycz the questions to draft even though his son was taking the promotion test.
- f. Plaintiff complained to the Chiefs about how this was unfair and illegal, including both before and after Defendant Pycz was promoted. Her complaints were ignored and nothing was done in response.

Plaintiff further contends that Defendants violated the Illinois Fire Promotion Act, and therefore, the test should be considered a nullity and re-issued with a lawful test, and all other remedies available for violations of the Illinois Fire Promotion Act.

(10) **Vehicle Incident**

- a. Defendant Carl Pycz (male), Plaintiff's supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Defendant Carl Pycz was grilling steaks for all of the firefighters except for Plaintiff, so Plaintiff took a vehicle to purchase food. Carl Pycz verbally assaulted Plaintiff on her return, and punished her with numerous demeaning and menial tasks.
- d. October 10, 2011 and ongoing.
- e. Defendant Pycz, Plaintiff's supervisors, and other firefighters.
- f. Plaintiff complained to Defendant Chief Ellington. He told her to "just deal with it." Nothing was done in response to Plaintiff's complaints.

(11) **Daughter Health Incident**

- a. Defendant Carl Pycz, Plaintiff's other supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Defendant Carl Pycz, Glenn McAuliff, and Brendan Baldwin and Plaintiff were in the dayroom watching television when Plaintiff received an emergency call that her daughter was experiencing a medical emergency. Plaintiff alerted the Lieutenants on duty and then took a vehicle and went home to handle the emergency. Upon her return to the Fire Department, she was subjected to a verbal tirade and verbal assault by Defendant Pycz.
- d. On or about November 18, 2011.
- e. Defendant Carl Pycz, Glenn McAuliff and Brendan Baldwin.
- f. Plaintiff complained to Defendant Chief Ellington. Nothing was done in response. Defendant Chief Ellington instead threatened to suspend Plaintiff.

(12) **Going to the Store Incident**

- a. Defendant Carl Pycz, Plaintiff's supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff was again left out of dinner. Defendant Carl Pycz was sleeping, so Plaintiff told FF Sam Wilson and FF Erik Goodloe that she was going to get food and asked if they needed anything while she was out, as was typical practice. Plaintiff announced out loud into the Lt. room that she was going to the store. Upon Plaintiff's return, Defendant Pycz told Plaintiff he was going to write her up for stealing a vehicle and threatened that he was going to call the police and have her arrested.
- d. On or about January 8, 2012.
- e. Defendant Carl Pycz, Sam Wilson, and Erik Goodloe, other firefighters may have been present.
- f. Plaintiff complained to Defendant Chief Ellington about this incident. Defendant Chief Ellington hung up the phone on Plaintiff. Nothing was done in response to Plaintiff's complaints.

(13) **Washing Incident**

- a. Defendant Carl Pycz, Defendant Ellington, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff was told to wash and wax all of the fire engines, halfway through former FF Cumbo and Sam Wilson came to help. Defendant Carl Pycz came out later and told Plaintiff that she needed to rewash and rewash them. Plaintiff responded by saying that was ridiculous. Defendant Pycz left and returned with Defendant Ellington. Both Pycz and Ellington berated Plaintiff verbally, yelling at her in front of other firefighters; Ellington told Plaintiff that he did not want her there; Defendants later suspended Plaintiff.
- d. On or about January 11, 2012 and continuing.
- e. Defendants Pycz and Ellington, Former FF Cumbo, FF Sam Wilson, and former FF Richards, and other firefighters were present.



- f. Plaintiff complained that this was ridiculous (see above). Plaintiff also complained to her Union. Plaintiff also sent Mayor Dwight Welch a letter complaining about the unfair treatment she was experiencing. Nothing was done in response.

(14) **Personal Locker Incident**

- a. The unknown firefighter who broke into Plaintiff's locker, Defendant Chief Ellington, Plaintiff's supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff was suspended January 26, 2012, during which time her personal locker was broken in to. She complained to Defendant Ellington who refused to investigate. Defendant Ellington merely had her lock replaced and gave her a new key.
- d. January 26, 2012 and ongoing.
- e. Unknown firefights and Chief Ellington.
- f. Plaintiff complained to Defendant Ellington. Nothing was done in response (see above).

(15) **Training Incident 1**

- a. Defendant Carl Pycz, Plaintiff's other supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Defendant Pycz took the crew out for training while Plaintiff was cleaning the station per his order. Plaintiff asked Defendant Pycz what was going on. Defendant Pycz said "we are going to do some training, it's up to you, but you have to finish cleaning the bathroom."
- d. On or about March 8, 2012.
- e. Including Former FF Erik Goodloe, and FF Sam Wilson
- f. Plaintiff complained to Defendant Pycz that he should not exclude people on his crew from training. Nothing was done in response.

(16) **Dinner Incident**

- a. Defendant Pycz and Lt. Michelle Hullinger.
- b. Harassment, gender discrimination, and retaliation.
- c. Defendant Pycz and Lt. Hullinger planned a large meal for the crew and specifically excluded Plaintiff.
- d. On or about March 11, 2012 and ongoing.
- e. Including Former FF Erik Goodloe, and FF Sam Wilson
- f. Plaintiff complained to Defendant Pycz. Nothing was done in response.

(17) **Training Incident 2**

- a. Defendant Carl Pycz, Plaintiff's other supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Defendant Pycz took the crew out for training while Plaintiff was cleaning the bathrooms. She was left out and told to stay cleaning bathrooms.
- d. On or about March 14, 2012.
- e. Including FF Haskett and former FF Chris Perry.
- f. Plaintiff complained to Defendant Pycz. Nothing was done in response.

(18) **Cinder Block Cleaning Incident**

- a. Defendant Carl Pycz, Plaintiff's other supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Defendant Pycz told Plaintiff that her assignment for the day was to wash the cinderblock walls brick by brick.
- d. On or about March 26, 2012
- e. Including FF Erik Goodloe and FF Chris Perry.
- f. Plaintiff complained to Defendant Pycz. Nothing was done in response.

(19) **Training and Cleaning Incidents**

- a. Plaintiff's supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Throughout March and April of 2012, Plaintiff was given cleaning and re-cleaning tasks, including occasions while the other members of the crew were given training, or smoking cigars.
- d. On or about March 29, 2012, on or about April 27, 2012, and other dates in March and April of 2012.
- e. Other firefighters and supervisors.
- f. Plaintiff complained to Defendant Pycz and Defendant Ellington. Defendant Ellington told Plaintiff that she had to do what her Lt. told her to do. Nothing was done in response to Plaintiff's complaints.

(20) **Shift Switch Incident**

- a. Defendant Chief Ellington and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Shortly before retiring, Defendant Ellington switched Plaintiff off of her shift of 14 years onto a new shift, claiming that it was for "stability." Plaintiff, a qualified engineer was replaced with an unqualified probationary male firefighter. This switch in shift was unprecedented and the Chief was extremely hostile towards her.
- d. On or about April 30, 2012.
- e. Defendant Chief Ellington and other firefighters and supervisors.
- f. Plaintiff filed a grievance on May 1, 2012 requesting to return to her old shift. The Union stated that they will not follow through on the grievance. Plaintiff also complained to Defendant Chief Ellington. Nothing was done in response.

(21) **New Shift Incident**

- a. Lt. Dangoy (male), Plaintiff's supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.

- c. On the first day of Plaintiff's new shift, Lt. Dangoy gave her a demeaning and insulting speech about how he did not want her there.
- d. On or about May 8, 2012.
- e. Lt. Dangoy pulled Plaintiff outside by herself.
- f. Plaintiff told Lt. Dangoy that she did not feel comfortable with the situation.

(22) **Fire Hose Incident**

- a. Eng. Boyd (male), Plaintiff's supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Eng. Boyd discharged a 3 inch fire hose line at Plaintiff's head. Plaintiff and FF Chikita Smith was forced to dive to the ground for safety. Following the incident, Boyd began laughing. Lt. Dangoy was present and said nothing in response and did not inquire whether Plaintiff was okay.
- d. On or about May 14, 2012.
- e. Eng. Boyd, FF Chikita Smith, and Lt. Dangoy
- f. Plaintiff complained to Lt. Dangoy. Nothing was done in response.

(23) **Fax Removal Incident**

- a. Another firefighter, unknown at this time, Plaintiff's supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. All of the faxes from the City to Plaintiff were not placed in her mailbox but rather they were thrown away. Additionally, on or about the same date.
- d. On or about May 17, 2012.
- e. Unknown.
- f. Plaintiff complained to Defendant Chief Ellington. Nothing was done in response.

ELECTRONICALLY FILED  
 9/25/2017 11:15 AM  
 2012-L-009916  
 PAGE 77 of 103

(24) **Beaver Creek Sticker**

- a. Another firefighter, unknown at this time, Plaintiff's supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Someone placed a "Beaver Creek" sticker on Plaintiff's locker; Plaintiff understood that this had a sexual connotation.
- d. On or about May 17, 2012.
- e. Unknown.
- f. Plaintiff complained to Defendant Chief Ellington. Nothing was done in response.

(25) **Forced to Work Extra Shifts**

- a. Lt. Burnadibus (male), Plaintiff's supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff was forced to work extra shifts for five (5) shifts and was told that she would be forced to work her Kelly day (a mandatory day off). Lt. Burnadibus called Plaintiff and yelled at Plaintiff saying that she was going to have to work; Plaintiff said that she could not work her Kelly day. Lt. Burnadibus called and spoke to Lt. Dangoy and falsely claimed that Plaintiff was swearing at him and that he wanted Plaintiff written up and suspended. Lt. Dangoy asked Plaintiff what happened with the phone call with Lt. Burnadibus, and said that he was going to have to write Plaintiff up for insubordination and said that she was swearing at Lt. Burnadibus. Eng. Kevin Morowzynski was there and told Lt. Dangoy that Plaintiff did not swear at Lt. Burnadibus and that Plaintiff did not even raise her voice.
- d. On or about May 24, 2012 and ongoing.
- e. See above.
- f. Plaintiff complained to all of the supervisors (see above). Nothing was done to remedy Plaintiff's complaints. Nothing happened to Lt. Burnadibus for making false allegations against Plaintiff.

(26) **Doll Incident**

- a. Unknown firefighter, Plaintiff's supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Another member of the Fire Department place a ceramic doll on top of Plaintiff's locker; the doll had her hands placed over her mouth, indicating that Plaintiff should "shut her mouth" and not complain. Lt. Hullinger also sent her a picture of the same doll in a text message.
- d. On or about June 10, 2012 (ceramic doll placed on Plaintiff's locker), and on or about August 14, 2012 (text message), and ongoing.
- e. Multiple firefighters and Plaintiff's supervisors.
- f. Plaintiff's supervisors, and Defendant Chief Ellington, other firefighters. Defendant Chief Ellington said that he was not going to handle it and did nothing in response to Plaintiff's complaints.

(27) **Poisoning Incident**

- a. Plaintiff believes former Lt. Cochran.
- b. Harassment, gender discrimination, and retaliation.
- c. Retired Lt. Cochran came into the station for approximately 13 minutes; later that night Plaintiff became violently ill, experienced diarrhea and had a highly elevated heart rate. FF Estock asked Plaintiff if she left her food out because someone might have "messed with it." Plaintiff rushed to urgent care and underwent testing. The test results indicated that a laxative type chemical had been placed in her food. This was not the first time that former Lt. Cochran had put laxatives in food and given the laced food to other firefighters. FF Estock other firefighters laughed at what happened to Plaintiff and commented that "Chuck (Lt. Cochran) got her," referring to her food being laced with laxatives.
- d. On or about September 8, 2012.
- e. FF Estock, other firefighters that were on the same shift.
- f. Plaintiff complained to Chief Agpawa. He did not remedy her complaint.

(28) **Drug Box Incident**

- a. Lt. Dangoy, Plaintiff's supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Station 2 had an incident where a drug was not properly replaced and sealed in a drug bag. Lt. Dangoy questioned Plaintiff insisting that there was no way to prove that this was not her fault. Plaintiff was told that no matter what, it would be her fault for the missing drug. After a few hours, Station 2's crew discovered that someone else had replaced two 5 ml of the drug with a 10 ml vile. It was known that there was no chance Plaintiff had anything to do with it. Lt. Dangoy was writing up the suspension of Plaintiff and falsely accusing her of stealing drugs. Afterward, the individuals at the station ignored Plaintiff for the remainder of the day.
- d. On or about December 7, 2012.
- e. Multiple firefighters (see above).
- f. Plaintiff complained to Lt. Dangoy. Nothing was done to remedy Plaintiff's complaint.

(29) **Fridge Lock Incident**

- a. Unknown firefighter, Plaintiff's supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. An unknown individual took Plaintiff's lock that she used to lock her fridge (after the Lt. Cochran incident above). Plaintiff asked everyone that was there, FF Justin Haskett, FF Rodriguez, Lt. Glenn McAuliff, and a fourth person who Plaintiff does not recall right now, if they had seen her lock. All of them denied knowing where it was. Plaintiff also called the Chief and informed him about the incident. Plaintiff went and got a new lock. When Plaintiff returned with the new lock, Lt. McAuliff (male) immediately handed Plaintiff her old lock and said "no one took it."
- d. On or about February 9, 2013.
- e. See above.
- f. Plaintiff complained to Chief Agpawa. Lt. Glenn McAuliff was also aware of the incident. Plaintiff's complaints were not remedied.

(30) **Order Not to Assist Plaintiff**

- a. Plaintiff's supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. FF Chikita Smith informed Plaintiff that there was a conversation between the Lieutenants and the Crew that morning, and that there was an unwritten order given not to assist Plaintiff with anything.
- d. In or about February 2013.
- e. See above.
- f. Plaintiff was afraid to complain about this.

(31) **False Order Incident**

- a. FF Rodriguez (male), Plaintiff's supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. FF Rodriguez gave Plaintiff false orders and stated that these were the chief's orders. The Chief himself notified Plaintiff that these orders were false.
- d. On or about December 26, 2013 and ongoing.
- e. See above.
- f. Plaintiff wrote up FF Rodriguez for this incident, but Plaintiff's supervisors never disciplined Rodriguez for this.

(32) **No Show Incident**

- a. Chief Agpawa, Plaintiff's other supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff was woken up by Lt. Dangoy and informed FF Franklin was a "no call no show." At 7:15 a.m. the shift was given to Plaintiff (she was held over to cover the shift) since FF Franklin was a "no call no show." At 9:00 a.m., FF Franklin showed up for work stating he had lost power and had no alarm. Chief Agpawa then informed Plaintiff the shift will be given back to FF Franklin and Plaintiff was



to leave. This was unprecedented. In the past Plaintiff has been suspended for calling off work at 6:00 a.m. but FF Franklin was able to come to his shift 2 hours late, get paid to work his shift, and was not disciplined.

- d. On or about April 10, 2014 and ongoing.
- e. See above.
- f. Plaintiff complained to Chief Agpawa verbally and asked the Chief if she could ask him a “stupid question,” saying “how is it possible that a guy comes in to work 2 hours late, no call no show, and then gets his shift back.” The Chief instructed her to submit a written report if she had a problem with it. Plaintiff decided not to submit a report in light of all of the harassment and retaliation against her and that nothing had been done in the past when she reported things. During the next shift, Chief Agpawa called her and wanted to know where her report was. Plaintiff said that she had decided not to write a report because he gave her the option. Chief Agpawa then ordered Plaintiff to write up a report. Nothing was done to remedy the unfair treatment of Plaintiff in comparison to male employees.

(33) **MDA Fill the Boot Drive**

- a. Chief Agpawa, Plaintiff’s supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. In May of 2014, Plaintiff wrote the city manager and copied the Chief with her request for times and dates, as she has done every year she had participated in the MDA Fill the Boot Drive. Chief Agpawa told Plaintiff that she did not give him proper notification of the Boot Day and that a letter was not sufficient. Chief Agpawa also told Plaintiff “you are lucky that I am not suspending you for illegal activity.” Plaintiff had received approval from City Hall for the Boot Drive.
- d. May 2014.
- e. See above.
- f. Plaintiff told the Chief that she did not know this was a problem and informed him that she had City Hall’s permission and that she gave him a letter a month in advance as she had done in the past.

(34) **Unfair Treatment on Missed Call**

- a. Unknown male firefighter, Lt. Dangoy, Plaintiff's supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and Retaliation.
- c. Plaintiff arrived early for work and was napping in the female bunk room until the shift started. Plaintiff accidentally slept through the call because someone had turned off the speaker in that room. Plaintiff is the only female in that station and only one to use that room. She never turned the speaker off. When the call came in, no one told Plaintiff or tried to wake her up, despite the fact that it is normal for someone to come over the speaker and call for the person that is missing or running late to the call. Lt. Dangoy wrote Plaintiff up for missing the call. Male firefighters and engineers have missed calls and have not been written up.
- d. On or about May 25, 2014 and ongoing.
- e. See above.
- f. Plaintiff complained to Lt. Dangoy and Chief Agpawa about the unfair treatment. Nothing was done to remedy Plaintiff's complaints.

(35) **Plaintiff Suspended for Asking If She Could Ask A Stupid Question**

- a. Chief Agpawa and City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Chief Agpawa issued a suspension to Plaintiff 2 months latter for asking the Chief if she could ask a "stupid question."
- d. On or about June 3, 2014.
- e. See above.
- f. Plaintiff complained to Chief Agpawa and others, including her Union, about this incident. Nothing was done to remedy Plaintiff's complaints and Plaintiff was forced to serve the unwarranted suspension.

(36) **Denied Vacation**

- a. Chief Agpawa, Plaintiff's other supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff was denied vacation time due to the Chief stating he needed her to be in charge of a shift.
- d. On or about December 2014.
- e. See above.
- f. Plaintiff did not complain about this incident but thought it was odd.

(37) **Switched Shift Again**

- a. Chief Agpawa, Plaintiff's other supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff was informed that she would be switching shifts as of March 22, 2015. Chief Agpawa stated that the Department could not have a shift without an Engineer, and the switch was made so that all shifts have one Lieutenant and one Engineer. This was despite the fact that when Plaintiff was originally switched (see above #20) that resulted in a shift not having an engineer.
- d. On or about February 17, 2015.
- e. See above.
- f. Plaintiff complained to the new Deputy Chief, Kopec, and Eng. Morowczynski about this.

(38) **Cockring Incident**

- a. FF Erik Hoffman, Plaintiff's supervisors, and the City of Country Club Hills
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff was in the day room at the Fire House when Erik Hoffman threw his cockring at Plaintiff. Plaintiff was surprised and threw it back at him. Kilburg was present.

- d. In or about 1998.
- e. See above.
- f. Plaintiff was afraid to complain for fear of retaliation or termination.

(39) **Shower Incident**

- a. Chief Gary Kasper, Plaintiff's supervisors, FF Scott Tebo, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff was taking a shower at the fire house and Scott Tebo broke the bathroom door down. Plaintiff was in the shower naked at the time. When Tebo broke the door down, Plaintiff shouted "Chief!" but Chief Gary Kasper was already standing in the hallway, holding a towel to hand to Plaintiff. Plaintiff took the towel from Chief Kasper and said "this is bullshit." Tebo claimed the door was loose, but the pry marks and dents from Tebo breaking in the door are still visible now. Plaintiff was reprimanded and written up for not properly locking the door.
- d. In or about 1999.
- e. See above.
- f. When Plaintiff took the towel from Chief Kasper as she was getting out of the shower, Plaintiff said "this is bullshit." Plaintiff was afraid to complain to anyone else because she believed she would lose her spot in the fire academy.

(40) **Break Into Plaintiff's House Incident**

- a. Chief Gary Kasper, Plaintiff's supervisors, Bob Munse, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. When Plaintiff was out on an ambulance call, Bob Munse, unbeknownst to Plaintiff, took Plaintiff's key to her home from the fire station and made a copy at the hardware store. The next week Plaintiff went on vacation. When Plaintiff returned from vacation her house was stocked with groceries. Shortly after her return. Bob Munse called and asked Plaintiff if she like the present that he left

her. Plaintiff complained to the Chief who took no action, despite the fact that Munse admitted to making the copy of the key, and entering Plaintiff's home. Other firefighters were aware of Munse's actions.

- d. In or about 1999-2000.
- e. See above.
- f. Plaintiff complained to Chief Kasper who took no action.

(41) **Pornography Viewing**

- a. Plaintiff's supervisors, male fire-fighters, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff has seen many male fire-fighters watching pornography on a regular basis. Plaintiff asked them to turn it off and/or put her hand up to avoid seeing it.
- d. On a regular basis throughout Plaintiff's employment and ongoing.
- e. See above.
- f. Plaintiff has complained to those she has seen watching pornography by asking them to stop. Supervisors were aware that male employees watched pornography on the computer and televisions in the fire stations, and did nothing to remedy the conduct.

(42) **"Cuddling" Incidents**

- 1. Plaintiff's supervisors, male fire-fighters, including FF Bob Munse and FF Bendinelli, and the City of Country Club Hills.
- 2. Harassment, gender discrimination, and retaliation.
- 3. When Plaintiff was sleeping in her bunk, several different male firefighter would climb into Plaintiff's bunk with her and say "cuddle with me," or something similar. These firefighters would climb into her bunk late at night, or in the early morning, around 12 - 2 a.m. This happened on at least 3-5 occasions over a 2 month time period. On one occasion, two male firefighters climbed in Plaintiff's bunk at the same time.

4. In or about 2009.
5. See above.
6. Plaintiff does not remember if she complained about this, because she had complained so many times and nothing was done to remedy the offensive conduct.

**(43) Ongoing Denial of Overtime**

- a. Chief Agpawa, Plaintiff's supervisors, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff has been denied, refused and/or looked over for overtime shifts by her supervisors and Lt Hullinger, who has the primary responsibility for scheduling.
- d. On a regular basis since Plaintiff filed her EEOC complaint and ongoing.
- e. See above.
- f. Plaintiff complained to Agpawa, see Agpawa's admissions in his deposition testimony. Nothing was done to remedy the fact that Plaintiff has been and continues to be denied overtime.

**(44) Removal from the 2015 MDA Boot Drive**

- a. Chief Agpawa, Plaintiff's supervisors, Lieutenant Kilburg, Lieutenant Hullinger, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff has been organizing the MDA Fill the Boot Drive at the Country Club Hills Fire Department since it began. Plaintiff was informed by FF Konstanski that Lt. Kilburg had told him that he was now in charge of organizing the 2015 Boot Drive. Plaintiff is aware that Chief Agpawa permitted or had knowledge of Lieutenant Kilburg's decision to reassign the 2015 MDA Boot Drive. Plaintiff complained by writing a memo to Chief Agpawa which also stated that Agpawa allowed retaliation, harassment, and discrimination to occur against Plaintiff. As a result of her complaint, Plaintiff was disciplined.
- d. On or about July 17, 2015.

- e. See above.
- f. Plaintiff complained in writing to Chief Agpawa.

**(45) Discipline for Complaint of Harassment, Discrimination and Retaliation**

- a. Chief Agpawa, City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff wrote a memo to Chief Agpawa to complain that the MDA Boot Drive was reassigned to FF Kostanski. Plaintiff also stated in the memo that she was being retaliated against and requested “once again” that the Chief “truly address these actions of harassment, retaliation, and discrimination, both on your part and the rest of the members of Country Club Hills.” In response to this memo, Chief Agpawa issued discipline to Plaintiff for failure to obey orders and insubordination.
- d. On or about July 29, 2015.
- e. See above.
- f. Plaintiff had no one to complain to since the incident was perpetrated by Chief Agpawa.

**(46) Inappropriate Romantic Advances**

- a. Plaintiff’s supervisors, male firefighters, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. At various times during Plaintiff’s employment, especially at the beginning of her employment, male firefighters would lean into kiss her, would hug her, and hit on her in a romantic way. Lt. Kilberg was one male employee that Plaintiff recalls hugging her.
- d. At various times during Plaintiff’s employment.
- e. See above.
- f. Plaintiff was afraid to complain for fear of retaliation or termination.

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 88 of 103

(47) **Male Firefighters with Pants Down**

- a. Plaintiff's supervisors, male firefighters, and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. Male firefighters would walk around the fire house with their pants off or pulled down while in Plaintiff's presence. One such male co-worker, Kilburg, told Plaintiff he "was a shower not a grower."
- d. At various times during Plaintiff's employment.
- e. See above.
- f. Plaintiff was afraid to complain for fear of retaliation or termination.

(48) **Called a "Bitch" by Supervisors**

- a. Plaintiff's supervisors and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. During Lt. Pycz's tirade described in incident No. 11 above, Lt. Pycz called Plaintiff a "fucking bitch." Lt. Pycz has called Plaintiff a "bitch" on several other occasions. In addition, Lt. Hullinger has called Plaintiff a "bitch" over the fire house intercom.
- d. On or about November 18, 2011 (see No. 11 above), and on other occasions since Plaintiff complained about the Lt. exam.
- e. See above.
- f. Plaintiff does not remember if she complained about this, because she had complained so many times and nothing was done to remedy the offensive conduct.

(49) **Grievance denied**

- a. Chief Agpawa and the City of Country Club Hills.
- b. Harassment, gender discrimination, and retaliation.
- c. When Plaintiff grieved the discipline, which is described in incident No. 45 above, it was upheld and Chief Agpawa stated in his memo denying the grievance that she could have been discharged.
- d. On or about August 11, 2015.



- e. See above.
- f. Plaintiff had no one to complain to since the incident was perpetrated by Chief Agpawa.

(50) **Suspended indefinitely**

- a. Defendants.
- b. Harassment, gender discrimination, and retaliation.
- c. Plaintiff was placed on administrative leave and suspended with pay because she complained, indefinitely. See Defendants' notice of suspensión/administrative leave.
- d. On or about August 27, 2015.
- e. See above.
- f. See documents.

*See also* Plaintiff's production of documents; Defendants' production of documents and anticipated production of documents; Plaintiff's deposition testimony; Plaintiff's expert reports. Plaintiff's investigation continues.

4. Identify each and every element of actual damages claimed by you, including claims for mental and emotional anguish and embarrassment and humiliation including the amount attributed to each element, the manner of calculating each such amount, and identify all documents, facts, and/or persons relating to each claimed element of damages and set forth the extent of what you allege is each identified person's knowledge.

**ANSWER:**

Plaintiff objects to this request in that it is vague as to “actual damages.” It is also compound and seeks information that is in the possession and control of Defendants, which Plaintiff demands production thereof. This interrogatory is also more appropriate for deposition testimony. Subject to said objection and without waiver, Plaintiff states that her damages are ongoing. Plaintiff also states that the incidents of discrimination, harassment, and retaliation have been ongoing throughout her employment and include but are not limited to the following: The Plaintiff has had constant pain and mental anguish resulting from the Defendant’s harassment, discrimination and retaliation. She has been forced to attend counseling due to the repeated abuse she has suffered. The abuse she has experienced at work has affected every facet of her life. Defendants’ actions and inactions have wreaked havoc on her personal life. Plaintiff has also experienced financial losses at work as a result of not being promoted to Lieutenant in 2011 (and before and after) and continuing to the present as well as into the future in that it impacts her pension. Plaintiff has also suffered other financial losses as a result of the discrimination, harassment, and retaliation, including lost salary, out of pocket medical expenses, as well as other out of pocket expenses and financial losses. Plaintiff seeks both back pay and front pay, as well as all equitable and monetary relief that she is entitled to under the law. Plaintiff also seeks punitive damages against the individual defendants. Plaintiff is also entitled to attorneys’ fees and costs for having to pursue this lawsuit to vindicate her rights and

to obtain relief from the unlawful discrimination, harassment, and retaliation. Plaintiff's investigation continues.

**Supplement:**

See also Plaintiff's deposition testimony.

5. Identify each health care provider with whom you treated that you treated with for the last five years and for each provider state:

- a. The name, address and area of practice for such provider;
- b. The dates, nature and diagnosis of each such treatment;
- c. Whether you contend that you treated with such provider as a result of the allegations in the Complaint; and
- d. The diagnosis by each provider.

**ANSWER:**

Plaintiff objects to this request in that it is overbroad and unduly burdensome, and to the extent it seeks information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to said objection and without waiver, Plaintiff has seen:

Linda Jo Martin  
114 Church St. Suite 106  
New Lenox IL 60451

Plaintiff saw Linda Martin for the emotional distress as a result of Defendants' harassment, discrimination and retaliation against Plaintiff.

Shelanda Hayes, MD  
Ingalls Occupational Health  
19550 Governors Hwy  
Flossmoor IL 60422

Plaintiff saw Dr. Hayes on 6/18/13 when she unknowingly ingested a laxative type substance.

See Plaintiff's and Defendants' production of documents. Plaintiff's investigation continues.

6. Identify all documents, persons and facts relating to the allegations in paragraph 14 of your Complaint.

**ANSWER:**

Plaintiff objects to this request as overly broad and unduly burdensome, and compound and to the extent it calls for a legal conclusion. Plaintiff further objects that discovery is ongoing, and this question is better suited for deposition testimony. Subject to said objection and without waiver, see Plaintiff's answer to Interrogatory No. 3 above, Plaintiff's production of documents, and Defendants' anticipated production of documents. Plaintiff's investigation is ongoing.

**Supplement:**

See also Plaintiff's deposition testimony.

7. Identify all documents, persons and facts relating to the allegations in paragraph 15 of your Complaint.

**ANSWER:**

Plaintiff objects to this request as overly broad and unduly burdensome, and compound and to the extent it calls for a legal conclusion. Plaintiff further objects that discovery is ongoing, and this question is better suited for deposition testimony. Subject to said objection and without waiver, see Plaintiff's answer to Interrogatory No. 3 above, Plaintiff's production of documents, and Defendants' anticipated production of documents. Plaintiff's investigation is ongoing.

**Supplement:**

See also Plaintiff's deposition testimony.

8. Identify each person who you intend to call as a lay and/or an expert witness at the trial of this case and for each person so identified state separately:
- a. The subject matter on which you expect the person to testify;
  - b. The substance of the opinions and facts to which the expert is expected to testify;
  - c. A summary of the grounds for each opinion held by the expert witness; and
  - d. Any and all information required to be provided under the Federal Rules of Civil Procedure for such expert witness.

**ANSWER:**

Plaintiff objects to this interrogatory as premature given the current procedural posture of this case. Subject to said objection and without waiver, Plaintiff will provide such information in accordance with the Court's scheduling orders on expert discovery as well as in accordance with Rule 213 on experts. Plaintiff's investigation continues.

**Supplement:**

See Plaintiff's expert disclosures; see also Plaintiff's Rule 213(f)(3) disclosures, which will be disclosed pursuant to the Court's scheduling order.

9. Identify any and all facts, persons, and documents that support, refute, or relate to your allegation in paragraph 24 that had Carl Pycz not had access to 25 of the questions, he would not have scored highest on the exam.

**ANSWER:**

Plaintiff objects to this request in that it is compound and vague as to "support, refute, or relate." Subject to said objection, Plaintiff states that it is common sense that if Carl Pycz did not have access to the 25 questions he would not have scored highest on the exam. Defendant is also in possession and control of the testing documents and Plaintiff demands production thereof. *See also* Plaintiff's answer to Interrogatory No. 3 above and Plaintiff's production of documents. Plaintiff's investigation continues.

**Supplement:**

See Plaintiff's deposition testimony and deposition testimony of Defendants. See also Defendants' production of documents and documents produced by RMA.

10. Identify any and all facts, persons, and documents that support, refute or relate to your allegation in paragraphs 18 and 19 of your Complaint that you believe that Defendant Ellington's delegation of the task of writing questions for the written portion of the Lieutenant Promotion exam to Deputy Fire Chief Steven Pycz was improper and illegal.

**ANSWER:**

Plaintiff objects to this interrogatory as vague, overly broad, and compound as to "support, refute or relate," and misstates what Plaintiff is required to prove in this case. Subject to said objection and without waiver, *see* the Illinois Fire Department Promotion Act, 50 ILCS 742/35. See also Plaintiff's production of documents and Plaintiff's anticipated deposition testimony. Plaintiff's investigation continues.

**Supplement:**

See Plaintiff's deposition testimony and deposition testimony of Defendants. See also Defendants' production of documents and documents produced by RMA.

11. Identify any and all persons, documents, and facts supporting refuting, or relating to any claim by you that you were subjected to a hostile work environment.

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 96 of 103

**ANSWER:**

Plaintiff objects to this interrogatory as vague, overly broad, and compound as to “supporting, refuting or relating,” and that it is duplicative. Subject to said objection and without waiver, *see* Plaintiff’s answer to Interrogatory No. 3 above, and Plaintiff’s production of documents. Plaintiff’s investigation continues.

12. State specifically all information you disclosed to a government or law enforcement agency, where you had reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation.

**ANSWER:**

Plaintiff objects to this request to the extent it calls for a legal conclusion and is compound and vague. Subject to said objection and without waiver, Plaintiff states: all of the information that she disclosed to the County Club Hills Fire Department and Chief of the Fire Department, and all information that she disclosed to the Illinois Department of Human Rights/EEOC. See also Plaintiff’s answer to Interrogatory No. 3 above, and Plaintiff’s production of documents. Plaintiff’s investigation continues.

**Supplement:**

See Plaintiff’s deposition testimony.

13. With respect to information you disclosed to a government or law enforcement agency, where you had reasonable cause to believe that the information

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 97 of 103



discloses a violation of a State or federal law, rule, or regulation, state specifically by citation each and every State or federal law(s), rule(s), or regulation(s) you believe to have been violated.

**ANSWER:**

Plaintiff objects to this interrogatory as overly broad and to the extent it calls for a legal conclusion and is compound and vague. Subject to said objection and without waiver, Plaintiff states she reasonably believed that Defendants violated the Illinois Fire Department Promotion Act, including 50 ILCS 742/35, *et seq.*; Illinois Human Rights Act ("IHRA"), 775 ILCS § 5/1-102, *et seq.*; the Illinois Whistleblower Protection Act, 740 ILCS § 174/15, *et seq.*, and rules of the Fire Department.

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 98 of 103

Respectfully Submitted,

DENA LEWIS-BYSTRYCKI



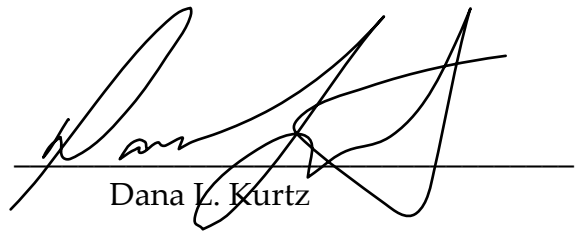
Attorney for Plaintiff

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Hinsdale, Illinois 60521  
Phone: 630.323.9444  
Facsimile: 630.604.9444  
Email: [dkurtz@kurtzlaw.us](mailto:dkurtz@kurtzlaw.us)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing **PLAINTIFF'S SECOND SUPPLEMENTAL ANSWERS TO DEFENDANTS' FIRST SET OF INTERROGATORIES** was served upon all parties via electronic mail and by placing the same in the United States Postal Depository located at 32 Blaine Street, Hinsdale, Illinois, before 5:00 p.m. on March 29, 2016, First Class postage prepaid.

Daniel J. Boddicker  
Keefe, Campbell, Biery & Associates, LLC  
118 North Clinton, Suite 300  
Chicago, IL 60661  
Email: [dboddicker@keefe-law.com](mailto:dboddicker@keefe-law.com)

  
Dana L. Kurtz

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 99 of 103

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-00916  
PAGE 100 of 103

# EXHIBIT 8



Robert Kopec <rkopec@countryclubhills.org>

**investigation**

1 message

**Dena Bystrzycki** <dbystrzycki@countryclubhills.org>  
To: Robert Kopec <rkopec@countryclubhills.org>

Sat, Aug 22, 2015 at 12:06 PM

D.C. Kopec

I have just read your email regarding an investigation into wrong doing. I have experienced enough retaliation because I have complained and then Pycz, Hullinger, Kilburg, Dangoy and others ostracize and retaliate against me and tell people not to help me. You could start with those people who have admitted to it. If you need more information from me after you start there I would be happy to talk to you with my attorney present. But Agpawa knows all of this and then disciplines me for complaining so I am scared to complain any more.

Eeng. Bystrzycki

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 101 of 103

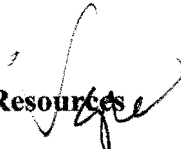
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9/25/2017 11:15 AM  
2012-L-009916  
PAGE 102 of 103

# EXHIBIT 9



4200 Main Street  
Country Club Hills, IL 60478

(708) 798-2616  
Fax: (708) 798-7352

**TO:** Dena Lewis-Bystrzycki  
**FROM:** Valda Washington, Director of Human Resources   
**DATE:** August 27, 2015  
**RE:** Paid Administrative Leave

Confirming the discussions between your attorney and the attorney for the City, you are being placed on a paid administrative leave effective immediately. The City anticipates that this paid leave will extend through the date of the trial in your pending suit against the City. However, the City reserves the right to return you from this paid leave prior to that date.

During your paid administrative leave, you will continue to receive all benefits you are currently receiving, such as City-provided health insurance. You will accrue seniority during this paid leave.

Please contact the undersigned should you have any questions.

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 103 of 103

**LEWIS-B 000786**

# **EXHIBIT 10**



ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-00916  
PAGE 2 of 151

**Report For**

**Dena Lewis-Bystrzycki**

**v.**

**City of Country Club Hills, Carl Pycz,  
Joseph Ellington, and Roger Agpawa**

**Case ID - 2012 L 00916**

Prepared For: Dana Kurtz  
Attorney at Law

Prepared By: Andy Garrett  
Garrett Discovery Inc

Date: May 18, 2017



## Contents

1.0 Expert Background .....	3
2.0 Investigation Narrative .....	3
3.0 Key Concepts and Terms .....	5
3.1 User Profiles .....	5
3.2 Unallocated Space.....	6
4.0 Timeline of Events.....	7
4.1 Initiation.....	7
5.0 Computers Examined.....	8
5.1 Examination of January 16, 2017 .....	8
5.1 Examination of January 26, 2017 .....	9
5.1 Examination of April 12, 2017 .....	10
6.0 Other Discovery Materials .....	10
7.0 Forensic Examination.....	11
8.0 Conclusion.....	17
11.0 Declaration.....	19

## 1.0 Expert Background

I, Andrew Garrett am employed by Garrett Discovery Inc, an Illinois based computer forensics firm specializing in digital investigations and computer forensics. I was selected to review digital evidence and write an expert report. I have been performing computer forensics for the last ten years and was formerly a contractor and principal responsible for the largest computer forensics and electronic discovery facility at the Department of Defense. I have performed forensic analysis for private corporations, federal and state courts. I have processed more than 500 investigations and cases. I have performed expert work by order of federal and state courts in Tennessee, Iowa, Illinois, Florida and Alabama.

I have received forensic training provided by Guidance Software and AccessData, whom are the leading forensic software companies in the United States. Additionally, I have been deemed an expert in multiple federal and state courts and have held numerous computer certifications. My CV and case history are attached at Attachment A and B.

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 4 of 151

## 2.0 Investigation Narrative

Plaintiff as a matter of reference provided the transcript from the August 31, 2016 hearing and order of the court where the court stated "After viewing everything, I am granting the second motion to compel regarding plaintiff's request for a forensic examination regarding those computers in the classroom at station one, the middle office across from the bathroom at station one, the paramedic writing room computer at station two and the computer in the hallway by the engineer's office and station two. After reading the depositions, I have concluded this isn't a fishing expedition. The plaintiff

was not wholly unable to come up with (inaudible) that she witnessed fellow employees watching pornographic material. The problem is according to her the pornography watching was pervasive. So, for example, every time she would work with [REDACTED] ... [REDACTED] ... he was watching pornography. And that applied to Mr. [REDACTED] 65 percent of the time and Mr. [REDACTED] 60 percent of the time. Again, that is according to her testimony. When I couple that testimony with the defendants' witnesses' testimony that they admit witnessing firefighters watching pornography or watching pornography themselves, I conclude that the forensic examination requested may lead to discoverable evidence and does not constitute a fishing expedition." Plaintiff also testified in her deposition as to male firefighters that she has seen watching pornography on a regular basis that "There's a lot of them. It's on every night." (Pl.'s Dep. 53.) Defendant's alleged that they "do not have sufficient knowledge or information regarding the allegations ... and, therefore, neither admit nor deny same, but demand strict proof thereof."

(Defendants Ans to Pl's Second Amended Complaint 16, 17, 18)

Defendant's hired an outside consulting firm "MJW Consulting" whom wrote a report stating: "Taking all the facts into account, there is no evidence that watching Pornography while at the Fire House is a widespread problem or a current concern for employees," and referenced statements from employees, such as Mr. [REDACTED] "stated that he has only seen a sexual image on another employee's computer, and since that time that employee has been terminated," and Mr. [REDACTED] "stated that on occasions when they would be watching a movie then get called out on an emergency they would return to the fire house finding explicit scenes on TV". (See Attachment C)

Defendant's asserted by letter from Mr. Maybell, their IT Director, stating: "The city regularly monitors and / or logs network activity with or without notice, including and all web site communications, and therefore, users should have no reasonable expectation of privacy," and "The Fire Department Internet and Software Audit started 8/28/2015 and completed on 9/10/2016," and "Review

of the inventoried equipment disclosed no irregularities or misuse of the City equipment.” (See Attachment D)

I was asked by counsel and ordered by the court to examine the computers that were in place during the time of employment of the plaintiff for usage of pornography and determine if the city’s assertion in their pleadings was correct. During my examination, I also found evidence that suggests Defendants took certain actions to spoliage evidence, which will be addressed under a separate report and after further discovery. This report is limited to the issue of pornography being watched at Defendant’s fire stations.

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 6 of 151

## 3.0 Key Concepts and Terms

### 3.1 User Profiles

In order for Microsoft Windows to separate one user’s information from another user, profiles were created.

When a user establishes an account on a computer for the first time, he or she creates on that computer a registry key with the logged in name and a folder known as the user profile folder used to store data created by the user. At subsequent logons, the system loads the user's profile, and then other system components configure the user's environment according to the information in the profile.

For instance, when examining a computer and navigating to “C:\Users\” you may find multiple folders labeled the same as a user’s login name. If I had a user profile on the

computer I was examining, it would contain a folder at “C:\Users\” named ‘agarrett’ because my login name is ‘agarrett’.

It is the folders that are found in “C:\Users\” that contain the web history of web sites visited, searches, web chat history, files and other pertinent information to show user actions and based on the name of the user profile it is a good indicator of whom performed the specific actions on the computer.

### 3.2 Unallocated Space

When a computer user saves a file on a computer many things happen, but important to this investigation is the file name and date properties are written to a pseudo spreadsheet called the Master File Table and the data is stored on the physical hard drive.

When a computer user deletes a file by either (Shift+Delete) or drags those files to the recycle bin and subsequently empties the recycle bin the entry in the Master File table is marked as deleted and eventually overwritten. The data is still resident on the hard drive, but there is not reference to it from the operating system. It is essentially in a landfill of data that we often call ‘unallocated space’ because it is not allocated to a file name. Until a new file is stored on the computer and that data is stored at random unallocated spaces that was once allocated to the deleted file, it is recoverable using sophisticated tools.

Forensic software can recover files that were previously deleted by chaining back together the clusters on the hard drive that once was referenced by the file name listed in the master file table. When recovering some of the information, lost may be the file name itself and file ownership including whom created the file.

## 4.0 Timeline of Events

### 4.1 Initiation

July 11, 2015	Plaintiff sent her first amended notice of inspection, including the above referenced computers ordered by the court for imaging
September 11, 2015	Rudy Maybell Letter regarding monitoring of the computers and no misuse of equipment
October 7, 2015	MJW Consulting report stating that “There is no evidence of watching porn”
April 6, 2016	Plaintiff Filed 2 <sup>nd</sup> Motion to Compel and for sanctions
August 31, 2016	Court Granted Plaintiff’s April 6, 2016 Second Motion to Compel and for Sanctions
January 11, 2017	Plaintiff sent her 4 <sup>th</sup> notice of inspection
January 16, 2017	Arrived on site to perform inspection of computers and was told by Defendants’ counsel, Mr. Boddicker, that I would not be allowed
January 20, 2017	Plaintiff files her Motion for Sanctions for violations of the court’s order regarding inspection of computers for pornographic material
January 23, 2017	Court granted Plaintiff’s Motion for Sanctions and ordered Defendants to reimburse expert fees and costs

January 26, 2017	Forensic Imaging of computers at Station 1 and 2
February 6, 2017	Defendants filed a motion (emergency) for protective order
February 13, 2017	Delivered a Preliminary Report of the 1 <sup>st</sup> set of Computers to Defendant's counsel, Mr. Boddicker
March 14, 2017	Deposition of Wayne Werosh, IT Consultant for Country Club Hills
April 12, 2017	Forensic Imaging of two workstations, that were ordered by the Court on August 31, 2016, but not previously disclosed after testified to by Wayne Werosh

## 5.0 Computers Examined

### 5.1 Examination of January 16, 2017

On January 16, 2017, I arrived at Country Club Hills Fire Station and a firefighter directed me to the computers I was to examine. I started to inventory the computers and Chief Agpawa arrived and told me to stop. He said that I was not going to be allowed to do the imaging on that day. I asked if there was a better time to do this examination and he stated that there was not and that the attorneys would have to work it out. I asked that he call attorney Boddicker so we could discuss this situation and to make sure there wasn't some sort of miscommunication. I asked if it was the Chief's decision not to go forward and he said that no it was Mr. Boddicker's decision not to allow the examination. I then left and called Ms. Kurtz. After about an hour they were both at an impasse and I returned to the office.

## 5.1 Examination of January 26, 2017

On January 26, 2017, based on the Court's order of January 23, 2017 granting Plaintiff's motion for sanctions for Defendants' violations of the court's order regarding inspection of computers for pornographic material, I arrived to examine multiple computers at fire stations 1 and 2. I was met by IT Director Rudy Maybell, IT Consultant Mr. Sachnoff and Mr. Boddicker. I was directed to the computers I was to image pursuant to the court's order.

After imaging one of the computers, I noticed that the computers were connected to a centralized server and asked whether or not Country Club Hills used roaming profiles. If a system has been setup with roaming profiles the user data from a computer would be synced to the server and therefore the server could contain relevant information. I was told by Mr. Maybell and Mr. Sachnoff that the computers did not have roaming profiles, but after further investigation I was able to determine the computers did have roaming profiles and explained how there would most likely be relevant information on the server because the profiles are synced. Mr. Maybell discussed me wanting to image the server with Chief Agpawa in the library while I was in earshot and the heated conversation between them was overhead. Mr. Maybell returned and said that I was not to image the server and that he was "glad (he)asked because I would have been without a job if (I) had (imaged the server)," and stated: "by the end of this I may be fired," and then, Mr. Sachnoff said in response: "you and I," suggesting that he (Sachnoff) and Maybell may be fired. I called Mr. Boddicker and explained the situation with him and he called Chief Agpawa and possibly the Mayor and finally came to the conclusion that it was necessary to image the server. Chief Agpawa slammed the door and then left the fire station.



I forensically imaged multiple computers and the forensic imaging reports are attached to this report, I also gave a copy of the hard drives to Mr. Sachnoff. (See Attachment E)

## 5.1 Examination of April 12, 2017

On April 12, 2017, I met with Country Club Hills consultant Brent Sachnoff and was notified by Mr. Sachnoff that he took the position as IT Director for Orland Park and was wearing a Government ID Badge. I asked if him if she was going to be testifying or is the expert for Country Club Hills and was told that he was not going to be testifying for them, but will still assist if needed under his own consulting company.

I was shown by Deputy Chief Kopec two computers in a closet bearing evidence tags as testified to by Mr. Werosh the former IT consultant (contractor) and former CCH police officer. I forensically copied both computers and gave a secondary copy to Mr. Sachnoff.

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 11 of 151

## 6.0 Other Discovery Materials

There has been other ESI that has yet to be examined and to date has not been examined.

### 1. Country Club Hills Email Server (aka Gmail for Business)

a. This data has been acquired, but has yet to be examined and is in the custody of Country Club Hills

b. Network Attached Storage - Mr. Werosh testified that it was used to hold images (copies) of the computers at the fire stations

c. Two portable hard drives – Mr. Werosh testified that he sold two portable hard drives to Country Club Hills Fire Department and supplied them with a script to copy data from their profiles to the drive and these have not been produced for examination

## 7.0 Forensic Examination

Forensic Examination consists of Acquisition, Analysis and Reporting. I used a Logicube Forensic Falcon which is a write block NIST certified Forensic Hard Drive Duplicator to create forensic images of the following hard drives.

I processed the hard drives for both present and deleted data including web history of many users using Magnet Forensic Axiom which is used by most law enforcement centers. I have attached a summary of the data containing pornography terms, websites and content below for reference. There is a total of 2101 pages containing pornography entries.

The matrix shows that more than a few users have had pornography displayed on screen.

For those users whom had only a few websites displayed, it could be easily attributed to “accidentally clicking” on something that that linked to pornography websites and is not necessarily an intended action. For users that have performed “Google searches” for pornography words it is much more obvious that the user intended to visit a website containing pornography and shows intent.

Below is a matrix summarizing Attachment F, showing each of the users that were found to have pornography terms in the websites visited or pornography images within their user profile and web history. The # of records indicates the number of websites or entries that corresponds with the type of entry.

	# of Records	Bates
[REDACTED]		
Pictures	7	0001-0004

[REDACTED]		
Google Toolbar	4	0005-0006
Internet Explorer Main History	2	7
Pictures	3	0008-0009
Google Searches	5	0010-0012

[REDACTED]		
Google Maps	4	0013-0014
Google Toolbar	1	15
Internet Explorer Cache Records	10	0016-0019
Internet Explorer Main History	10	0020-0023
Internet Explorer Privacy Records	2	0024
Pictures	22	0025-0036
Rebuilt Webpages		0037-00323
Google Searches	51	0324-0342

[REDACTED]		
Internet Explorer Cookie Records	2	00343-00344
Internet Explorer Cookies	15	0345-0348
Internet Explorer Privacy Records	4	0349
Potential Browser Activity	1	0350

[REDACTED]		
Google Analytics First Visit Cookies Carved	1	0351-0352
Google Analytics First Visit Cookies	1	0353
Google Analytics Referral Cookies	1	0354

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 2012-L-009916  
 PAGE 13 of 151

Internet Explorer Cookie Records	2	0355
Internet Explorer Cookies	15	0356-0360
Internet Explorer Privacy Records	3	0361

Google Searches	9	0362-0365
Parsed Search Queries	6	0366-0367
Flash Cookies	3	0368-0369
Google Analytics First Visit Cookies Carved	1	0370
Google Analytics First Visit Cookies Carved	1	0371
Google Analytics Referral Cookies Carved	2	0372
Google Analytics Referral Cookies	1	0373
Google Analytics Session Cookies Carved	1	0374
Google Analytics Session Cookies	1	0375
Google Maps	3	0376
Google Toolbar	2	0377
Internet Explorer Cache Records	185	0378-0455
Internet Explorer Cookie Records	4	0456
Internet Explorer Cookies	5	0457-0458
Internet Explorer Main History	6	0459-0460
Internet Explorer Privacy Records	2	0461
Internet Explorer Redirect Records	1	0462
Pictures	30	0463-0477
Pornography URL's	67	0478-0492
Potential Browser Activity	32	0493-0497
Rebuilt Webpages		0498-0801

Google Analytics First Visit Cookies Carved	1	0802-0803
Google Analytics First Visit Cookies Carved	1	0804
Google Analytics Referral Cookies Carved	1	0805
Google Analytics Referral Cookies	1	0806
Google Analytics Session Cookies Carved	1	0807
Google Analytics Session Cookies	1	0808
Google Toolbar	3	0809
Internet Explorer Cache Records	135	0810-0864
Internet Explorer Cookie Records	2	0865-0865

Internet Explorer Cookies	7	0866-0867
Internet Explorer Favorites	1	0868
Internet Explorer Privacy Records	17	0869-0872
Pictures	4	0873-0874
Rebuilt Webpages		0875-1112

Internet Explorer Cookie Records	8	1113-1115
Internet Explorer Privacy Records	1	1116
Internet Explorer Redirect Records	2	1117
Pornography URL's	3	1118
Web Chat URL's	1	1119
Dating Sites URL's (Adult)	1	1120-1121
Internet Explorer Cache Records	54	1122-1139
Internet Explorer Cookie Records	4	1140-1141
Pornography URL's	1	1142
Carved Video	1	1143-1144
Internet Explorer Cache Records	12	1145-1148
Internet Explorer Privacy Records	369	1149-1220
Internet Explorer Redirect Records	284	1221-1279
Pornography URL's	14	1280-1282
Videos	4	1283-1284
Web Chat URL's	2	1288-1285
Web Video Fragments	2	1286-1286
Internet Explorer 10-11 Content	920	1287-1491
Internet Explorer 10-11 Weekly History	35	1492-1499
Internet Explorer 10-11 Main History	106	1500-1524
Parsed Search Queries	220	1525-1579
Pornography URL's	320	1580-1646
Potential Browser Activity	1	1647
Flash Cookies	2	1648-1649
Google Analytics Referral Cookies Carved	2	1650
Internet Explorer 10-11 Content	254	1651-1712
Internet Explorer 10-11 Main History	2	1713
Pornography URL's	13	1714-1716
Flash Cookies	3	1717-1718
Google Analytics First Visit Cookies Carved	1	1719

Google Analytics Referral Cookies Carved	1	1720
Internet Explorer 10-11 Content	226	1721-1785
Internet Explorer 10-11 Cookies	3	1786
Internet Explorer 10-11 Daily/Weekly History	3	1787
Internet Explorer 10-11 Main History	1	1788
Pornography URL's	98	1789-809

Chrome Sync Data	6	1810-1812
Chrome Web History	2	1813
Chrome Web Visits	2	1814
Pornography URL's	4	1815

Dating Site URL's (Adult)	22	1816-1821
Internet Explorer Cache Records	16	1822-1826
Pornography URL's	22	1827-1831

Google Maps	3	1832-1833
Google Toolbar	2	1834
Internet Explorer Cache Records	2	1835
Internet Explorer Privacy Records	3	1836
Pictures	58	1837-1866
Rebuilt Webpages		1867-1891
Google Searches	50	1892-1909

Internet Explorer In Private / Recovery URL's	5	1910-1911
Internet Explorer Cookie Records	1	1912
Web Chat URL's (Adult)	2	1913
Google Searches	5	1914-1916
Dating Sites URL's (Adult)	4	1917-1918
Internet Explorer Cache Records	1	919
Internet Explorer Privacy Records	22	1924-1924
Internet Explorer Redirect Records	3	1925
Pornography URL's	26	1926

Internet Explorer PrivacIE Records	59	1932-1944
Pornogrphay URL's	57	1945-1956

Google Toolbar	1	1957-1958
Internet Explorer In Private / Recovery URL's	2	1959
Internet Explorer Redirect Records	1	1960
Pictures	3	1961-1962
Pornography URL's	2	1963
Web Chat URL's	1	1964

Google Analytics First Visit Cookie Carved	1	1965-1966
Google Analytics First Visit Cookies	1	1967
Google Analytics Referral Cookies Carved	2	1968
Google Analytics Referral Cookies	2	1969
Google Analystics Session Cookies Carved	1	1970
Google Analystics Session Cookies	1	1971
Google Toolbar	4	1972
Internet Explorer Cache Records	19	1973-1981
Internet Explorer Cookie Records	2	1982
Internet Explorer Cookies	3	1983
Internet Explorer PrivacIE Records	29	1984-1989
Internet Explorer Redirect Records	16	1990-1992
Pictures	3	1993-1994
Pornography URL's	1	1995
Rebuilt Webpages		1996-2016
Google Searches	4	2019-2019

**Unallocated (No user can be attributed)**

Flash Cookies	2	2020-2021
Google Analytics Referral Cookie Carved	2	2022
Internet Explorer 10-11 Content	54	2023-2080
Pictures	4	2081
Pornography URL's	13	2082-2084
Carved Video	1	2085-2086
Pictures	59	2087-2101

For those whom have a large number of records categorized as Pictures, Carved Video, Pornography URL's including swinger and hookup sites where two people are looking for sex, it would be hard to attribute those sites to an accidental user action. Especially, for those whom have searched Google using pornography terms it would be impossible to attribute that to accidentally visited. For example, Mr. [REDACTED] searched Google for the following:

adultporn	Ebony Pornhub	Lesbian Anal Sex	Moms On Pornhub Creampie	Sleeping Anal Sex
miggettsex	Female Midget Sex	Lesbian Sex	Most Painful Anal	Stockings Anal Sex
Accidental Anal Sex	First Time Anal Sex	Mature Anal	Most Painful Anal Ever	Stripper Sex
Amateur Anal Sex	Forced Anal Sex	Midget Anal	Nerdy Girl Sex	Surprise Anal
Anal Creampie	Forced Anal While Crying	Midget Anal Porn	Oops Anal Sex	Surprise Butt Sex
anal sex	Forced Lesbian Anal Sex	Midget Anal Sex	Painful Anal Sex	Tall Amazon Girl Sex
Anal Sex Positions	Forced to Have Anal Sex	Midget Fucking	pornhub	Unexpected Anal Sex
Anal Sex Pressure Points	Free Porn	Midget Fucking	Pornhub Blowjob	Unwanted Anal Sex
Anal Sex Squirt	Fuck That Midget	Midget Gets Anal	Pornhub Good Times TV Show	Vaginal-Sex
Anal Virgin	Gay Anal Sex	Midget Girl Sex	Pornhub Granny Gangbang	Violent Forced Sex
Animal Sex	Gay Midget Sex	Midget Lesbian Sex	Pornhub Mom Son	Virgin Anal Sex
Asian Anal Sex	Gay Midget Sex	Midget Porn	Pornhub Mom Son Classic	Wife Forced Anal Sex
Black Anal Sex	Gay Midget Sex	Midget Pussy	Pornhub Sister	Wife Forced to Have Sex
Black Midget Sex	Gay Midget Sex	midget sex	Pornhub Sister Brother	Wifey Anal Sex
Bridget The Midget Anal	Granny Anal	Midget Sex Tube	Pornhub Spring Break Bitch	Wrong Hole Anal
Bridget The Midget Does Anal	Her First Anal Sex	Midgets Doing Anal	Pornhub Squirt	Youporn Mom
Brutal Forced Anal	Her First Time Anal	Midgets Having Sex	Pornhub.Com Mature	
Brutal Forced Anal	Homemade Anal Sex	Mom Forced To Have Sex	Public Sex	
Brutal Forced Anal	Homemade Anal Sex	Mom Porn	Public Sex	
butt porn site:pornhub.com	Horse Sex	Mom Porno	Pussy	
College Sex	Hot Sex	Mom Sex	Retard Sex	
Dwarfs Having Sex	How to Have Anal Sex	Mom Sex	Reverse Cowgirl Anal Sex	
Ebony Church Sex	Incest Anal Sex	Mom Tits	Rough Anal Sex	
Ebony Midget Anal	Japanese Sex	Moms On Pornhub	Search Term	
Ebony Midget Sex	Large Cock Forced Anal	Moms On PornHub 3 Some	Sex With My Dog	

<Above Compiled from Attachment F - Bates 1525-1579>

## 8.0 Conclusion



Based on my review of the pleadings, investigative files, and direct examination of the hard drives my opinions are as follows:

1 Multiple fire fighters were viewing pornographic material on the fire stations on multiple occasion more than frequently

2. Defendant conducted an investigation conducted by MJW Consulting that consisted of interviewing fire fighters and many were not truthful as to their actions of visiting pornography websites while at the fire station. The report did not state that anyone examined the computers used by the fire fighters.

3. Rudy Maybell the IT Manager stated in a self-serving letter to Chief Agpawa that the defendants, in fact did “monitor[] and / or log[] network activity [], including and all web site communications,” and if the monitoring was taking place it would have been obvious that the male firefighters were viewing and searching pornographic material. It is simply not reasonable that if Defendant conducted any investigation.

4. If defendants would have simply looked in the user profile folder which is accessible and contains folders such as downloads and documents, they would have found evidence of pornography.

5. There is no evidence that Plaintiff was intentionally searching the internet for pornographic material.

## 11.0 Declaration

I declare under penalty and perjury under the laws of the State of Illinois that the information provided is true and correct.

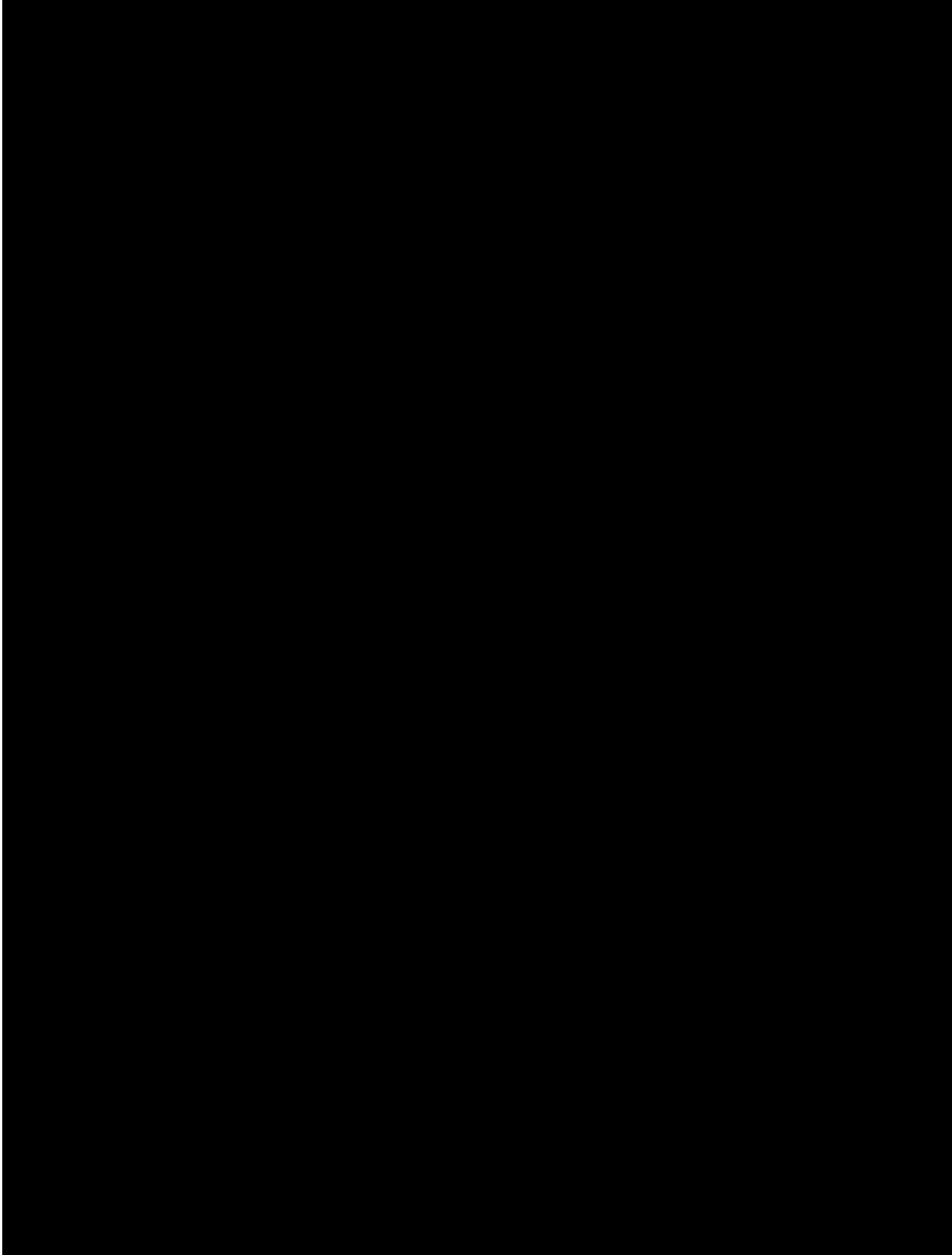


May 18, 2017

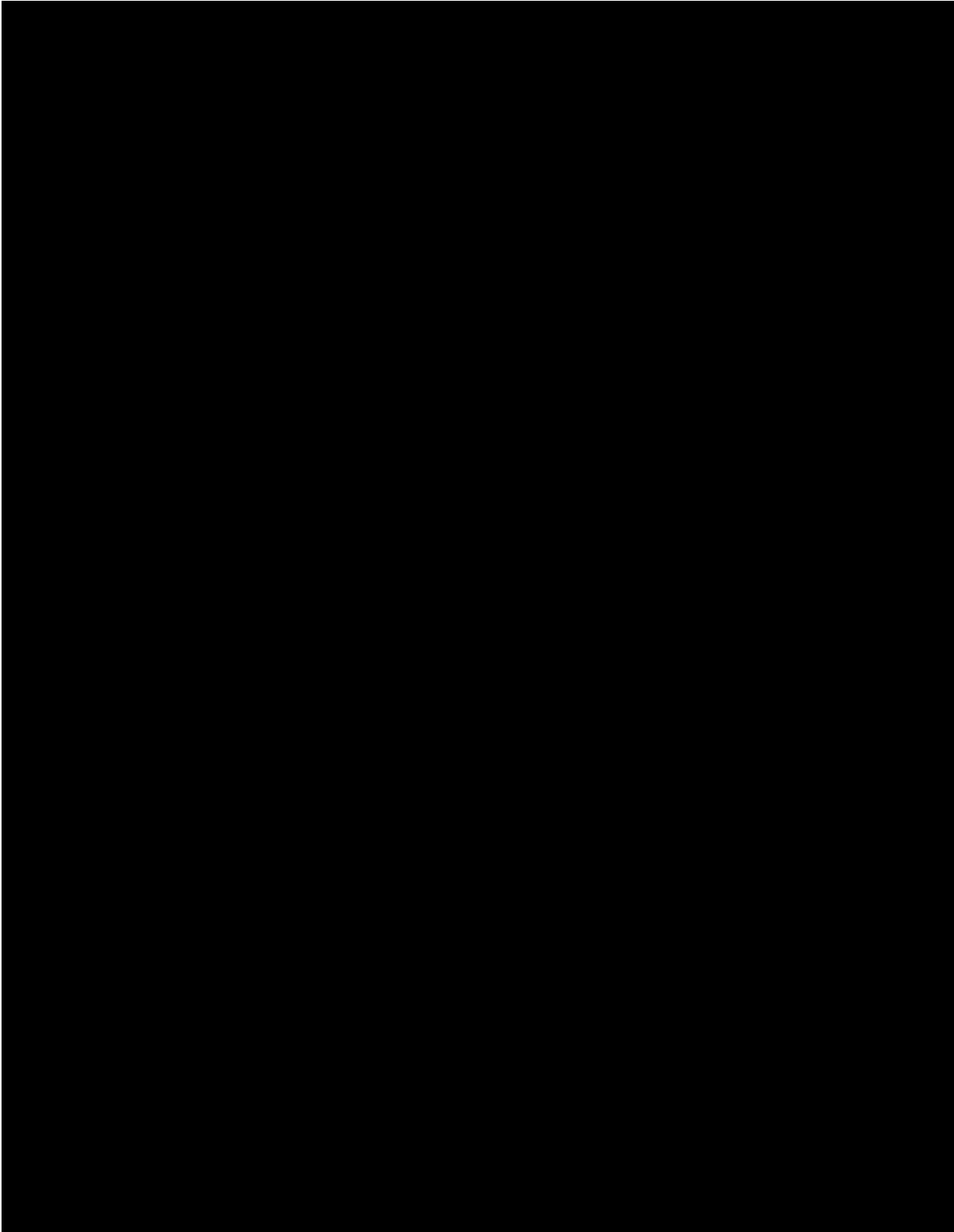
Date

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9/25/2017 11:15 AM  
2012-L-009916  
PAGE 20 of 151

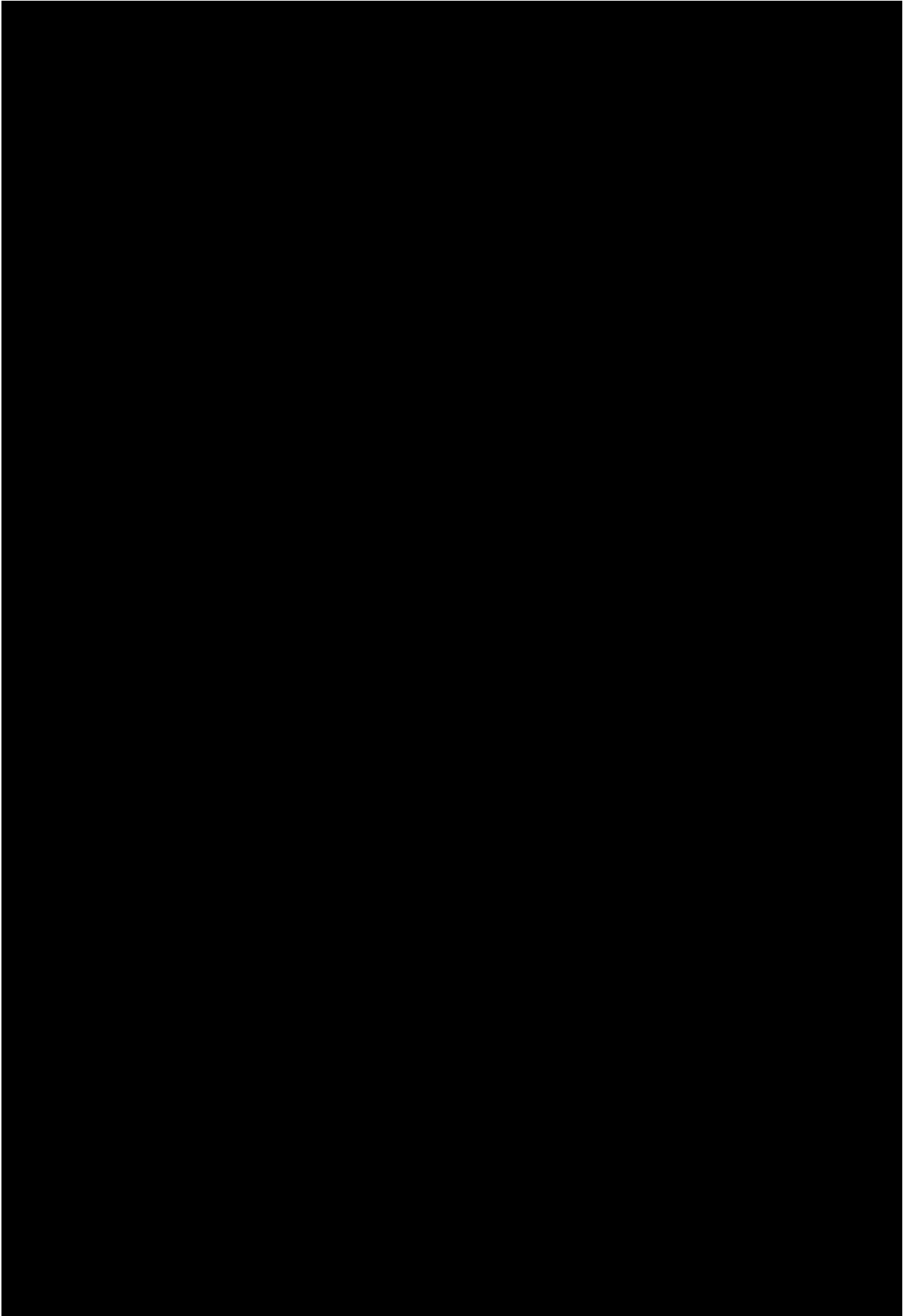
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9/25/2017 11:15 AM  
2012-L-009916  
PAGE 21 of 151



ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 22 of 151



ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 23 of 151



- *Magnet Forensics Key Challenges of Smartphone Acquisition & Analysis*
- *Magnet Forensics Artifacts and File Systems Integration with Magnet Axiom*
- *Guidance Software Cybersecurity and Analytics v5*
- *Guidance Software Advanced Internet Examinations*
- *Guidance Software Computer Forensics 1*
- *Guidance Software ENCE Prep*
- *Guidance Software Advanced Computer Forensics 2*
- *Guidance Software NTFS*
- *Guidance Software v7 Transition and Reporting*
- *Computer Enterprise and Investigation Conference (12 classes)*
- *Forensic Toolkit Bootcamp (AccessData)*
- *Internet Forensics (AccessData)*
- *Navy Information Systems Administration School (Naval Professional Development Center)*
- *Windows 2000 Advanced Server School (LRS)*
- *Cisco Certified Network Associate School (TechNow)*
- *MECP School (Mobile Dynamics)*
- *Chemical Biological and Radiological Defense School (1994)*
- *Certified Penetration Testing School (Mile2 Academy)*
- *Information Systems Technician School (Naval Education)*
- *Electronics Certificate (DAVC)*
- *Lincoln Land Community College (2001-2003)*
  - *AS Computer Science (LLCC)*
  - *Microsoft Office*
  - *AA*
- *University of Illinois Computer Science Program (2003-2005)*
  - *Java*
  - *Cobol*
  - *C++*
  - *System Design and Analysis*
- *RCC*
  - *Electronics AC/DC*
- *Cobol Training –Navy (1994)*
- *Aviation Electronics Technician (1994)*
- *A+ Core Hardware*
- *A+ OS Technology*
- *Windows NT 4.0*
- *Microsoft Network Essentials*
- *TCP/IP*
- *Windows NT Administration*
- *Investigating Child Exploitation Cases*

ELECTRONICALLY FILED  
9/25/2017 11:15 AM  
2012-L-009916  
PAGE 24 of 151



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9/25/2017 11:15 AM  
2017-09-25 11:15 AM  
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Plaintiff	Defendant	Case Identifier	Jurisdiction	State
US	Wanjiku	16CR296	ND	IL
Robinson	Calumet City	15CV06752	ND	IL
People	Felipe Sachez Amelines	15CT2530	Milwaukee	WI
Moretto	Tazewell Co	14CV1433	ND	IL
Luczak	Hall	15B25268	Cook	IL
Kazort	ADP	15L315	Winnebago	IL
Edwards	Pekin Hospital	16L76	Peoria	IL
Daglas	Illinois State Treasurers Office	15L6702		
Coxwell	John Doe	NA	Jacksonville	FL
Macon County, Saint Clair Co	Trinity Industries	14CV1320	Macon	IL
District of LA	Deep Water Horizon	10CV1351	East District	LA
US	Ames	16CR378	ND	IL
State of Florida	Daniel Licitra	16CF2199A	Gainesville	FL
US	Alcala	13GMS78		
Watchfire	Lightking	16CV2176	Cook	IL
Wojtowicz	Growth Equity Group	16CV4260	ND	IL
Haro	Blue Island	14L13012	Cook	IL
Hardison	Claireborne	15L10721	Cook	IL
Fritz	Donnewald Distributing	14L1384	Madison	IL
Lewis	Country Club Hills	12L9916	Cook	IL
Daglas	Treasurer Dan Rutherford	15L6702	Cook	IL
People	Janusz	14CF112	Dekalb	IL
Berger	Perry's Steak	14C8543	ND	IL
Wisconsin	Verma	15CF4702	Milwaukee	WI
Wisconsin	Altruether	16CM518	Milwaukee	WI
People	Saks	16CR3396	Cook	IL
People	Tucker	13CF1987	Winnebago	IL
People	DS Container	15L308	Kane	IL
People	Nieves	15CR134	ND	IL
Riggs Partners	Timyan	12L3078	Cook	IL
Edwards	Joliff-Blake	13CV4558	ND	IL
DMP	Termini	16CH035	DUPAGE	IL
Shah	Rodino	13CV103	ND	IN
Macon County	Trinity	14CV1320	SD	IL
Kleweg	BANA	-	ND	IL
Horton	City of Chicago	13CV6865	ND	IL
Cherokee	Hambach	15CV709	SD	IL
Davis	City of Chicago	15L4799	ND	IL
Pharr	Harris (Dekalb County Jail)	15CV1362	Dekalb	AL
People	Monteleone	13CF1891	Kane	IL
Malibu	Kim	15CV162	ED Virginia	VA
Martinez	Manigel	12L99	Dekalb	IL
Jones	Jones	2014D000514	Macon	IL
JD	Cary Community School	ISBE2016-11	Springfield	IL
US	Simpson	NA	Jacksonville	FL
US	Jett	NA	Nashville	TN
Warren	Kendall County	NA	Kendall	IL
People	Vazh	14CF1002	Dupage	IL
People	Janusz	14CF0000	Dekalb	IL
Alpha	Roche Diagnostics	15CV04416	ND	IL
Albino	Global Box	14CV06519	WD	NY
Lacy	Progressive Insurance	50CV50110	ND	IL
People	Barron			
People	Pimintel		Lake County	IL

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People	Wheeler	14CF249	Franklin	IL
Scion Dental	State of Illinois		Sangamon	IL
Doe	Elm Street Grill	2015-L-96	Macon	IL
Vantage Group	Nicole Hummer	14L79	Dekalb	IL
Pyles	Village of Manteno	14MPMDGB	SD	IL
People	JoJo Vazh	14CF1002	ND	IL
Frimel	Caetano	13OP566	Champaign	IL
Hernan Barron	City of Chicago	13CV7772	ND	IL
Falcon Express	James Hesse	14L9634	Cook	IL
Jaime Martinez	Regent Insurance Company & Country Kitchen	12CV124	Iowa City	IL
Sage Information Systems	Various Counties	FOIA01	Various	IL
Daniel Martinez	City of Chicago (PD)	14CV369	Cook	IL
Rene Alfaro	St. Margaret's Hospital	13L29	Bureau	IL
Emma Gurevich	Vadim Edelstein MD	12L1468	Cook	IL
David Smith	Sheriff Rick Harris, James Whitman	14CV723	Winston	AL
Billy Shikles	Sheriff Rick Harris, James Whitman	14CV363	Winston	AL
Roger Gravitt	Sheriff Rick Harris, James Whitman	14CV683	Winston	AL
Joshua Kizzire	Sheriff Rick Harris, James Whitman	14CV172	Winston	AL
Derrick Kelly	Sheriff Rick Harris, James Whitman	14CV697	Winston	AL
Johnny Jones	Sheriff Rick Harris, James Whitman	14CV446	Winston	AL
Scotty Gosa	Sheriff Rick Harris, James Whitman	14CV642	Winston	AL
Nathan Chambers	Sheriff Rick Harris, James Whitman	14CV316	Winston	AL
Daniel Busby	Sheriff Rick Harris, James Whitman	14CV1078	Winston	AL
Cody Ballard	Sheriff Rick Harris, James Whitman	14CV1059	Winston	AL
Alisha Gravitt	Sheriff Rick Harris, James Whitman	14CV625	Winston	AL
Francesca Luczak	Mary Ann Hall	12CH5066	Dupage	IL
People	Hantel	2014CF804	Will	IL
Decatur Coin	Decatur Jewelry	Unassigned	Macon	IL
People	David Pon	14CR75	Jacksonville	FL
People	Wemer	FECR009114	Wapello	IA
McCall	Houston County	11CV559	Dothan	AL
Islamic Foundation	Inam Rahim	2011CH3542	Dupage	IL
Islamic Foundation	Inam Rahim	2012CF820	Dupage	IL
Carla Minor	Blue Mound Fire Department	22L72	Macon	IL
FE Moran	Brad Thomas	Unassigned	Macon	IL
Richard E Haley	William Smith, Thomas Pipkin, Aaron Conard	14CV3055	Springfield	IL
Johnson	Country Mutual Insurance	122-0048608	Peoria	IL
HSHS	Decatur Memorial Hospital	12MR826	Macon	IL
State of Illinois	Michael Rydell	13CF201	Dekalb	IL
Patricia Hughes	Kevin Hughes	13SC2141	Macon	IL
LMC Industrial	Steven Coppenbarger	06CH57	Macon	IL
State of Illinois	Harry Underwood	08CF1110	Macon	IL
Huston Patterson	Steven J Osseck	04CH53	Macon	IL
Huston Patterson	Packaging Expressions	04CH13	Macon	IL
State of Illinois	Steven Battles	11CF117	Sangamon	IL
Kelly Grossman	Christopher Grossman	07D288	Macon	IL
Derya Madler	Jason Madler	06D277	Macon	IL
State of Illinois	Christopher Vaughn	07CF1308	Will	IL
Waggoner	Figgins	Unassigned	Decatur	IL
Fidlar	First American Data Tree	12-4099	Rock Island	IL
Paul Carlock	Sangamon County Sheriff	08CV3075	Sangamon	IL
Maurice Burris	Stephen Cullinan	09CV3116	Sangamon	IL
State of Missouri	Larry Mertz	11CR6025	St. Charles	MO
Burns	Neil Williamson	11CV3020	Springfield	IL
State of Illinois	Theresa Shaulat	10CM6849	Saint Louis	MO
William Hampe	Julie Hamos Healthcare and Family Services	10C3121	Sangamon	IL
Huston Patterson	Rich Fifield	06L90	Macon	IL



All other cases are under seal  
by the DOJ/DOD requirements

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9/25/2017 11:15 AM  
2012-L-009916  
PAGE 27 of 151

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**Private & Confidential**  
**Misuse of Company TV Cable**  
**Investigation**

ELECTRONICALLY FILED  
9/15/2018 8:06:24AM  
2012-L-009916  
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October 7, 2015

# CONFIDENTIAL

## Contents

1. **Introduction**
2. **Methodology**
3. **Summary of Employee Statements,**
  - **Carl Pycz**
  - **Glenn McAuliff**
  - **Michael Kilburg**
  - **Raymond Bernadisius**
  - **Michelle Hullinger**
  - **Derek Dangoy**
  - **Nicholas Jula**
  - **Lawrence Gillespi**
4. **Overall Summary/Conclusion**
5. **Recommendations**
6. **Appendix**

ELECTRONICALLY FILED  
9/15/2013 8:06:24 AM  
2012-L-009916  
PAGE 20 of 48

# CONFIDENTIAL

## 1. Introduction

Under The City of Country Club Hills Harassment policy and the notification of possible inappropriate behavior of employees watching Porn during working hours at the Fire house, an investigation was conducted as is required for any formal or informal complaints and or allegations of Harassment.

## 2. Methodology

- As part of The City of Country Club Hills procedures for conducting potential workplace misconduct and harassment investigations, a Human Resources Professional was called upon to (i.e., interview employees to determine the facts with a written summary report). A representative from leadership and Bargaining Unit Representative, were also present in all the investigatory interviews if requested by employee.

Investigator:	Marion J. Williams, CHRP
Representative from Management:	Roger Agpawa, Fire Chief
Representative from Bargaining Unit:	Michael Kilburg, Union Rep

- All interviews for the investigation were conducted in the Country Club Hills Police Department conference room between the 4th and 18th of September.
- All interviews were conducted in a private room to ensure privacy and confidentiality.
- All interviewees had union representation except the following employees:
  - Michael Kilburg ( Union Rep)
  - Lawrence Gillespi
  - Nicholas Jula
- Investigation Memo for Misuse of Cable TV and Internet Services was obtained and reviewed.
- Company Policy on Harassment, Including Sexual Harassment was obtained and reviewed.
- City of Country Club Hills Ordinance NO.OA-02-03 was obtained and reviewed.
- All notes taken during the interviews are all attached

ELECTRONICALLY FILED  
 9/15/2013 8:06:21 AM  
 2012-L-009916  
 PAGE 31 of 48

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- Confidentiality was stressed to all interviewees at the interview
- Managers receiving the report are now reminded of the confidential nature of this report. Please ensure that the information included is not discussed with anyone other than those who need to know.

### 3. Summary of Employee Statement made by, Carl Pycz

Mr. Pycz was interviewed on September 4, 2015. Mr. Pycz did request to have a Union Representative present during the interview, therefore Mr. Kilburg ( Union Representative) was present. Mr. Pycz stated that he was a Lieutenant/Paramedic with the City of Country Club Hills for 9 years 6 months. Mr. Pycz started he was hired as a Part-time employee and was promoted to full-time after being an employee for 6 months. Mr. Pycz was asked if he had any knowledge of employees watching Porn while at the Fire House; he stated that he had no knowledge of any employee participating in the behavior of watching Porn while at the Fire House." Mr. Pycz was asked to describe Porn in his own words that would describe the behaviors of Porn. He responded by saying he would define Porn as "Penetration between a Male & Female". He was asked if he had witness any Porn being viewed in the Fire House, he responded by saying, "According to my definition, I have never seen Porn in the Fire House".

Finally, Mr. Pycz was then asked if he was aware if The City of Country Club Hills had a Sexual Harassment/Hostile Work Environment Policy. Mr. Pycz responded by saying, "yes". I asked when he was introduced to the policy and he responded, " When I was hired, when I first started".

### Summary of Employee Statement made by, Glenn Mc Auliff

Mr. McAuliff was interviewed on September 4, 2015. Mr. McAuliff did request to have a Union Representative present during the interview, therefore Mr. Kilburg (Union Representative) was present. Mr. McAuliff stated that he was a Lieutenant/ Paramedic/Shift Commander on the Black shift at Station 1. Mr. McAuliff has been with the City of Country Club Hills since 2002. Mr. McAuliff was asked if he had any knowledge of employees participating in the behavior of watching Porn while at the Fire House? Mr. McAuliff stated "Yes". Mr. McAuliff stated" about three (3) year ago he saw a Porn image on the desk top of another employees computer. He was asked if he could tell me who that was and he stated, a past employee by the name of Brendan Baldwin, who is no longer with The City of Country Club Hills. Mr. McAuliff was then asked where did this take place, he responded by stating "in the Library/Meeting Room." He stated that he remembered that it took place around 6:45pm. He was asked where he thought employees were getting access to Porn, he answered "he assumed through the internet because we don't have cable channels anymore. Mr.

ELECTRONICALLY FILED  
 9/15/2015 8:06:21 AM  
 2012-L-009916  
 PAGE 312 of 438

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McAuliff was asked to describe Porn in his own words, he described it as "Penetration of sex with any person, in the matter of sex"

Mr. McAuliff was then asked what was his reaction when he witnessed Porn in the Fire House? He stated " at first I laughed of disbelief, but then I had to put my Lieutenant hat on and become the boss" . He stated that he wrote the employee up who placed the Porn image on another employees computer, he also stated that he asked that employee to go and make peace. I asked who the employee was that he was referring to, " he stated Norman Boyd". Mr. McAuliff was asked if he was aware of any employee that may have complained of other employees watching Porn? He stated, " No, not outside of my original situation with Mr. Boyd". Mr. McAuliff also stated, " that he was only aware of this incident and it had been reported to leadership as being unwelcome."

Mr. McAuliff was then asked if he was aware of The City of Country Club Hills haing a Sexual Harassment/Hostile Work Environment Policy. Mr. McAuliff responded by saying, "yes". I asked when he was introduced to the policy and he responded, " When I was hired, when I first started".

Finally, Mr. McAuliff was asked if there was anything else that he would like to add that could be helpful to the investigation. Mr. McAuliff responded by adding "the Fire Chief has taken proactive measures by eliminating the Cable channels(HMO, Cinemax, Showtime), and workforce training was instituted. He stated that more could be done to improve the security on computers. He stated that he understands that some things need to wait because of budget concerns.

**Summary of Employee Statement made by, Michael Kilburg**

Mr. Kilburg was interviewed on September 4, 2015. Mr. Kilburg chose not to have a Union Representative present during his interview. Mr. Kilburg stated that he was a Lieutenant/ Paramedic/Shift Officer at Station 2. Mr. Kilburg stated that he has been with the City of Country Club Hills for 34 years, with 26 of them being as a career Firefighter. Mr. Kilburg was asked if he had any knowledge of employees participating in the behavior of watching Porn while at the Fire House. Mr. Kilburg stated "No, not in the past 25 years, maybe I might have seen something in the mid 80's". Mr. Kilburg stated " years ago, back in the 80's it would have taken place in the old Fire House, in the day room, at night." Mr. Kilburg stated that employees were able to gain access via TV, videos, and on Cable TV stations.

Mr. Kilburg stated that he was very young, a Cadet, when he observed Porn while in the Fire house during that time" Mr. Kilburg shared that a lot of changes have taken place since that time in a positive way.

ELECTRONICALLY FILED  
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PAGE 323 of 488

**CONFIDENTIAL**

Mr. Kilburg described Porn as "explicit sexuality that shows graphic sexual acts." He also stated that when he did observe the Porn, several years ago, his reaction to it was "boy-look at that." He had no knowledge of any employee that had complained of other employees watching Porn.

Finally, Mr. Kilburg stated that he was aware of The City of Country Club Hills having a Sexual Harassment/Hostile Working Environment policy that was introduced to him in a training class sometime in 1998, 2002 and recently on-line training in 2015. Mr. Kilburg was asked if he had anything else that he wanted to share that he would like to add that could be helpful in the investigation. He stated, " I don't see this as a problem in our Fire house."

**Summary of Employee Statement made by, Raymond Bernadisius**

Mr. Bernadisius was interviewed on September 10, 2015. Mr. Bernadisius stated that he was a Lieutenant/Shift Commander on the Black Shift/ at Station 2. Mr. Bernadisius stated that he has been with the City of Country Club Hills for 26 years, with 3 years being Part-time and 23 of them being as a career Firefighter.

Mr. Bernadisius stated that he had no knowledge of employees participating in the behavior of watching Porn while at the fire house. He stated that he could not provide any information regarding any programs or channels where employees could watch Porn while at the Fire House. Mr. Bernadisius was ask to describe what he would consider Porn, he responded by saying, "I have no comment, I have no opinion of it." Mr. Bernadisius stated that he had not witnesses Porn being viewed in the Fire House and that he had no knowledge of any employees that may have complained of other employees watching Porn or reporting any concerns to leadership.

Finally, Mr. Bernadisius did state that he was aware that The City of Country Club Hills did have a Sexual Harassment/Hostile Working Environment Policy in place and that he was probably introduce to the Policy when he received the Employee Handbook. Mr. Bernadisius ended by stating that he did not have any additional information that he felt would be helpful.

**Summary of Employee Statement by, Ms. Michelle Hullinger**

Ms. Hullinger was interviewed on September 10, 2015. Ms. Hullinger stated that she was a Lieutenant/Chief of Scheduling/Overseeing of Part-time Programs/VP of Local 2720 (Professional Union of Firefighters) and supports the Paramedic Program. Ms. Hullinger has been with the City of Country Club Hills since 2003. She stated that she started as a Part-time employee and after a year became full-time in 2004.

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2012-L-009916  
PAGE 324 of 438

**CONFIDENTIAL**

Ms. Hullinger stated that she was not aware of any employees participating in the behavior of watching Porn while at the Fire House. She was asked if she could provide information on where and what channels that an employee could get access to watching Porn, Ms. Hullinger replied "No".

Ms. Hullinger was asked to describe what she would consider to be Porn and her response was, " Visual penetration between a man and women, women and women, or man and man. Programs that are XXX Rated, Hard Core or Tripple X Rated. She stated that she had not witness any Porn being watched in the Fire House and had no knowledge of any employee complaining of other employees watching Porn or reporting any behavior of such to leadership.

Ms. Hullinger stated that she was aware of The City of Country Club Hills having a Sexual Harassment/Hostile Working Environment Policy that she was introduced to when she was hire.

In final, Ms. Hullinger did recommend that I speak with Mr. Nick Jula. She stated that Mr. Jula might know of a Shift Commander that might have put a nudity picture up. Ms. Hullinger was ask if she had anything more to add and she responded, by saying "No."

**Summary of Employee Statement by, Mr. Derek Dangoy**

Mr. Dangoy was interviewed on September 10, 2015. Mr. Dangoy stated that he was a Lieutenant/Shift Supervisor/Paramedic. Mr. Dangoy has been with the City of Country Club Hills since 1999. He stated that he started as a Part-time employee and after three years became a full-time career Firefighter.

Mr. Dangoy was asked if he was aware of any employees participating in the behavior of watching Porn while at the Fire House. Mr. Dangoy stated that he had watched Porn while at the Fire House. He stated that on occasions he would be watching a regular show on Cinemax, fall asleep and wake up to sounds of groaning. Mr. Dangoy described it as soft Porn. He would continue to watch in efforts of identifying what it was, then he would turn it off. Mr. Dangoy, stated he would then fall back to sleep.

Mr. Dangoy stated that it would take place in his sleeping quarters, or his private office. Mr. Dangoy stated that the time of day that this would take place would probably be around 2am in the morning, is his best guess. He stated that he was able to access Porn through the Cinemax Cable channel which is no longer available. He stated that Cinemax had the heavy hitters .

Mr. Dangoy was asked to describe what he would consider to be Porn, his response was that he felt it would be a range between Nudity to Penetration.

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2012-L-009916  
PAGE 35 of 48



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Nudity where it's implied sex, but Porn to be penetration, masturbation, gratification and hardcore sex. Somewhere in the middle to be soft Porn.

Mr. Dangoy stated that when he witnessed Porn he was surprised that it was playing on the TV because when he fell asleep he was watching a movie. He stated that he **had no** knowledge of any employees complaining of employees watching Porn or reporting any concerns to leadership.

Mr. Dangoy did state that he was aware of The City of Country Club Hills having a Sexual Harassment/Hostile Work Environment Policy that he was introduced to when he was hired. He could not recommend any other employees that he felt may be able to add additional relevant information

**Summary of Employee statement by, Mr. Nicholas Jula:**

Mr. Jula was interviewed on September 14, 2015 based on the recommendation from Ms. Hullinger. Mr. Jula stated that he was a Engineer/Paramedic/Training Coordinator. Mr. Jula has been with the City of Country Club Hills since 2005. He stated that he started as a Part-time employee then became a full-time career Firefighter in February 2007.

Mr. Jula was asked if he was aware of employees participating in the behavior of watching Porn while at the Fire house. He responded by saying "Yes". He stated that back in 2005 he was asked by Deena Lewis, an employee, "to sit down and watch something on TV, which looked to be Porn." I asked if anyone else was present during that conversation, and he replied "yes", an employee by the name of Ryan. He stated that he decline to watch, but that he was ordered to sit down by Deena Lewis."

Mr. Jula stated that this all took place in the day room of the Fire House. He also added that it took place in the late-evening between 9-10pm, around the time that he was getting ready for bed. He was asked how he thought employees were getting access to Porn and he replied, "that I'm not sure of. It could be DVD, they could bring it in, or purchase it through cable TV."

Mr. Jula could not provide me with channels or program names that may have Porn because he mentioned that the TV's are now locked out of cable channels. He stated that to his knowledge, "Porn channels had always been locked out."

Mr. Jula was asked to describe what he considered to be Porn, he replied "I don't consider Nudity Porn; you would need to see penetration between a woman and woman, women and man, or a man and man. "It can't just be presumed behaviors, genitals must be seen."

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2012-L-009916  
PAGE 35 of 48

**CONFIDENTIAL**

Mr. Jula stated that when he was ordered to sit down that made him uncomfortable, he indicated that he originally declined but Deena Lewis ordered him to sit down. He indicated that he did not report the incident because there were other incidents that happened where Deena Lewis threaten his job, so he decided not to report her.

Mr. Jula added that there were other employees that did complain of employees watching Porn in the Fire House. I asked him to give me details about it. Mr. Jula indicated that he was aware of an incident where an employee had a Porn photo on his computer. The employee was asked to remove the photo immediately and the employee who placed the phot on the computer was terminated about 3-4 years ago. Mr. Jula didn't know all the details of the incident or conversations related to the incident because he had been out on a call, but when he returned this incident had taken place.

In final, Mr. Jula began to state that it was very hard to work around or even with Ms. Lewis because she would give him threats. Mr. Jula was asked to describe what he meant in more detail. He stated that Ms. Lewis had said she would "punch him in his face", "she put a police officer in the hospital", "she told me that she would make my life miserable", "she told me that she didn't like my face", "she told me that it would be in my best interest to keep my mouth shut", "she would come into work drunk", "she even would have relations with her boyfriend in one of the bedrooms in the fire house." Mr. Jula was asked when all of this took place and he responded between 2006-2008. Mr. Jula mentioned that he had put all of this on record with the City Attorney a couple of weeks ago.

Mr. Jula was asked if he had anymore that he wanted to add to assist with the investigation and he replied no.

**Summary of Employee statement by, Lawrence Gillespi**

Mr. Gillespi was interviewed on September 18, 2015. Mr. Gillespi stated that he was a Firefighter/Paramedic/Training Assistant. Mr. Gillespi stated that because of his tenure with the City of Country Club Hills the employees consider him to be the go to person. Mr. Gillespi stated that he has been with the City of Country Club Hills for eleven (11) years. He stated that he started as a Part-time employee and today is still considered to be part-time. He's interested in studying nursing someday.

Mr. Gillespi was asked if he was aware of employees participating in the behavior of watching Porn while at the Fire House and his response was "Yes, once in a while." He stated that he has seen role playing on TV, but not penetration. Mr. Gillespi stated that he would see it on the TV in the dayroom of the fire house. You could be watching a regular TV program, then an emergency call comes into the Fire House. When they would return on occasions, a Porn program could be

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2012-L-009916  
PAGE 37 of 48

**CONFIDENTIAL**

on the TV at that time. Mr. Gillespi indicated that this would happen after hours, usually in the evenings.

Mr. Gillespi stated that most of the employees could get access to these programs just by flipping through the cable channels which are now no longer available. Some of the names that he was able to give were, "Adult channels, in the 500 series channels."

I asked Mr. Gillespi to describe what he considered Porn behavior to be and he stated that "where you see penetration and sometime where you don't." He stated that when he would see Porn on TV his reaction would be "Oh shit". He stated that this would normally happen when they would be watching a movie on TV then get called out on a call, they would return and there it would be.

Mr. Gillespi was asked if he was aware of any employees that may have complained of employees watching Porn while at the Fire House and his response was that "we goof around with each other, no one has ever come to me about it, but if an employee would make a comment about it they would turn it off." Mr. Gillespi stated that he had no knowledge of anyone complaining to leadership that the behavior was unwelcome.

In final, Mr. Gillespi was asked if he was aware if The City of Country Club Hills had a Sexual Harassment/Hostile Work Environment Policy and he stated "Yes". He stated that he was introduced to the policy when he was first employed. He stated that the policy is revisited "On and Off".

Mr. Gillespi did not have any other persons that he felt may have relevant information for me to speak with nor did he have anything else to add.

**4. Overall Summary/Conclusion**

Taking all the facts into account, there is no evidence that watching Porn while at the Fire House is a wide spread problem or a current concern for employees. Based on the interviews and leadership, the Fire House no longer has access to TV cable channels. This is an excellent proactive way to address having access to possible inappropriate programs while at the Fire House.

In addition,

Mr. Kilburg stated that he remembered employees watching explicit scenes back in the mid 80's, but it does not seem to be a problem at this time.

Mr. McAuliff stated that he had only seen a sexual image on another employee's computer, and since that time that employee has been terminate.

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2012-L-009916  
PAGE 378 of 438

**CONFIDENTIAL**

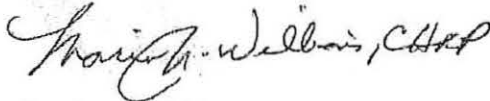
Mr. Dangoy, did admit to watching Porn, but in the his privacy of his office on occasions.

Mr. Jula, stated that he was forced to watch Porn with an employee by the name of Deena Lewis and he did feel uncomfortable and the behavior was unwelcome. I recommend that Mr. Jula complete a written statement addressing any and all incidents so that this doesn't happen again. Since Mr. Jula stated that the incidents happened several years ago, between 2005-2008, I recommend that leadership have a strong conversation with Ms. Lewis and emphasize any future complaints could lead up to disciplinary action up to and including termination.

Mr. Gillespi stated that on occasions when they would be watching a movie then get called out on an emergency they would return to the Fire House finding explicit scenes on the TV.

**5. Recommendation**

Taking all the interviews into account, I recommend that the City of Country Club Hills Fire Department provide a Sexual Harassment/Hostile Work Environment Training Session that requires all employees to attend. In addition, I recommend that The City of Country Club Hills continue to not provide access to Cable TV channels in any of the Fire Houses and to implement security measures on all computers that will not allow employees to gain access to inappropriate programs via the internet.

Name: Marion J. Williams, CHRP  
Title: Human Resources Consultant  
Signature:   
Date: October 7, 2015

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2012-L-009916  
PAGE 38 of 48

**CONFIDENTIAL**

**6. Appendix:**

Employee Statements  
Letter to All Employees regarding Misuse of Cable TV and Internet Services  
Applicable Employee Policy

ELECTRONICALLY FILED  
9/15/2018 8:06:24 AM  
2012-L-009916  
PAGE 30 of 48

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September 11, 2015

The City regularly monitors and /or logs network activity with or without notice, including e-mail and all web site communications, and therefore, users should have no reasonable expectation of privacy in the use of these resources.

The following information reflects the Fire Department Internet and Software Audit started on 8/28-2015 and completed on 9/10/2015. (See Attached)

Review of inventoried equipment disclosed no irregularities or misuse of City equipment and policies based on our Country Club Hills Handbook of personnel, policies and procedures page 88 under {Acceptable Use of Technology Policy}.

If deeper forensic type hard drive discovery is required, we refer WTM Werosh Technology Management, located in Oak Forest, IL. As a vendor who can perform those services.

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PAGE 40

## Internet Usage Software Audit

## Department: Fire station 1

Model	PC Serial #	Location	Date	Results	Comments
HP probook	2CE3520QJX	Dept. Chief Office	8/28/2015	Compliant	
Dell Latitude E5600		Fire Chiefs Office	8/28/2015	Compliant	
HP Pro 3500	MXL426HVP	EMS room	8/28/2015	Compliant	
Apple Ipad	DN6G1MBODFW	Day room	8/28/2015	Compliant	
Samsung Tablet	SM T530DNU	Day room	8/28/2015	Compliant	
HP Probook 4530S	CNU1332YBP	Admin Sec. Office	8/28/2015	Compliant	
Dell Latitude E5600	9167218848	Training Room	8/28/2015	Compliant	
HP Compac Pro 6300	MXL2510MMK	Engineers Office	8/28/2015	Compliant	
HP Probook 450G1	2CE541503TR	Lieutenants Rm	8/28/2015	Compliant	
1172-GTAC		Ambulance	9/10/2015	Compliant	
1171-GTAC		Ambulance	9/10/2015	Compliant	
1145 Panasonic CF-31		Fire engine	9/10/2015	Compliant	

## Department: Fire station 2

Model	PC Serial #	Location	Date	Results	Comments
HP Probook	CNU9456KFQ	Lieutenants Rm	8/28/2015	Compliant	
HP Probook 4540	2CE3020KJK	Lieutenants Rm	8/28/2015	Compliant	
HP Pro 6300	MXL2510MM0	Open area	8/28/2015	Compliant	
Pentium E5400	P27C562930-007	Conference Rm	8/28/2015	Compliant	
Samsung SM-T530NU	K0T49H	Day room	8/28/2015	Compliant	
Apple Ipad	DN6G1F5ADFW	Conference Rm	8/28/2015	Compliant	
1171-GTAC		Ambulance	9/10/2015	Compliant	
1120 Panasonic CF-31		Fire engine	9/10/2015	Compliant	

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