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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF KANSAS**

11 GRETA SEMSROTH, KIM WAREHIME,) Case No.:__ 04-1245-MLB
12 SARA VOYLES, and HEATHER PLUSH on)
13 behalf of themselves and all others similarly) FIRST AMENDED COMPLAINT-CLASS
14 situated,) ACTION FOR CIVIL RIGHTS
15) VIOLATIONS
16)
17 Plaintiffs,)
18)
19 vs.)
20)
21 CITY OF WICHITA, and CHIEF NORMAN)
22 WILLIAMS individually and in his official)
23 capacity,)
24)
25 Defendants.)
26)

27 **FIRST AMENDED CLASS ACTION COMPLAINT**

28 COMES NOW, Greta Semsroth, Kim Warehime, Sara Voyles, and Heather Plush,
29 Plaintiffs, individually and on behalf of all similarly situated individuals and in support of
30 their causes of action against Defendants, states and alleges as follows:
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1 **I. PRELIMINARY STATEMENT**

2 1. Plaintiffs file this Amended Complaint against defendants individually and on
3 behalf of all females similarly situated, seeking relief from systematic unlawful employment
4 practices by The City of Wichita, and by Police Chief Norman Williams. The females of
5 this class seek a solution that will make the Defendants treat all of its employees, whether
6 men or women, black or white, old or young, fairly and equitably. The women do not seek
7 special treatment: only lawful treatment.

8 2. After initially filing this action, female officers have been retaliated against
9 and one Lieutenant has even stated that the “bitches [female plaintiffs] need to learn how to
10 get along.”

11 3. Wichita Police Department is made up of two categories of officers. There are
12 commissioned officers and non-commissioned officers. Commissioned officers are those
13 individuals who complete the training academy and possess full law enforcement powers.
14 Among the commissioned positions are, in ascending order, recruit officer, patrol officer,
15 detective, sergeant, lieutenant, captain, deputy chief, and chief. In over 130 years, the
16 Wichita Police Department has never employed a female police Chief.

17 4. The plaintiffs and the Class have been treated differently than similarly
18 situated male co-workers. The plaintiffs and the Class have been denied, based on their sex,
19 desirable job assignments, promotional opportunities, supervisory positions, training, equal
20 pay, bonuses and other benefits of employment. Defendant has deterred female officers from
21 seeking promotions, supervisory positions, and desirable job assignments; failed to equally
22 recognize female officers for merit based awards; failed to effectively enforce policies
23 prohibiting sex discrimination; and retaliated against female officers who have protested
24 defendants’ discriminatory policies, pattern, and/or practices.
25
26

1 5. Supervisors of the Wichita Police Department have admitted that females
2 have a difficult time at the Department, yet defendants have consistently ignored complaints
3 about these unlawful work conditions, inadequately investigated female officers' complaints,
4 and failed to implement steps that would eliminate these unlawful working conditions. By
5 ignoring the complaints of these female officers, the officers become weary, unconfident, and
6 afraid to speak up for themselves and deters the females from initiating complaints out of
7 fear of being retaliated against.

8 6. While the Wichita Police Department has an anti-discrimination policy, and
9 many of its employees honor the rights of the female co-workers, far too many of its
10 supervisory employees are not effectively policed, are rarely disciplined for violating the
11 rights of the female employees, and ignore defendant's stated policies and make employment
12 decisions disadvantageous to female employees. Supervisors, as high in rank as Captain,
13 have verbally stated that the policies are only intended to be guidelines and are flexible.
14 When supervisors and co-workers are disciplined for violating the rights of the female
15 employees, the discipline is usually too lenient to deter future illegal conduct. It is common
16 knowledge at the City of Wichita Police Department that if female officers complain about
17 supervisor or co-worker misconduct, they may be ostracized and denied meaningful future
18 opportunities at the City of Wichita Police Department. Female employees, rather than the
19 perpetrators, frequently are punished by being reassigned to jobs and places that under-utilize
20 their skills and make future advancement even more difficult.

1 §§ 1331, 1343 respectively. Jurisdiction is invoked over plaintiffs' equal pay claims
2 pursuant to 29 U.S.C.S. § 206 et seq.

3 11. Jurisdiction over plaintiff's state law claims is proper under 28 U.S.C. § 1367.
4 Venue is proper in this court under 28 U.S.C. § 1391(b). Most of the plaintiffs have received
5 notice of their right to sue letter from the EEOC and this action is filed well within the ninety
6 day limitation period of receiving such notice. The single filing rule should be invoked by
7 the court.

8 **III. PARTIES**

9 12. Plaintiffs are females who have suffered discriminatory employment policies
10 and practices at the hands of the defendants because of their gender. The plaintiffs comprise
11 of commissioned officers. They are qualified persons who have been denied the opportunity
12 for promotion, who have been injured because of unequal job assignments, who have been
13 subjected to a hostile work environment, and/or who have been retaliated against because of
14 defendants' policies and practices of racial discrimination.

15 13. Plaintiff Greta Semsroth resides in Sedgwick County Kansas. Ms. Semsroth
16 is a sworn officer and an employee of Defendant City.

17 14. Plaintiff Sarah Voyles resides in Sedgwick County Kansas. Ms. Voyles is a
18 commissioned officer and an employee of Defendant City.

19 15. Plaintiff Kimberly Warehime resides in Sedgwick County Kansas. Ms.
20 Warehime is a commissioned officer and an employee of Defendant City.

21 16. Plaintiff Heather Plush resides in Sedgwick County Kansas. Ms. Plush is a
22 commissioned officer and an employee of Defendant City.

23 17. Defendant City of Wichita ("City") is and was at all times relevant hereto a
24 municipal corporation within the State of Kansas.

25 18. Defendant Williams is a male, and was at all times relevant hereto, the Chief
26 of Police of the Wichita Police Department or successor to position thereof. He is named in

1 his individual and official capacity and may be served as set forth in the summons.
2 Defendant Williams is responsible for the administration of the policies and procedures of
3 the Department.

4 19. Defendant Williams is a resident of the State of Kansas and the circumstances
5 giving rise to these causes of action occurred in Sedgwick County, Kansas.

6 20. Plaintiffs are each an “employee” as defined by the Equal Pay Act (“EPA”),
7 29 U.S.C. §§203(e) and 213 (a)(1); and Title VII of the 1964 Civil Rights Act, 42 U.S.C. §
8 2000e(f).

9 21. Plaintiffs are each also “persons claiming to be aggrieved” as it is used in Title
10 VII, 42 U.S.C. § 2000e-(a)-2000e5 (f).

11 22. Defendant City is an employer as defined by the EPA, 29 U.S.C. § 203(d) and
12 Title VII, 42 U.S.C. § 2000 (e)(b).

13 IV. CLASS ALLEGATIONS

14 23. Plaintiffs sue on their own behalf and on behalf of a Class of persons pursuant
15 to Fed. R. Civ. P. 23(b)(2) and (b)(3).

16 24. The named plaintiffs bring this action on behalf of a Class of all
17 commissioned female officers currently or otherwise employed by defendants, who because
18 of their gender, have been:

- 19 a. subjected to a hostile work environment;
- 20 b. denied promotions or the ability and opportunity to be meaningfully
21 considered for promotions;
- 22 c. denied proper training opportunities;
- 23 d. denied proper peer support during and after emergency calls;
- 24 e. denied terms and conditions of employment that are commonly
25 granted to similarly situated or less qualified males;
- 26 f. paid less than similarly situated or less qualified males;

- g. denied overtime opportunities when similarly situated or less qualified males receive such;
- h. retaliated against for challenging gender bias in the workplace;
- i. judged by a different set of standards than that of similarly situated or less qualified males;
- j. received lower performance appraisals than that of similarly situated or less qualified males;
- k. denied transfer and rotation opportunities;
- l. demoted to and assigned to less favorable shifts, work areas;
- m. subjected to discipline more severe than that of similarly situated or less qualified males; and/or
- n. terminated or constructively discharged from employment.

25. The above-described women constitute the “Class” for the purposes of this lawsuit.

A. Rule 23(a)

1. Numerosity Requirement

26. There are at least several hundred Class members. The Class is so large that joinder of all members is impracticable.

2. Existence of Questions of Common Law and Fact

27. Questions of law and facts common to the class include:

- a. whether women have been treated differently than men as to promotions, compensation, pay increases, training, discipline, demotions, proper peer support, an/or job opportunities;
- b. whether Defendant City knew or should have known of dissimilar treatment;

- 1 c. whether Defendant City failed to take reasonably, or the legally, required
2 action to correct the “gender bias” in its employment practices in the
3 Police Department so that women could have the same employment
4 opportunities as men;
- 5 d. whether Defendant City has a pattern and practice of illegal discrimination
6 based on gender;
- 7 e. whether Defendant City has intentionally engaged in this illegal
8 discrimination;
- 9 f. whether Defendant City has intentionally engaged in this discrimination
10 with malice and/or reckless indifference to the federally protected rights of
11 the plaintiffs and Class;
- 12 g. whether plaintiffs and Class have been discriminated against because of
13 their gender;
- 14 h. whether plaintiffs and Class have been discriminated against by being
15 subjected to a hostile work environment on the basis of their gender;
- 16 i. whether Defendant City has made misrepresentations to plaintiffs and
17 Class regarding its employment policies and practices;
- 18 j. whether Defendant City has a duty to adequately supervise its staff
19 regarding employment practices at the Department;
- 20 k. whether Defendant City has breached its duty to supervise employment
21 practices by allowing and failing to remedy systematic discrimination
22 against female officers in compensation, promotion, discipline, and other
23 terms and conditions of employment;
- 24 l. whether Defendant Williams has a duty to adequately supervise the staff
25 regarding employment practices at the Department;
- 26

- 1 m. whether Defendant Williams has breached his duty to supervise
2 employment practices by allowing and failing to remedy systematic
3 discrimination against female officers in compensation, promotion,
4 discipline, and other terms and conditions of employment;
- 5 n. whether Defendant City's facially neutral policies have had an adverse
6 impact on women with regard to their terms and conditions of
7 employment;
- 8 o. whether the plaintiffs and Class have been harmed because of the illegal
9 actions of Defendant City;
- 10 p. whether injunctive relief is appropriate as a remedy for the past, present
11 future discrimination; and
- 12 q. whether Defendant City's current policies and practices affecting plaintiffs
13 and Class should be eliminated and replaced by new policies and practices
14 and, if so, which ones.

15 **3. Typicality of Claims**

- 16 28. Plaintiffs' claims are typical of the claims of the Class.

17 **4. Adequacy of Representation**

- 18 29. Plaintiffs and Class counsel will fairly and adequately protect the interests of
19 the Class.

20 **B. 23(b) Requirements**

- 21 30. **Fed. R. Civ. P. 23(b)(2)**: The defendants have acted/refused to act and are
22 acting/refusing to act on grounds generally applicable to the Class, thereby making
23 appropriate final injunctive or corresponding declaratory relief to the Class as a whole.

- 24 31. **Fed. R. Civ. P. 23(b)(3)**: Common questions of fact and law predominate
25 over questions affecting only individual members.
26

1 helplessly watched as male co-workers have been hand selected by male “buddies” and
2 coached through promotion.

3 38. Further, female officers find it much more difficult than their similarly
4 situated male co-workers to obtain the training, tutorship, and job assignments necessary to
5 compete for promotions.

6 **D. Wichita Police Department’s Employment Policies Have Allowed Supervisors to**
7 **Exercise Excessive Subjectivity and has Fostered Pay and Promotion Decisions that**
8 **Discriminate Against Women**

9 39. The excessive subjectivity permitted by Defendant City’s employment
10 policies and procedures resulted in supervisors giving benefits to friends and promoted a
11 “good ol’ boy” network. This is in direct conflict with the Code of Ethics Regulation 1.1
12 which states that officers will never permit personal feelings or friendships to influence their
13 decisions. Often, male officers are allowed to remain on calls that extend beyond the end of
14 their shift which regularly provides those male officers with overtime compensation while
15 female officers are regularly dismissed from the scene without being offered the opportunity
16 for overtime.

17 40. The promotion procedure employed by Defendant includes an interview with
18 the “Oral Board.” Great weight is placed on the determination of the oral board when an
19 officer is considered for a promotion. There are no records of the interviews kept for later
20 review. As such, these interviews are totally and excessively subjective.

21 41. The excessive subjectivity given to supervisors by Wichita Police
22 Department’s employment procedures is exhibited in numerous areas, including the
23 following:

- 24 (1) no fixed rules as to how salary increases are given;
- 25 (2) no fixed rules prescribed regarding what selecting officials
26 could ask job candidates during interviews;

- 1 (3) no procedures exist for review of the approval or disapproval
2 of overtime hours that are approved by supervisors; and
3 (4) no meaningful guidance circumscribed for the supervisors who
4 are entrusted with granting or denying overtime.

5 42. The excessive subjectivity denied plaintiffs and the Class the same
6 compensation, promotions, and employment benefits as Department made available to men
7 and violated their rights.

8 **E. Statistical Evidence Shows that Gender Discrimination Continues to Run**
9 **Rampant Throughout the Wichita Police Department in Regards to Commissioned**
10 **Female Officers**

11 43. Wichita Police Department considers females suitable for non-commissioned
12 positions, but are excluded, overlooked and discriminated against regarding becoming or
13 remaining commissioned officers. As of May 24, 2003, there were a total of 642 total
14 commissioned officers employed by the Wichita Police Department. Only a little more than
15 10% (67 total) of commissioned officers are female. However, of 181 non-commissioned
16 officers, 74.5% (135 total) are female. Of the 135 non-commissioned female officers, 122
17 are considered civilian employees. Thus, there are a sufficient number of female employees
18 to occupy non-commissioned positions, but the Wichita Police Department does not consider
19 females “man enough” to carry full fledged law enforcement rights.

20 44. Additionally, of the 642 commissioned officers, 210 of those positions are for
21 the ranks of detective and above. Of that 210, only 17 are possessed by female officers.

22 45. Further, females are also excluded from special and elite units. There are
23 several units of the Special Operations Bureau. There are no commissioned female officers
24 employed as part of the Special Weapons and Tactics (“SWAT”) Unit. There are no
25 commissioned female officers employed as part of the Explosive Ordnance Disposal
26 (“EOD”) Team. There are no commissioned female officers employed as part of School
Resource Officer (“SRO”) program. There are no commissioned female officers employed

1 as part of the “gang unit.” Exclusion from these specialized and elite units harms female
2 officer’s self esteem and creates unequal opportunities for advancements. In simple terms,
3 such exclusion reinforces the Department’s attitude that female officers are not valued
4 equally to male officers; nor as qualified as their male counterparts.

5 **F. The Wichita Police Department Has Failed to Address Female Officers’**
6 **Complaints of Gender Discrimination**

7 46. Reports to the Wichita Police Department of adverse impact and/or treatment
8 regarding promotion, training, compensation, overtime, demotions, terminations, and hostile
9 work environment go unheeded; are simply ignored or responded to with a form denial;
10 investigated only in a cursory fashion; and/or the remedial measures are ineffective and has
11 an adverse impact on other female officers. The defendants have used inconsistent EEO
12 procedures in reviewing complaints by female officers. Some females experienced
13 retaliation for asserting complaints of gender discrimination. In spite of official statements
14 that defendants support equal treatment for females, the message clearly communicated to
15 the employees is that gender discrimination against females is standard operating procedure,
16 and will not generally result in any significant adverse employment action.

17 47. Female officer’s are in a conundrum when faced with the decision to report
18 the illegal actions of their peers and supervisors. If a female officer reports the illegal
19 activity of male officers, the female is labeled a “bitch” and often her performance
20 evaluations begin to note that the female officer has trouble “getting along” with other
21 officers. All the while, the male officers enjoy the luxury of never receiving a note in his
22 personnel file. Thus, female officers have two realistic choices: (1) report the illegal activity
23 and face banishment and being labeled a “bitch” or (2) or not report the illegal activity and
24 stay in a “woman’s place.”

25 48. Reports of sexual harassment were made against a sergeant by female officers
26 who were employed at the West Bureau. This sergeant was not terminated, suspended, or

1 even reprimanded. In fact, he was essentially granted a promotion of power as he is currently
2 assigned as a watch commander, which is equivalent to the law enforcement powers as a
3 lieutenant.

4 49. Female officers are forced to work under the supervision of sergeants even
5 after the female officer's make written complaints regarding a hostile work environment.
6 Defendant Williams has stated that a hostile work environment cannot occur after one week
7 and simply dismisses the complaints of female officers.

8 50. Indeed, before 1996, and thereafter, female employees have complained to
9 defendants that they have not been treated equally as similarly situated males. Yet,
10 defendants have failed to adequately address these complaints.

11 **G. The Wichita Police Department's Tolerance of Gender Discrimination Has**
12 **Infected Many Aspects of Wichita Police Department's Operations Affecting**
13 **Women**

14 51. Defendants have pursued, condoned, acquiesced in, and/or have failed to
15 eliminate the continuing policies and/or practices that, though often facially neutral, have
16 adversely impacted the Wichita Police Department's female employees and/or have the
17 intent of denying female officers equal job opportunities and conditions of employment.

18 These policies and practices include without limitation:

- 19 (1) failing to provide equal training opportunities;
- 20 (2) failing to provide equal discipline to males;
- 21 (3) forcing female officers to leave the scene of a call even when the
22 female officer was the first officer on the scene;
- 23 (4) failing to recognize the achievements of female officers for their
24 participation in the same calls that similarly situated male officers are recognized;
- 25 (5) promoting gender-biased individuals into managerial and supervisory
26 positions without determining or attempting to evaluate whether such individuals are gender-
biased;

1 (6) relying upon subjective, gender-biased and/or arbitrary criteria used
2 predominately by a male supervisory force in making job assignments, compensation,
3 overtime, training, termination, and promotional decisions;

4 (7) failing and refusing to consider female officers for desirable work
5 assignments, promotions and management positions on the same basis as male officers are
6 considered;

7 (8) failing and refusing to provide female employees with the necessary
8 work experience and training to qualify them for more desirable positions on the same basis
9 as male officers are provided with such experience and training;

10 (9) paying female officers less than similarly situated male officers;

11 (10) retaliating against or permitting others to retaliate against or permitting
12 others to retaliate against female officers who protest the defendants' discriminatory policies
13 and/or patterns or practices;

14 (11) subjecting female officers to different and more rigorous requirements
15 in order to be eligible for promotional or other job opportunities than those to which male
16 officers are subjected;

17 (12) failing to provide females with the proper peer support during calls
18 thereby jeopardizing the safety of the female officers;

19 (13) failing to address the extremely high turnover rate of commissioned
20 female officers; and

21 (14) failing to promote an atmosphere where commissioned female officers
22 are encouraged to report incidents of sexual harassment or unequal treatment without being
23 subject to retaliation.

24 **H. Each of the Plaintiffs Has Experienced Unlawful Treatment as a Result of the**
25 **Wichita Police Department's Policies**

1 52. Each of the plaintiffs has experienced gender based discriminatory treatment
2 as described below.

3 Plaintiff Greta Semsroth

4 53. Plaintiff Greta Semsroth began her employment with Department with
5 January 2000 when she graduated from the Kansas Law Enforcement Training Center
6 (“Academy”). During her tenure at the Academy, Plaintiff Semsroth was president of her
7 class and was one of the top students in her graduating class. Plaintiff Semsroth has faced
8 resistance from the primarily male force since the beginning of her law enforcement career.
9 During her time at the Academy, Plaintiff Semsroth has been told that certain weapons were
10 a “man’s gun” and women could not handle them.

11 54. Plaintiff Semsroth has been subjected to sexually harassing behavior from her
12 supervisors. When Plaintiff Semsroth was training in the field, her Field Training Officer
13 (“FTO”) asked Plaintiff Semsroth out on a date. Plaintiff Semsroth was uncomfortable with
14 the advance and did not return any interest to FTO. The FTO drove to Plaintiff Semsroth’s
15 residence at approximately 11:00 p.m. and repeatedly pounded on the door of her residence.
16 He continually screamed Plaintiff Semsroth’s name until she would exit her residence. At
17 that time, Plaintiff Semsroth told the FTO to get off her property. Department took no
18 actions against the FTO.

19 55. Department has failed to recognize Plaintiff Semsroth for awards when every
20 other similarly situated males who were involved with same calls actually received awards.
21 Department has also failed to provide Plaintiff Semsroth with the proper critical support
22 during emergency situations. In October 2001, Plaintiff Semsroth was dispatched to a
23 suspicious character call along with three male officers. As a result of their participation in
24 this call, each of the male officers received officer of the month recognition. However,
25 Plaintiff Semsroth, the only female officer on the call, did not receive any recognition for her
26 participation in the call.

1 56. Again, on or around June 3, 2002, Plaintiff Semsroth answered a call where
2 there was a suspect shooting at officers. Bullet shots were striking the pavement as close as
3 15 ft away from Plaintiff Semsroth. The male officers on the scene were being replaced by
4 back up officers; however, Plaintiff Semsroth was not replaced until some time later when
5 SWAT arrived on the scene as if no male officers were willing to replace a female officer.
6 Officers involved in the June 3, 2002 incident were recognized with awards for their valor,
7 given a five day administrative leave, and Critical Incident Stress Management Therapy
8 (CISMT). Plaintiff Semsroth issued a complaint to Lieutenant Hanley and Captain Tabor
9 regarding the Department failing to provide her with policy mandated CISMT and being the
10 only officer not to receive an award for her participation in the call. However, Department
11 ignored Plaintiff Semsroth's complaint. Plaintiff Semsroth was the only female officer on
12 the scene and was the only officer who was not awarded a Gold Wreath of Valor.

13 57. Not only does Department fail to equally value the life and sacrifices of
14 female officers as male officers, it allows male officers to taunt female officers who
15 complain about not receiving recognition being treated equally. On or about April 21, 2003,
16 someone placed pictures and a note in Plaintiff Semsroth's mailbox. The pictures were of
17 awards from the chest of an unknown officer and the note tauntingly stated that Plaintiff
18 Semsroth was to cut the pictures out and pin them on her chest because this was as close as
19 she would get to the real thing.

20 58. Plaintiff Semsroth was distraught and was consoled by other female officers.
21 Plaintiff Semsroth also reported the incident to superior officers and questioned Officer
22 Tucker about the incident. He denied leaving the picture and the note. It was later
23 discovered that Officer Tucker actually left the crude pictures and note. Supervisors did not
24 discipline Officer Tucker for his actions of leaving the harassing items or for not telling the
25 truth about leaving the items in Plaintiff Semsroth's mailbox when asked. He was not
26

1 disciplined despite the fact that both actions are in violation of Departments policies. The
2 official response from Department was “you now Tucker. He’s always pulling pranks.”

3 59. The policy of Department mandates that officers are to receive back up
4 assistance by another officer unless the requesting officer disregards the back up. On several
5 occasions, male officers have failed to provide Plaintiff Semsroth with the proper assistance.
6 For instance, on or about October 15, 2003, Plaintiff Semsroth responded to a disturbance
7 call. Officer Nixon was instructed by the dispatch operator to back-up Plaintiff Semsroth, yet
8 Officer Nixon never arrived to the scene to assist Plaintiff Semsroth. Plaintiff Semsroth
9 reported the incident to a supervisor who stated that “he should have backed you.” The
10 supervisor took no corrective action against Officer Nixon and simply stated that it was
11 “Nixon just being Nixon.”

12 60. Plaintiff Semsroth reported the unequal treatment that she and other females
13 were facing on about October 27, 2003 to the Equal Employment Office (EEO) of Defendant
14 City. Specifically, Plaintiff Semsroth met with Susan Lieker, who is an employee of
15 Defendant City and working in her official capacity at all relevant times herein. A second
16 meeting took place with Ms. Lieker on November 17, 2003.

17 61. In retaliation for making her complaints, approximately seven days after her
18 second meeting with EEO, Plaintiff Semsroth was moved from her current assignment, 35
19 beat, to what is commonly referred to as “banishment beat,” 39 beat. This beat is commonly
20 reserved for new recruits and individuals who are being disciplined. Movement to this beat
21 adversely affected Plaintiff Semsroth in that the quality of calls and the quantity of calls
22 decreases. With such a decrease in activity and challenging calls, Plaintiff Semsroth’s
23 opportunity for advancement dramatically decreases. Further, there is a stigma attached to
24 officers who are moved to this beat, one which Plaintiff Semsroth should not be forced to
25 endure, while the males who were causing the unequal treatment are unaffected.
26

1 62. Plaintiff Semsroth has also received negative remarks in her personnel file
2 regarding conflicts with other male officers. However, no remarks have been made in
3 similarly situated male officers' personnel files regarding the many complaints made by
4 plaintiff Semsroth. Such unequal treatment adversely affects Plaintiff Semsroth's ability to
5 receive promotions, pay increases and other terms and conditions of employment.

6 63. On or about May 10, 2004, Plaintiff Semsroth was riding with Recruit Officer
7 Watson, who was squirming around in his seat. Plaintiff Semsroth inquired as to whether the
8 male officer was alright. The male had his hand near the mid-section of his groin area and
9 said, "I'm adjusting myself" followed by "some of the guys told me I need to watch what I
10 say...but I think the girls like it." It was learned that this was not the first inappropriate
11 comment made by this Recruit Officer, yet this individual has not been subjected to any
12 discipline for his actions.

13 Plaintiff Kim Warehime

14 64. Plaintiff Warehime has been employed by Department for approximately
15 eight years. During her tenure with Department, Plaintiff Warehime has been subjected to
16 unequal treatment including, but not limited to, sexual harassment, unequal discipline, and a
17 hostile work environment. This treatment, as it does for many of the female officers, began
18 in the Training Academy

19 65. In or around February 2001, a male officer spoke to Plaintiff Warehime in a
20 vulgar and inappropriate manner. The male officer began to discuss certain sexual topics
21 with Plaintiff Warehime. Plaintiff Warehime did not participate in the conversation as she
22 was made so uncomfortable. During this inappropriate conversation, the male officer stated
23 that he had raped another woman. The following day the same officer exposed his erect
24 penis in front of Plaintiff Warehime.

25 66. As a result of this conversation and incident, Plaintiff Warehime reported the
26 officer's statements to her supervisors. However, her supervisors failed to even investigate

1 the rape and simply stated that “he was just trying to turn you on.” Additionally, her
2 supervisor threatened Plaintiff Warehime in order to deter her from pursuing certain criminal
3 charges against the officer.

4 67. Additionally, on or about January 5, 2004 Plaintiff Warehime made a
5 comment about a male officer having a disease. Plaintiff Warehime was investigated and
6 ultimately disciplined regarding the statement. Plaintiff Warehime was reprimanded with a
7 level D charge of conduct unbecoming an officer.

8 68. However, male officers have been known to make similar and more insulting
9 statements as well as more egregious violations of policy, yet, those male officers are not
10 disciplined for those actions, or at least, receive nothing more than a slap on the wrist. For
11 instance, in October of 2003, Plaintiff Semsroth was bitten by a suspect during a call. The
12 next day in front of squad¹ Lieutenant Hanley asked if the suspect had any diseases. In
13 front of everyone present at squad, Sergeant Sims inquired “before, or after the bite?” No
14 actions were taken against Sgt. Sims, a male officer, for actions similar to those of Plaintiff
15 Warehime.

16 69. Also, Recruit Officer Gant damaged a Department vehicle while on duty and
17 failed to report the incident to his Field Training Officer (“F.T.O.”). Recruit Officer Grant
18 also failed to tell the truth about the matter when he was asked about the situation. Further,
19 Sergeant Hungria instructed the F.T.O. to complete a 6100 report instead of a 6105 report,
20 which, in plain English, meant to cover up the accident and the Recruit Officer would not be
21 in any trouble. The FTO reported both the accident and the attempted cover-up to Captain
22 Tabor. Captain Tabor failed to discipline the Sergeant and the Recruit Officers, both males,
23 despite the fact that such actions are immediate grounds for dismissal. In comparison to the
24 actions of these males, Plaintiff Warehime’s punishment was the equivalent of swatting a fly
25

26 ¹ Squad is term commonly used by members of the department to refer to a general meeting of all of the
officers of a Bureau where all of the officers who are in the process of beginning their shift are present.

1 with a hammer. While Department allows male officers to intentionally disregard policy
2 without facing proper discipline.

3 70. Plaintiff Warehime also was invited to a meeting with other female officers
4 where the unequal treatment of female officers was discussed. The following day,
5 supervisors of Department requested the presence of Plaintiff Warehime and began to harshly
6 question her regarding the meeting and the purpose of such meeting. The actions by
7 Department were designed to chill Plaintiff Warehime's freedom of association.

8 71. Plaintiff Warehime has attempted to secure an emergency transfer because of
9 the hostile work environment that she was forced to endure, which was denied. However,
10 there were at least five similarly situated male officers who were granted transfers within the
11 same general time period. Further, two of the transfers were for what Department considered
12 "supervision difficulties."

13 72. Plaintiff Warehime has been denied for a SRO position at least three times
14 despite the fact that she scored extremely well in her interviews. Each time that Plaintiff
15 Warehime was denied, the position was given to similarly situated or less qualified male.
16 Additionally she has been passed over regarding Community Policing positions.

17 Plaintiff Sarah Voyles

18 73. Plaintiff Voyles has been a member of Department for a number of years. Her
19 years with the department has been marred by the illegal treatment that she has been forced
20 to endure. As with most women, Plaintiff Voyles' has faced sexual harassment and
21 discriminatory acts from the beginning of her law enforcement career at the Academy. She
22 has also been subjected to unequal discipline, retaliation and treatment that she would not
23 have received if she could have just been born a white male.

24 74. In addition to being a commissioned female officer, Plaintiff Voyles is a new
25 mother. Plaintiff Voyles was pregnant while she was employed at Department. During this
26 pregnancy, Plaintiff Voyles was subjected to numerous "fat jokes" which cut at the very fiber

1 of Plaintiff Voyles' self-worth. She was also forced to endure male officers commenting on
2 Plaintiff Voyles' new found eating habits.

3 75. Not only was Plaintiff Voyles forced to endure such unequal treatment, she
4 was reprimanded when she made complaints to her supervisors. Plaintiff Voyles was being
5 emotionally damaged from the treatment that she was receiving and reported the conduct to
6 her superior officers. When she expected a fair and equal response from her supervisor, she
7 was orally reprimanded by her superior. This is shocking given the fact, that females are
8 often disciplined by supervisors when male officers initiate complaints against female
9 officers.

10 76. The unequal treatment faced by Plaintiff Voyles was not confined to this one
11 instance. Department states that it is against its policy to institute a quota for issuing traffic
12 tickets. However, in October 2001, Plaintiff Voyles was assigned to desk work because she
13 failed "to write enough traffic tickets." At the same time, there were at least two similarly
14 situated male officers who failed to "write enough traffic tickets" that were not disciplined in
15 any manner.

16 77. Additionally, in 2002, Plaintiff Voyles was reprimanded for only attending
17 one community meeting. However, there were a number of male officers who failed to
18 attend two meetings or any at all, that were not terminated.

19 Plaintiff Heather Plush

20 78. Plaintiff Plush has dedicated over two years of service to the Wichita Police
21 Department. During this time, Plaintiff Plush has been wrongfully denied transfers,
22 threatened, and subjected unequal discipline because she is a female.

23 79. On or about May 12, 2004, Plaintiff Plush was responding to two separate
24 calls. At the conclusion of these calls, Sergeant Hungria made verbal statements to Plaintiff
25 Plush regarding her performance during these calls. During the second of the two calls,
26 Sergeant Hungria verbally reprimanded Plaintiff Plush for failing to draw her gun at the

1 scene. However, her partner, who was a male, did not have his weapon drawn; yet, Sergeant
2 Hungria did not even mention this fact to Plaintiff Plush's male partner.

3 80. On or about May 11, 2004, Plaintiff Plush was the second officer to arrive on
4 the scene of a call and the only female officer who responded to the call. Later in the call,
5 Plaintiff Plush attempted to assist the male officers in searching the suspect residence.
6 However, she, and only her, was dismissed from the scene because she "was no longer of any
7 use" to the male officers on the scene. Neither of the male officers who arrived after Plaintiff
8 Plush was required to leave the residence.

9 81. Plaintiff Plush has also been subjected to discipline when she asked for
10 clarification from a supervisor on the scene of a call. The supervisor essentially informed
11 Plaintiff Plush that it was not a woman's place to question a supervisor regarding any
12 decisions made by that supervisor. However, male officers are allowed to speak to their
13 supervisors during calls regarding the incidents that occur without being disciplined.

14 82. Furthermore, Plaintiff Plush also requested a transfer from Sergeant Hungria.
15 As with Plaintiff Warehime, this request was denied while similarly situated male officers
16 have been allowed to transfer when there are "supervisor difficulties;" thereby forcing
17 female officers to work under such stressful and unequal hostile work environments.
18 Defendant Williams has handled this situation by simply stating "a hostile work environment
19 cannot exist after one week." Defendant Williams never interviewed or investigated the
20 allegations raised by Plaintiff Plush nor any of the plaintiffs and Class.

21 83. Since the initial filing of this Action, Plaintiff Plush has also been retaliated
22 against. Within weeks of initially filing the instant action, three separate complaints were
23 filed against Plaintiff Plush. There are three ironic aspects of the complaints: (a) that each of
24 the actions that were reported occurred between seven months and one year prior to the date
25 that they were reported; (b) male officers who were involved in the actions were not
26

1 investigated; and (c) the complaints only arose after a supervisor instructed officers to find
2 anything on the plaintiffs that they could.

3 84. Plaintiffs Semsroth, Warehime, Voyles, and Plush have all been emotionally
4 affected by the treatment procured by Defendant. They have been forced to take medication,
5 take days off of work, request transfers, and various emotional breakdowns.

6 **First Cause of Action**

7 **Violation of Title VII and 42 USC § 1981**

8 85. Plaintiffs and Class adopt and incorporate the preceding paragraphs as fully
9 set forth herein.

10 86. Defendant has discriminated against plaintiffs and Class in violation of Title
11 VII of the Civil Rights Act by subjecting them to different treatment because of their gender.
12 Defendants' conduct violates disparate treatment, disparate impact, retaliation, and pattern
13 and practice principles of Title VII. Representative Plaintiffs Semsroth, Warehime, and
14 Voyles have received a right to sue letter and in doing so qualify themselves and other female
15 officers who are representative plaintiffs to pursue relief under Title VII.

16 87. As a result of defendants' conduct alleged in this Class Action Complaint,
17 plaintiffs and Class have suffered and continues to suffer harm including, but not limited to
18 lost wages, lost benefits, and other financial loss, as well as humiliation, embarrassment,
19 emotion and physical distress, and mental anguish. These damages are continuing and
20 should be awarded in an amount to be determined at trial.

21 88. In the employment practices described above, defendants intentionally
22 engaged in discriminatory practices with malice or with reckless indifference to the federally
23 protected rights of plaintiff, entitling plaintiff to punitive damages.

24 **Second Cause of Action**

25 **Violation of Equal Pay Act, 29 U.S.C. 206 (d)**

1 89. Plaintiffs and Class adopt and incorporate the preceding paragraphs as fully
2 set forth herein.

3 90. This claim is brought on behalf of all plaintiffs and the Class.

4 91. Defendants have intentionally discriminated against plaintiffs and Class on the
5 basis of their sex by paying them lower wages that it pays its male officers for equal work of
6 equal skill, effort, or responsibility and which are performed under similar working
7 conditions.

8 92. As a result of defendants' illegal actions, plaintiffs and the Class lost wages
9 through compensation. These damages are continuing.

10 **Third Cause of Action**

11 **Denial of Equal Protection**

12 93. Plaintiffs individually adopt and incorporate the preceding paragraphs as fully
13 set forth herein.

14 94. On information and belief, Defendant Williams has treated similarly situated
15 male employees differently than plaintiffs.

16 95. Defendant Williams has denied plaintiffs equal protection of the laws, in
17 violation of the United States Constitution.

18 96. The unconstitutional treatment of plaintiffs was a direct result of Defendant
19 Williams failing to enforce the policies and regulations of the Defendant City in an equal and
20 non-discriminatory manner.

21 97. Defendant Williams has deprived plaintiffs of their clearly established rights
22 under the United States Constitution, and under federal law, under color of state law in
23 violation of 42 U.S.C. § 1983.

24 98. Defendant Williams acted under color of state law.
25
26

1 99. As a direct and proximate result of this constitutional violation, plaintiffs have
2 suffered damages, including lost wages, consequential damages, loss of reputation, and
3 emotional distress.

4 **Fourth Cause of Action**

5 **Conspiracy to Interfere with Civil Rights in Contravention to 42 USC § 1985**

6 100. Plaintiffs individually adopt and incorporate the preceding paragraphs as fully
7 set forth herein.

8 101. Two or more of defendants, and/or at least one of defendants and one or more
9 third parties, conspired for the purpose of depriving plaintiffs and Class of the equal
10 protection of the laws, or of equal privileges and immunities under the laws, of the United
11 States.

12 102. Defendant Williams and one or more other persons engaged in this conspiracy
13 did act in furtherance of the object of this conspiracy.

14 103. As a direct and proximate result of this conspiracy, plaintiffs and class
15 suffered damages to their property, including but not limited to lost wages, consequential
16 damages, loss of reputation, and emotional distress.

17 **VII. PRAYER FOR RELIEF**

18 WHEREFORE, plaintiffs and the Class pray for relief as follows:

19 A) Certification of the case as a class action on behalf of the proposed plaintiff
20 class and designation of plaintiffs as representatives of the Class and their counsel of record
21 as Class Counsel;

22 B) All **equitable** damages which individual plaintiffs and the class have
23 sustained as a result of defendants' conduct, including, but not limited to, back pay, front
24 pay, general and special damages for lost compensation and job benefits that they would
25 have received but for the discriminatory practices of defendants;
26

1 C) For Plaintiffs' individual, non-class claims, all damages they have sustained as
2 a result of defendant's conduct, including back pay, front pay, general and specific damages
3 for lost compensation and job benefits they would have received but for the discriminatory
4 practices of defendant, damages for emotional distress, and punitive damages, according to
5 proof;

6 D) Exemplary and punitive damages in an amount commensurate with
7 defendants' ability to pay and to deter future conduct;

8 E) For injunctive and equitable relief against defendants and its directors,
9 officers, owners, agents, successors, employees and representatives, and any and all persons
10 acting in concert with them, from engaging in each of the unlawful practices, policies,
11 customs and usages set forth herein;

12 F) An adjustment of the wage rates and benefits for plaintiffs and the Class to
13 that level which plaintiffs and the class would be enjoying but for defendants' discriminatory
14 practices;

15 G) Costs incurred, including reasonable attorneys' fees, to the extent allowable
16 by law;

17 H) Pre-Judgment and Post-Judgment interest, as provided by law; and

18 I) Such other and further legal and equitable relief as this Court deems
19 necessary, just and proper.
20

21
22 DATED: March 31, 2005
23

24 Respectfully submitted,
25

26 s/Lawrence W. Williamson, Jr.

1 Lawrence W. Williamson, Jr. #21282
2 SHORES, WILLIAMSON & OHAEBOSIM, LLC
3 1400 EPIC Center
4 301 North Main
5 Wichita, Kansas 67202
6 Telephone: (316) 261-5400
7 Facsimile: (316) 261-5404

Attorney for plaintiffs and Class

8 **DEMAND FOR A JURY TRIAL**

9 COMES NOW plaintiffs and Class, by and through counsel, and respectfully
10 requests that this matter be set for a jury trial. Wichita, Kansas designated for place of trial.
11
12

13 By: s/Lawrence W. Williamson, Jr.
14 Lawrence W. Williamson, Jr. #21282
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17 301 North Main
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Attorney for plaintiffs and Class

21 **CERTIFICATE OF SERVICE**

22 I hereby certify that on March 31, 2005, I electronically filed the foregoing with the
23 clerk of the court by using the CM/ECF system, which will send a notice of electronic filing
24 to the following:

25 Kelly J. Rundell #12386
26 Attorney for Defendants
OFFICE OF THE CITY ATTORNEY
455 N. Main, 13th floor
KRundell@wichita.gov.

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s/ Lawrence Williamson
Lawrence W. Williamson