

CAUSE NO. _____

SANDRA BICKEL

PLAINTIFF,

v.

YOUSRY (YOST) ZAKHARY
AND CITY OF WOODWAY, TEXAS,

DEFENDANTS.

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IN THE DISTRICT COURT OF

McLENNAN COUNTY, TEXAS

____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES **SANDRA BICKEL** ("Bickel" or "Plaintiff") complaining of **YOUSRY ZAKHARY** ("Zakhary") and **CITY OF WOODWAY** (the "City") (collectively, the "Defendants") and files this PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE and in furtherance thereof would respectfully show unto the Court as follows:

I.

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends that discovery be conducted under Discovery Level 3 of the *Texas Rules of Civil Procedure*.

II.

PARTIES AND SERVICE

2. Plaintiff Sandra Bickel is a resident of McLennan County, Texas.

3. Defendant Yousry Zakhary is an individual residing in the State of Texas and can be served with process at his place of business at 922 Estates Drive, Woodway, McLennan County, Texas 76712.

4. Defendant City of Woodway is municipality in the State of Texas and can be served with process by serving Donna Barkley (City Secretary) at 922 Estates Drive, Woodway, McLennan County, Texas 76712.

III. JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter as this is an action for damages in excess of the minimum jurisdictional limits of the Court and the Defendants live, work and/or operate their business in Texas and/or have committed torts in whole or in part within the state of Texas. Plaintiffs seek an amount within the jurisdictional limit of the Court to be determined by the trier of fact.

6. Venue is proper in McLennan County, Texas, pursuant to TEX. CIV. PRAC. & REM. CODE § 15.002(a)(1) because all or a substantial part of the events or omissions giving rise to the claim occurred in McLennan County and one or more of the Defendants resides in McLennan County.

IV. FACTS

7. In 2016, the United States Government released a comprehensive study of workplace harassment in the United States, which concluded that fifty (50%) percent of women report having experienced sexual harassment in the workplace, but that seventy-five (75%) of all workplace harassment incidents go unreported altogether. Sadly, the City of Woodway's Department of Public Safety is not immune from such sexual misconduct.

8. Both the U.S. Government and the State of Texas define "**SEXUAL HARASSMENT**" as:

Any unwanted physical touching, requests for sexual favors, and other unwanted sexual conduct where such conduct creates an intimidating, hostile, or offensive work environment.

9. Likewise, in Texas, “**ASSAULT**” by offensive physical contact is defined as:

the physical touching of another person where the offender knew or reasonably should have known that the victim would regard the contact as offensive or provocative and where the contact offends a reasonable sense of personal dignity.

10. The City of Woodway is a master planned community with more than nine-thousand residents located just outside of Waco, Texas. The City is served by its own fire and police force, the Woodway Public Safety Department. The Public Safety Department is served by a dedicated group of 32 sworn officers, approximately 20 firefighters, and a civilian support staff.

11. Defendant Zakhary has been employed by the City of Woodway in various capacities for more than thirty years. Currently, Defendant Zakhary serves as both the City Manager and Public Safety Director (Chief of Police) for the City, which positions he has held for more than seventeen years.¹

12. While employed by the City of Woodway as both City Manager and Director of Public Safety, Defendant Zakhary has been in the ultimate position of authority over all City employees, many of whom are female. In fact, Defendant Zakhary has even been known to refer to himself amongst employees at the City of Woodway as “the King of Woodway.”

13. Over a number of years, Defendant Zakhary has made lewd, offensive, and sexualized comments while in the workplace. In many cases, Defendant Zakhary’s sexualized comments were made in a generalized nature, but were made often enough to make Plaintiff and other co-workers feel extremely uncomfortable. Over time, the Woodway Public Safety Department has been permeated with Zakhary’s comments of sexual innuendo, ridicule, degradation, and insult. Unfortunately, Defendant Zakhary’s pattern of long-lasting and uninhibited inappropriateness and sexual misconduct has often gone unredressed.

¹ Zakhary is also employed by Baylor University’s Department of Political Science.

14. In or around September 2017, Defendant Zakhary began targeting his sexualized comments and acts directly toward Plaintiff as part of a pervasive pattern of sexual harassment and assault which would last for a period of months. Plaintiff Bickel has been employed with the Woodway Public Safety Department for 17 years, recently as a Dispatch Supervisor.

15. In or around September 2017, when Zakhary was discovered staring at Plaintiff's body, Zakhary specifically commented on the size of her breasts, **suggesting she seek breast augmentation to enlarge the size of her breasts for his own sexual gratification.**

16. As part of Zakhary's pattern of sexual harassment and assault, in late September 2017, Defendant Zakhary sexually harassed and assaulted Plaintiff at a City-sponsored event in front of multiple witnesses (including co-employees and their family members). In this instance, **Defendant Zakhary came up from behind Plaintiff, pulled her pony tail multiple times, jerking Plaintiff's head back and forth in an effort to simulate a sex act, stating "*Oh yeah... you know that's what your boyfriend likes*"!** Zakhary committed this sexual harassment and assault in front of Plaintiff's co-workers and their families, causing Plaintiff physical sickness, public embarrassment, and utter humiliation. Thereafter, Plaintiff found it more difficult to face co-workers or to otherwise perform her job duties.

17. Also, as part of Zakhary's pattern of sexual harassment and assault, in or around October 5, 2017, Defendant Zakhary approached Plaintiff at her work-desk in the Department of Public Safety and requested that Plaintiff walk out to Zakhary's car with him to discuss a question concerning police dispatch. Shortly thereafter, Zakhary began **commenting on the attractiveness of Plaintiff's physical appearance and referencing her naked body.** Again, Defendant Zakhary's sexualized comments directed at Plaintiff caused Plaintiff serious physical and emotional distress.

18. Also, as part of Zakhary's pattern of sexual harassment and assault, in or around

October 16, 2017, Defendant Zakhary instructed Plaintiff to come into a training room where Zakhary was located. When Plaintiff arrived, Zakhary was **physically massaging another female employee**. At that time, Defendant Zakhary turned to Plaintiff and said “see, this is how you treat a good employee that I like...” Plaintiff again felt humiliated, sick to her stomach, and was caused to endure additional physical and emotional distress. Shortly thereafter, **Defendant Zakhary made an additional comment directed to Plaintiff concerning a sadomasochism (S&M) act**. Again, Defendant Zakhary’s conduct left Plaintiff in serious physical and emotional distress.

19. Also, as part of Zakhary’s pattern of sexual harassment and assault, in or around December 20, 2017, Defendant Zakhary made sexualized and/or inappropriate comments about Plaintiff in the presence of a number of City of Woodway employees, causing Plaintiff embarrassment, humiliation, and serious physical and emotional distress.

20. Defendant Zakhary has engaged in a pattern of sexually targeting, harassing, and even assaulting Plaintiff over a period of months, causing Plaintiff serious physical and emotional distress.

21. Unfortunately, Zakhary’s actions towards Plaintiff are consistent with his perverse and degrading course of conduct over months and years with the City of Woodway. For example:

- **Defendant Zakhary has permeated the Woodway Public Safety office with ongoing lewd, inappropriate, and sexualized comments often directed at specific female employees;**
- **Defendant Zakhary has engaged in sexualized, unwanted touching of one or more female employees and/or former employees;**
- **Defendant Zakhary has ridiculed and insulted one or more female employees regarding their weight, breast size, and physical appearance; and**
- **Defendant Zakhary has, on information and belief, taken and retained unauthorized photographs of at least one female employee’s body parts with his cellular phone and has shown these photographs to others.**

22. Defendant Zakhary has, on information and belief, made multiple female employees and/or former employees of the City of Woodway feel distraught, humiliated, embarrassed, scared, and physically nauseous due to a pattern of sexual misconduct, rendering the work environment within the City of Woodway and/or the Department of Public Safety toxic.

23. Ultimately, the victims of Defendant Zakhary's sexual misconduct have been rendered helpless and afraid because the perpetrator was both the Director of the Woodway Public Safety Department and the City Manager of Woodway. It was this ultimate position of power held by Defendant Zakhary which rendered his victims helpless.

24. When Defendants Zakhary (the self-appointed King of Woodway) and the City of Woodway refuse to take responsibility for their unlawful actions and to otherwise take necessary actions to protect the public servants most affected by Zakhary's sexual misconduct and the public at large, Plaintiff has no choice but to file suit – on her behalf and also to protect all those who have been or will be affected by such sexual misconduct.

V.
COUNT ONE: ASSAULT BY DEFENDANT ZAKHARY

25. Plaintiff hereby incorporates all preceding paragraphs and further alleges as follows.

26. A man must never touch a woman in an offensive, provocative, or sexual manner without their express consent.

27. In or around late September 2017, Plaintiff was employed by Defendant City as a Communications Record Supervisor within the City's Department of Public Safety. Over the course of months and, on information and belief, years, Defendant Zakhary had targeted, sexually harassed and/or assaulted one or more female city employees. More recently, Defendant Zakhary had begun to target and verbally harass Plaintiff.

28. In or around late September 2017, Defendant Zakhary intentionally and knowingly

contacted Plaintiff in an offensive, provocative and/or sexual manner at a City-sponsored event.

29. At the time Defendant Zakhary touched Plaintiff, Zakhary knew or reasonably should have known that Plaintiff would regard such contact as offensive or provocative.

30. The manner in which Zakhary touched Plaintiff offended any reasonable sense of personal dignity, caused Plaintiff public humiliation and/or serious emotional distress.

31. As a result of the foregoing offensive, provocative and/or sexual touching, Plaintiff suffered injuries.

VI.

COUNT TWO: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS BY DEFENDANT ZAKHARY

32. Plaintiff hereby incorporates all preceding paragraphs and further alleges as follows.

33. Plaintiff Bickel is a person and current employee of the City of Woodway.

34. Defendant Zakhary acted intentionally and/or recklessly in targeting, harassing, assaulting, and exploiting Plaintiff for his own personal sexual gratification.

35. The emotional distress suffered by Plaintiff Bickel at the hands of Defendant Zakhary is severe.

36. Defendant Zakhary's conduct in targeting, harassing, assaulting, and exploiting Plaintiff for his own personal sexual gratification was extreme and outrageous.

37. Defendant Zakhary's conduct in targeting, harassing, assaulting, and exploiting Plaintiff for his own personal sexual gratification proximately caused Plaintiff's emotional distress.

38. No alternative causes of action would provide a remedy for the severe emotional distress caused by Defendant Zakhary's conduct.

VII.

COUNT THREE: SEXUAL HARASSMENT UNDER TEX. LABOR CODE § 21.051

39. Plaintiff hereby incorporates all preceding paragraphs and further alleges as follows.

40. The Texas Commission on Human Rights Act (the “TCHRA”) confers both the right to be free from sexual harassment and the remedy to combat it. Sexual harassment is a recognized cause of action under the TCHRA.

41. Defendant Zakhary repeatedly sexually harassed Plaintiff while employed and acting in the course and scope of his employment with the City. This sexual harassment occurred during working hours, at City-sponsored events and, sometimes, in front of one or more witnesses.

42. Defendant Zakhary’s repeated sexual harassment of Plaintiff, and the City’s failure to adequately respond to the same, seriously affected the terms, conditions and privileges of Plaintiff’s employment with the City.

43. Defendant Zakhary’s repeated sexual harassment of Plaintiff was sufficiently severe and/or pervasive to alter the conditions of Plaintiff’s employment and create an abusive working environment, permeating the workplace within the City’s Department of Public Safety with discriminatory intimidation, ridicule, and insult.

44. Defendant Zakhary’s repeated sexual harassment of Plaintiff, and other female employees, was extensive, long-lasting, unredressed, and consisted of uninhibited sexual threats or conduct that permeated Plaintiff’s work environment. Moreover, such sexual harassment was frequent and unreasonably interfered with Plaintiff’s work performance.

45. As a direct and proximate result of those and related acts, Defendants obtained benefits while Plaintiff suffered harm for which Defendants must be held liable.

VIII.

COUNT FOUR: VICARIOUS LIABILITY AND RESPONDEAT SUPERIOR

46. Defendant City of Woodway is liable for the above mentioned acts and omissions of its employees, officers, and agents. Plaintiff invokes the common law doctrines of agency liability, respondeat superior, and/or vicarious liability for the acts and omissions of any employees, officers

or agents of the City.

IX.
DAMAGES

47. Plaintiff hereby incorporates all preceding paragraphs and further allege as follows.

48. As a direct and proximate result of the occurrences made the basis of this lawsuit, Plaintiff has or will incur the following damages:

- (a) Actual damages;
- (b) Mental anguish in the past;
- (c) Mental anguish in the future; and
- (d) Attorney's fees and costs pursuant to TEX. LAB. CODE § 21.259.

X.
EXEMPLARY DAMAGES

49. Plaintiff hereby incorporates all preceding paragraphs and further alleges as follows.

50. The assault and intentional infliction of emotional distress by Defendant Zakhary described above occurred as a result of the type of conscious indifference and reckless disregard toward the safety of others as to allow for the award of exemplary or punitive damages under Texas law. Such conduct, as described more fully herein constitutes malice and/or gross negligence. As a result, Plaintiff hereby makes a claim for exemplary or punitive damages against Defendant Zakhary. Plaintiff seeks exemplary damages in an amount that may be found by the trier of fact.

XI.
JURY DEMAND

51. Plaintiff demands a jury trial and tenders the appropriate fee with this Original Petition and Request for Disclosure.

XII.
REQUEST FOR DISCLOSURE TO DEFENDANTS

52. Pursuant to TEXAS RULE OF CIVIL PROCEDURE 194, Defendants are requested to disclose, within fifty (50) days of service of this request, any and all information or material described in TEXAS RULE OF CIVIL PROCEDURE 194.2 (a)-(l).

XIII.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for Plaintiff against Defendants for damages in an amount within the jurisdictional limits of this Court; together with pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate; costs of court; and such other and further relief to which Plaintiff may be entitled at law or in equity.

Respectfully submitted,

JOHNSON HOBBS SQUIRES, LLP

/s/ Scott H. James

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