

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ASHLEY MENCHACA,

Case No. 18-_____
Hon. _____

Plaintiff,

vs.

MICHIGAN DEPARTMENT OF
CORRECTIONS AND STATE OF
MICHIGAN,

Defendants.

RASOR LAW FIRM, PLLC

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COMPLAINT & JURY DEMAND

NOW COMES Plaintiff, ASHLEY MENCHACA, by and through her attorneys, RASOR LAW FIRM, PLLC, and for her Complaint against the above-named Defendants, hereby state as follows:

PARTIES

1. At all times relevant to this lawsuit, Plaintiff ASHLEY MENCHACA (herein “Plaintiff”) was a resident of the City of Dearborn, County of Wayne, and State of Michigan.

2. Defendants MICHIGAN DEPARTMENT OF CORRECTIONS (herein “MDOC”) and the STATE OF MICHIGAN are public employers.

3. Defendant MDOC is a governmental agency created pursuant to the laws of the State of Michigan, and Defendant State of Michigan is a state government within the meaning of 42 U.S.C. § 2000e(a).

4. Woodland Center Correctional Facility is a male correctional facility that is run by Defendant MDOC in the City of Whitmore Lake, County of Livingston, State of Michigan. This is where the discriminatory employment conduct and practices occurred.

5. Defendants are “persons” and “employers” within the meaning of 42 U.S.C. § 2000e(a).

6. At all material times relevant to this lawsuit, Plaintiff was an employee, and Defendant MDOC was her employer.

7. This cause of action involves violations of Plaintiff’s civil rights, as secured by the United States and Michigan Constitutions, and is brought pursuant to Title VII of the Civil Rights Act of 1964.

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8. This Court has jurisdiction over the claims arising under federal law pursuant to 42 U.S.C. § 2000e-5(f), 29 U.S.C. § 623, and 28 U.S.C. §§ 1331 and 1343(a).

9. Venue is proper in this judicial district under 42 U.S.C. § 2000e-5(f)(3), § 2000e-6(b), and 28 U.S.C. § 1391(b) because it is where a substantial part of the events or omissions giving rise to the cause of action occurred.

10. Plaintiff filed a charge of discrimination with the EEOC on June 21, 2017.

11. Plaintiff received a Right to Sue letter from the EEOC following its investigation on December 19, 2017.

12. In bringing this suit, Plaintiff has satisfied all jurisdictional requirements as set forth by the EEOC for bringing employment discrimination suits.

Factual Allegations

13. Plaintiff began working for Defendant MDOC as a corrections officer on or around January 1, 2016.

14. In December 2016, Plaintiff transferred to the evening shift at the Woodland Correctional Facility.

15. Plaintiff had multiple individuals who supervised her in the chain of command, including but not limited to, Captain Melissa Godfrey,

Sergeant Ahmet Ferizovic, Captain Paul Schrieber, and Sergeant [first name unknown) Long.

16. Godfrey was the highest in command of the individuals directly supervising Plaintiff.

17. Immediately upon Plaintiff's arrival to her new shift she began experiencing adverse, harassing conduct from her individual supervisors.

18. On or around January 9, 2017, Sergeant Long told her that she needs to stop having "resting bitch face." This demeaning comment means how Plaintiff looks, was directly attacking her person, and is obviously something she cannot control.

19. On or around January 10, 2017, while Plaintiff was on her shift and properly following the "Post Orders," Sergeant Long approached her and verbally berated her.

20. When Plaintiff informed him that she was following the post orders and doing nothing wrong, he responded in a threatening tone, "I don't give a shit what the post orders say, if you do it again, you're getting a write up."

21. It is typical for officers to need "relief" when at a station, for example to go the bathroom or use the computer, and Captain Godfrey regularly made it more difficult for Plaintiff to find potential relief to the

extent she would be forced to remain at her post for long, uncomfortable periods of time.

22. On or around January 24, 2017, Plaintiff's coworkers continuously came up to her during her shift and asked her how her "trip to Mexico was over the weekend?"

23. Plaintiff did not go on a trip to Mexico or anywhere else.

24. It came to Plaintiff's attention that her supervisors had been spreading this false, untrue rumor that Plaintiff visited Mexico over the weekend.

25. Plaintiff is Hispanic and this was known to everyone she worked with.

26. On another instance early during Plaintiff's tenure began at the Woodland Facility, Sergeant Ferizovic told Plaintiff that her being a "dominant woman" was not going to cut it on this shift and that she might find herself getting a lot of "tickets" or what Plaintiff reasonably inferred to mean write-ups.

27. Plaintiff is a homosexual, this was known to everyone she worked with, and she was not the typical type of woman that worked at the Woodland Facility.

28. Defendant assigned Plaintiff to the work gate, which is a difficult position, and is known to all the corrections officers as being as such because there is no rotation.

29. The position is also known amongst the officers as a punishment position in that the supervisors can watch the individuals stationed there and easily intimidate them.

30. On or around February 13, 2017, when Sergeant Long was passing through Plaintiff's stationed gate, he aggressively and without Plaintiff's permission pulled Plaintiff's hat over her eyes.

31. On or around February 18, 2017, Plaintiff's partner, CMO D. Jones, informed Plaintiff that during her lunch break Sergeant Ferizovic asked Jones if he could help him "fix" Plaintiff. Jones told Plaintiff after he was offended by such a request and did not respond to Ferizovic.

32. On or around March 6, 2017, Sergeant Ferizovic singled Plaintiff out and threatened to discipline her for checking her email on the front desk computer during her shift.

33. However, Plaintiff had proper relief to use the computer and even informed Ferizovic that she is required to check her email during the shift as she was doing.

34. Plaintiff is aware of various other officers who check their email, as the job requires, during the shift and have never received any sort of supervisory response from doing so.

35. On or around March 6, 2017, Plaintiff was required to submit a memo to the facility regarding an offender contact form, which is for contact with parolees/probationers.

36. On or around March 7, 2017, Captain Godfrey entered the gates near Plaintiff's assignment and immediately began verbally abusing her for reading a book on assignment without seeing if the book was authorized.

37. Although Plaintiff submitted the requested paperwork and followed the proper procedure for offender contact, she was later informed that Defendant MDOC would be conducting an investigation into whether she violated the work rule involving potential offender contact.

38. On March 15, 2017, because Plaintiff believed she had followed the proper procedures for submitting the offender contact form, she asked the investigator why the investigation was ongoing.

39. The investigator informed Plaintiff that although she had submitted the proper paperwork, the decision to continue to investigate the claims "came from higher up."

40. That same day, Sergeant Ferizovic hand delivered a separate write-up to Plaintiff for failing to wear a tie and for reading an unauthorized

book, and while sitting next to her and creepily smiling, asked her what she thought about the write-up.

41. Many of Plaintiff's coworkers would never wear ties and were regularly not wearing ties when interacting with their supervisors but were never disciplined.

42. On or around March 18, 2017, Plaintiff was told she could not wear any outer gear over her uniform, such as hats or vests, and was told she had to take off what she was wearing.

43. On this same shift, there were male and other non-Hispanic, gender conforming, heterosexual individuals who were permitted to wear outerwear and continued to do so without being told otherwise.

44. Plaintiff was the only individual her supervisors enforced this rule against.

45. Due to the continuing nature of the harassing behavior of her supervisors, Plaintiff was told by a female coworker that it would be wise to document these instances.

46. On multiple occasions other individuals came up to Plaintiff following these harassing incidents with her supervisors and said what was being done was not right and told her they would corroborate what occurred if needed.

47. On April 3, 2017, Plaintiff received another formal written counseling about using the restroom without getting proper relief.

48. It was typical protocol for the gate officer to use the bathroom as needed as long as he or she informed the control center they were leaving.

49. Plaintiff did inform the control center during the instance that led to her receiving this write up when she went to the bathroom, and Plaintiff is not aware of any other individual who had received similar discipline despite the same conduct.

50. In an April 3 memorandum concerning this purported incident, Plaintiff was informed she would be “closely monitored” from thereon out.

51. The same day Plaintiff received the April 3 write-up, Captain Godfrey instructed Sergeant Ferizovic to switch the cushioned, rolling chair that Plaintiff normally sat in during her shift with a no-backed, hard stool.

52. This made Plaintiff’s shift unbearable as the stool was uncomfortable to sit in and Plaintiff was required to sit in it for long periods of time with no back support.

53. During other individuals’ shifts that day, they would roll back out the cushioned chair thus making Plaintiff the only individual required to sit on the stool.

54. Defendant MDOC has a progressive disciplinary policy and it was disregarded during the multiple instances of discipline Plaintiff received in that Defendant skipped to formal, written discipline.

55. Around this time, due to the continual and increasing nature of the harassment Plaintiff experienced, she began working with Melody Johnson, who is a discriminatory harassment counselor at the Woodland Facility, about the harassing treatment she was receiving.

56. On April 4, 2017, Plaintiff had permission to meet with Ms. Johnson regarding her claims of harassment and to fill out forms.

57. During the meeting, Captain Godfrey came into the area the two were meeting in and hovered around them in what appeared to Plaintiff an attempt to see what Plaintiff and Ms. Johnson were writing.

58. Because Plaintiff had made verbal complaints to various individuals before she decided to make a formal complaint regarding Captain Godfrey and other supervisors, she believed that Captain Godfrey knew what Plaintiff was doing with Ms. Johnson.

59. After Godfrey finally left, they received a call from Sergeant Rhodes that per Godfrey, they could not meet, which inhibited Plaintiff from completing the harassment forms and official complaint.

60. Captain Godfrey also questioned Ms. Johnson about the meeting after, to which Ms. Johnson informed her she could not disclose what was discussed.

61. On or around April 7, 2017, Plaintiff finally was able to complete her official complaint, and emailed it to Deputy Warden Parrish in which she reported discrimination, retaliation, and harassment.

62. Plaintiff is aware of at least two other formal complaints filed by employees made against Captain Godfrey where she was the subject of an investigation regarding claims of harassment.

63. That same day Plaintiff began outpatient therapy provided by Defendant MDOC's Employee Service Program for stress-related mental health issues arising from the workplace harassment.

64. Despite Plaintiff making a formal complaint, her supervisor's treatment of her did not change but instead became worse.

65. Plaintiff was also forced to continue to work in close proximity with all the individuals that she named in the complaint, Captain Godfrey, Sergeant Ferizovic, Sergeant Long, and Lieutenant Schrieber. She felt uncomfortable every time she had to interact with them.

66. On some occasions, Plaintiff was scheduled to work directly with Captain Godfrey despite Defendant's knowledge that Godfrey was the

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main harasser. Plaintiff believed this was Defendant's attempt to make her work environment unbearable.

67. Defendant again initiated an investigation into Plaintiff regarding a potential work rule violation on April 19, 2017.

68. Plaintiff also requested a transfer to the Michigan State Police, which she had initiated before this began, but was later denied.

69. Following Plaintiff's complaint, however, her application to be transferred to the Michigan State Police was permanently deactivated.

70. Plaintiff is aware of numerous non-Hispanic, gender conforming, heterosexual individuals who have been granted this transfer.

71. On May 22, 2017, because Plaintiff's working conditions had not changed after her complaint and continued to be unbearable and hostile due to her supervisors' conduct, Plaintiff resigned her employment.

72. Plaintiff was never informed what, if anything, was the result of Defendant's investigation into her harassment claims.

COUNT I – RACE AND/OR GENDER DISCRIMINATION
VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF
1964 – 42 U.S.C. § 2000e-2 AS TO DEFENDANT MICHIGAN
DEPARTMENT OF CORRECTIONS & DEFENDANT STATE
OF MICHIGAN

73. Plaintiff reasserts and re-alleges each and every allegation contained in paragraphs 1 through 72, as if fully set forth herein.

74. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* prohibits discrimination against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race and/or gender.

75. At all material times, Plaintiff was an employee of Defendant MDOC, covered by and within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2.

76. Plaintiff is Hispanic and a nonconforming female, in the minority at MDOC and the Woodland Center Facility and is a member of a protected class under Title VII of the Civil Rights Act of 1964.

77. As an employer within the meaning of the Title VII of the Civil Rights Act of 1964, Defendant MDOC owed Plaintiff a duty not to discriminate against her with respect to employment, promotional opportunities, compensation or other conditions or privileges of employment on the basis of Plaintiff's gender nonconformity and/or race.

78. Because of her race and/or gender nonconformity, Plaintiff was subjected to treatment from Defendant MDOC that was disparate from that accorded to non-Hispanic, gender conforming employees of Defendant MDOC who have been treated more favorably than Plaintiff.

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79. Plaintiff's race and/or gender nonconformity was at least one factor that made a difference in Defendant's decision to discriminate against and harass Plaintiff.

80. Plaintiff's race and/or gender nonconformity was a factor that made a difference in Defendant's decision to treat Plaintiff differently than others, including but not limited to, failing to allow Plaintiff to do her job without being harassed, making crude, offensive comments, regularly disciplining Plaintiff despite her not being in violation of work rules, and targeting her regarding various work procedures.

81. Had Plaintiff not been a Hispanic and/or nonconforming female, she would not have been subjected to the above-referenced discriminatory treatment.

82. The above-referenced harassing supervisors and individuals did not treat any similarly situated, non-Hispanic, gender conforming individuals like they did Plaintiff.

83. The disparate and less favorable treatment that Defendant subjected Plaintiff to included adverse employment actions on the basis of Plaintiff's race and gender nonconformity, and Plaintiff has otherwise been discriminated against with respect to employment, promotional opportunities, compensation or other conditions or privileges of employment on the basis of these protected characteristics.

84. The disparate and less favorable treatment that Defendant subjected Plaintiff to came both from management, supervisory personnel, and from Plaintiff's coworkers.

85. Defendant MDOC and the Woodland Center Facility has a policy or pattern of practice that encourages management or supervisory personnel to directly discriminate against Hispanic and/or gender nonconforming employees, or that tolerates the disparate and less favorable treatment of the same employees by said management and supervisory personnel.

86. Defendant MDOC and the Woodland Center Facility has a policy or pattern of practice that encourages management or supervisory personnel to look the other-way or actively encourage disparate and less favorable treatment of Hispanic and/or gender nonconforming employees by non-Hispanic and/or gender conforming employees and/or supervisory personnel.

87. Management and/or Plaintiff's supervisors have either directly discriminated against Plaintiff or have tolerated and looked the other way to the disparate and less favorable treatment of Plaintiff by her non-Hispanic and/or gender conforming co-workers and/or supervisory personnel.

88. The disparate treatment to which Plaintiff was subjected while working at Defendant MDOC and while assigned to the Woodland Center

Facility has been so substantially disparate and less favorable than the treatment of similarly-situated non-Hispanic and/or gender conforming employees that it raises an inference of disparate treatment discrimination.

89. The disparate treatment to which Plaintiff was subjected to while assigned to Woodland Center Facility has been so substantially disparate and less favorable than the treatment received by her non-Hispanic and/or gender conforming co-workers that it unreasonably interfered with Plaintiff's work performance.

90. Defendants' actions were intentional and in disregard for Plaintiff's rights and sensibilities.

91. The individual harassing/discriminating supervisors' conduct made Plaintiff's working environment so intolerable that Plaintiff was forced to resign.

92. There is no legitimate business reason justifying the disparate treatment to which Plaintiff was subjected to during her time at Defendant MDOC.

93. The acts and practices of Defendants described in the above paragraphs constitute a pattern or practice of discrimination on the basis of race and gender nonconformity in violation of Title VII because Defendants have pursued, and continue to pursue, policies and practices with respect to terms, conditions, or privileges of employment that discriminate against

Hispanic and/or gender nonconforming employees and that deprive or tend to deprive the same protected individuals of employment opportunities because of these characteristics.

94. As a direct and proximate result of Defendant MDOC's unlawful actions against Plaintiff as described herein, Plaintiff has suffered injuries and damages, including, but not limited to, potential loss of earnings and earning capacity, loss of career opportunities, loss of reputation and esteem in the community, mental and emotional distress, and loss of the ordinary pleasures of life.

95. By failing to take prompt and effective remedial actions but instead forcing Plaintiff to remain under the supervision of the same discriminators/harassers, Defendants have in effect condoned, ratified, and/or authorized discrimination against Plaintiff and individuals similarly situated.

96. Pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, Defendants are liable to Plaintiff for all damages allowed under federal law. To the extent that the damages allowable and/or recoverable are deemed insufficient to fully compensate Plaintiff and/or to punish or deter the Defendants, this Court must order additional damages to be allowed so as to satisfy any and all such inadequacies. The conduct of

Defendants was and remains extreme and outrageous subjecting Defendants to punitive damages.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor and against Defendants, jointly and severally in an amount that is fair and reasonable and compensates Plaintiff for her injuries, plus costs, interest, and attorney fees, as well as punitive and/or exemplary damages so wrongfully incurred.

**COUNT II – SEXUAL ORIENTATION DISCRIMINATION
VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF
1964 – 42 U.S.C. § 2000e et seq., AS TO ALL DEFENDANTS**

97. Plaintiff reasserts and re-alleges each and every allegation contained in paragraphs 1 through 96, as if fully set forth herein.

98. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* prohibits discrimination against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's sexual orientation.

99. At all material times, Plaintiff was an employee of Defendant employer MDOC, covered by and within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2.

100. Plaintiff is a homosexual and in the minority at MDOC and at the Woodland Center Facility and she is a member of a protected class under Title VII of the Civil Rights Act of 1964.

101. As an employer within the meaning of the Title VII of the Civil Rights Act of 1964, Defendant MDOC owed Plaintiff a duty not to discriminate against her with respect to employment, promotional opportunities, compensation or other conditions or privileges of employment on the basis of Plaintiff's homosexuality.

102. Because of her homosexuality, Plaintiff was subjected to treatment from Defendant MDOC that was disparate from that accorded to heterosexual employees of Defendant MDOC and at the Woodland Center Facility who have been treated more favorably than Plaintiff.

103. Plaintiff's homosexuality was at least one factor that made a difference in Defendant's decision to discriminate against and harass Plaintiff.

104. Plaintiff's homosexuality was a factor that made a difference in Defendant's decision to treat her differently than others, including but not limited to, failing to allow Plaintiff to do her job without being harassed, making crude, offensive comments, regularly disciplining Plaintiff despite her not being in violation of work rules, and targeting her regarding various work procedures.

105. Had Plaintiff not been homosexual, she would not have been subjected to the above-referenced discriminatory treatment.

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106. The above-referenced discriminating/harassing supervisors and individuals did not treat any similarly situated, heterosexual individuals like they did Plaintiff.

107. There have been other homosexual employees at the Woodland Facility, including but not limited to Erica Moritz and Alexis (last name unknown) that have received similar harassing and discriminatory treatment from the supervisory personnel.

108. The disparate and less favorable treatment to which Plaintiff was subjected during her employment has included adverse employment actions on the basis of Plaintiff's homosexuality, and Plaintiff has otherwise been discriminated against with respect to employment, promotional opportunities, compensation or other conditions or privileges of employment on the basis of her homosexuality.

109. The disparate and less favorable treatment to which Plaintiff was subjected during her employment came both from management and supervisory personnel, and from Plaintiff's coworkers.

110. Defendant MDOC and the facility to which Plaintiff was assigned by Defendant MDOC has a policy or pattern of practice that encourages management or supervisory personnel to directly discriminate against and/or harass homosexual employees, or that tolerates the disparate

and less favorable treatment of the same employees by said management and supervisory personnel.

111. Defendant MDOC and the Woodland Center Facility has a policy or pattern of practice that encourages management or supervisory personnel to look the other-way or actively encourage disparate and less favorable treatment of Homosexual employees by heterosexual employees and/or supervisory personnel.

112. The individual supervisors and management at the Woodland Center Facility have either directly discriminated against Plaintiff or have tolerated and looked the other-way to disparate and less favorable treatment of Plaintiff by her heterosexual co-workers and/or supervisory personnel.

113. The disparate treatment to which Plaintiff was subjected while working at Defendant MDOC and while assigned to the Woodland Center Facility has been so substantially disparate and less favorable than the treatment of similarly-situated heterosexual employees that it raises an inference of disparate treatment discrimination.

114. The disparate treatment to which Plaintiff was subjected to while assigned to the Woodland Center Facility has been so substantially disparate and less favorable than the treatment received by her heterosexual co-workers that it unreasonably interfered with Plaintiff's work performance.

115. Defendants' actions were intentional and in disregard for Plaintiff's rights and sensibilities.

116. The individual harassing/discriminating supervisors' conduct made Plaintiff's working environment so intolerable that Plaintiff was forced to resign.

117. There is no legitimate business reason justifying the disparate treatment to which Plaintiff was subjected to during her time at Defendant MDOC.

118. The acts and practices of Defendants described in the above paragraphs constitute a pattern or practice of discrimination on the basis of her homosexuality in violation of Title VII because Defendants have pursued, and continue to pursue, policies and practices with respect to terms, conditions, or privileges of employment that discriminate against homosexuals and that deprive or tend to deprive the same protected individuals of employment opportunities because of their homosexuality.

119. As a direct and proximate result of Defendants unlawful actions against Plaintiff as described herein, Plaintiff has suffered injuries and damages, including, but not limited to, potential loss of earnings and earning capacity, loss of career opportunities, loss of reputation and esteem in the community, mental and emotional distress, and loss of the ordinary pleasures of life.

120. By failing to take prompt and effective remedial actions but instead forcing Plaintiff to remain under the supervision of the same discriminators/ harassers, Defendants have in effect condoned, ratified, and/or authorized discrimination against Plaintiff.

121. Pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, Defendants are liable to Plaintiff for all damages allowed under federal law. To the extent that the damages allowable and/or recoverable are deemed insufficient to fully compensate Plaintiff and/or to punish or deter the Defendants, this Court must order additional damages to be allowed so as to satisfy any and all such inadequacies. The conduct of Defendants was and remains extreme and outrageous subjecting Defendants to punitive damages.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor and against Defendants, jointly and severally in an amount that is fair and reasonable and compensates Plaintiff for her injuries, plus costs, interest, and attorney fees, as well as punitive and/or exemplary damages so wrongfully incurred.

COUNT III – HOSTILE WORK ENVIRONMENT
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 – 42 U.S.C. §
2000e-2
AS TO ALL DEFENDANTS

122. Plaintiff reasserts and re-alleges each and every allegation contained in paragraphs 1 through 121, as if fully set forth herein.

123. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* prohibits discrimination and/or harassment against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, gender nonconformity, or sexual orientation.

124. At all material times, Plaintiff has been an employee of Defendant employer MDOC, covered by and within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*

125. Plaintiff is a Hispanic, Homosexual, nonconforming female, is a minority at MDOC and the Woodland Center Facility and is a member of a protected class under Title VII of the Civil Rights Act of 1964.

126. As an employer within the meaning of the Title VII of the Civil Rights Act of 1964, Defendant MDOC owed Plaintiff a duty not to discriminate against and/or harass her with respect to employment, promotional opportunities, compensation or other conditions or privileges of employment on the basis of her race, gender nonconformity, and homosexuality.

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127. Defendant MDOC by its agents, representatives, and/or employees, was predisposed to discriminate on the basis of Plaintiff's protected characteristics and acted in accordance with that predisposition.

128. While employed by Defendant MDOC Plaintiff was constantly and repeatedly subjected to discriminating and harassing treatment by Defendant, by and through its agents, servants and/or employees, said acts being made unlawful by Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*

129. Defendant MDOC, by and through its agents, servants and/or employees intentionally violated Title VII by the following acts:

a. Discriminating against Plaintiff with respect to employment, compensation, or a term, condition or privilege of employment, because of race/gender nonconformity/sexual orientation;

b. Limiting, segregating, or classifying Plaintiff in a way which deprived or tended to deprive Plaintiff of an employment opportunity or otherwise adversely affecting the status of Plaintiff because of race/gender conformity/sexual orientation;

c. Segregating, classifying or otherwise discriminating against Plaintiff on the basis of her protected characteristics with respect to a term, condition or privilege of employment, including a benefit plan or system;

d. Creating an unbearable work environment based on threats, offensive comments, and outrageous conduct on the basis of Plaintiff's race/gender nonconformity/sexual orientation;

e. Singling out and targeting Plaintiff concerning everything she did, even the most typical everyday employee job requirement.

f. Writing up, threatening to write up, and disciplining Plaintiff for conduct that is not a violation, but part of Plaintiff's job duties.

g. Failing to provide a work environment free from discriminatory/harassing conduct.

130. The disparate and less favorable treatment which Defendant MDOC subjected Plaintiff to while she was assigned to the Woodland Center Facility came both from management and supervisory personnel, and from Plaintiff's coworkers.

131. Defendant MDOC subjected Plaintiff to disparate treatment in whole or in part because of the aforementioned protected characteristics, and such treatment was sufficiently severe and pervasive such that Plaintiff was subjected to a hostile work environment on the basis of her protected characteristics.

132. Due to the harassing and continuous nature of Plaintiff's harassers, she was unable to perform her job duties because of the always present abusive environment.

133. Defendant MDOC and the Woodland Center facility has a policy or pattern of practice that encourages management or supervisory personnel to directly discriminate and/or harass Hispanic, non-gender conforming, homosexual individuals or that tolerates the disparate and less favorable treatment of the same by said management and supervisory personnel.

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134. Defendant MDOC and the Woodland Center facility has a policy or pattern of practice that encourages management or supervisory personnel to look the other-way or actively encourage disparate/less favorable and harassing treatment of Hispanic, non-gender conforming, homosexual employees by non-Hispanic, gender conforming, heterosexual employees and/or supervisory personnel.

135. Plaintiff's individual supervisors have either directly discriminated against Plaintiff or have tolerated and looked the other-way to disparate and less favorable treatment of Plaintiff by her non-Hispanic, gender conforming, heterosexual co-workers and/or supervisory personnel.

136. Defendant MDOC had no legitimate business reason for its actions, in violation of Title VII, which specifically prohibits discrimination against any person regarding employment and/or the terms of employment on the basis of Plaintiff's protected characteristics.

137. Defendant MDOC and its agents, servants and/or employees' actions were intentional, with reckless indifference to Plaintiff's rights and sensibilities.

138. As a direct and proximate result of Defendants MDOC's unlawful actions against Plaintiff as described herein, which constitute a hostile work environment, Plaintiff has suffered injuries and damages, including, but not limited to, potential loss of earnings and earning capacity,

loss of career opportunities, loss of reputation and esteem in the community, mental and emotional distress, and loss of the ordinary pleasures of life.

139. Pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, Defendants are liable to Plaintiff for all damages allowed under federal law. To the extent that the damages allowable and/or recoverable are deemed insufficient to fully compensate Plaintiff and/or to punish or deter the Defendants, this Court must order additional damages to be allowed so as to satisfy any and all such inadequacies. Defendants' conduct was and remains extreme and outrageous subjecting Defendants to punitive damages.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor and against Defendants, jointly and severally in an amount that is fair and reasonable and compensates Plaintiff for her injuries, plus costs, interest, and attorney fees, as well as punitive and/or exemplary damages so wrongfully incurred.

COUNT IV – RETALIATION
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 – 42 U.S.C. § 2000e
AS TO DEFENDANT MICHIGAN DEPARTMENT OF
CORRECTIONS & DEFENDANT STATE OF MICHIGAN

140. Plaintiff reasserts and re-alleges each and every allegation contained in paragraphs 1 through 139, as if fully set forth herein.

141. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* prohibits retaliation against any individual because that person has opposed a violation of this act or because the person has made a charge, testified, assisted, or participated in any investigation...under this act.

142. At all material times, Plaintiff has been an employee of Defendant employer MDOC, covered by and within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-3.

143. Plaintiff is a Hispanic, Homosexual, nonconforming female, in the minority at MDOC and the Woodland Center Facility and is a member of a protected class(es) under Title VII of the Civil Rights Act of 1964.

144. As an employer within the meaning of the Title VII of the Civil Rights Act of 1964, Defendant Michigan Department of Corrections owed Plaintiff a duty not to retaliate against her on the basis of her engaging in statutorily protected activities.

145. Complaining about, reporting, and/or opposing discriminatory and/or harassing treatment and/or policies or patterns of practice is a statutorily protected activity.

146. Plaintiff engaged in conduct protected under Title VII of the Civil Rights Act of 1964, including, but not limited to, complaining of, reporting, and/or opposing the discriminatory conduct of the agents, servants, and/or employees of Defendant MDOC.

147. Under information and belief, some of the harassing behavior Plaintiff experienced was meant to intimidate and deter her from making further or formal complaints of harassment, specifically from Captain Godfrey.

148. Defendant Michigan Department of Corrections had knowledge of Plaintiff's protected activities and had knowledge before she filed her official complaint that she desired to make an official complaint as set forth in the preceding paragraphs.

149. Defendant MDOC by and through its agents, servants, and/or employees, subsequently took adverse, retaliatory action against Plaintiff including, but not limited to, bringing disciplinary actions, disciplining Plaintiff without cause, harassing her, and denying Plaintiff conditions, terms, opportunities, and privileges of her employment because she engaged in the above referenced statutory protected activities in violation of Title VII of the Civil Rights Act of 1964.

150. Defendant MDOC and its agents, servants and/or employees' actions were intentional, with reckless indifference to Plaintiff's rights and sensibilities.

151. As a direct and proximate result of Defendant MDOC's unlawful and retaliatory actions against Plaintiff as described herein, Plaintiff has suffered injuries and damages, including, but not limited to,

potential loss of earnings and earning capacity, loss of career opportunities, loss of reputation and esteem in the community, mental and emotional distress, and loss of the ordinary pleasures of life.

152. Pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, Defendants are liable to Plaintiff for all damages allowed under federal law. To the extent that the damages allowable and/or recoverable are deemed insufficient to fully compensate Plaintiff and/or to punish or deter the Defendants, this Court must order additional damages to be allowed so as to satisfy any and all such inadequacies. The conduct of Defendants was and remains extreme and outrageous subjecting Defendants to punitive damages.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor and against Defendants, jointly and severally in an amount that is fair and reasonable and compensates Plaintiff for her injuries, plus costs, interest, and attorney fees, as well as punitive and/or exemplary damages so wrongfully incurred.

THE RASOR LAW FIRM, PLLC

/s/ James B. Rasor

JAMES B. RASOR (P43476)

Attorney for Plaintiff

201 E. 4th Street

Royal Oak, MI 48067

Dated: March 16, 2018

PROOF OF SERVICE

The undersigned certified that a copy of the foregoing instrument was delivered to each of the attorneys of record and/or unrepresented and/or interested parties on **March 16, 2018**, at their respective addresses as disclosed in the pleadings on record in this matter by:

- | | |
|---|---|
| <input checked="" type="checkbox"/> US First Class Mail | <input type="checkbox"/> Facsimile Transmission |
| <input type="checkbox"/> Hand Delivery | <input type="checkbox"/> UPS |
| <input type="checkbox"/> Fed Ex | <input type="checkbox"/> Other: |

/s/ Stephanie R. Moore

Stephanie R. Moore

RASOR LAW FIRM, PLLC