IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

ONDREA ZINK,	)	
	)	
Plaintiff,	)	
	)	**CIVIL ACTION FILE NO.**
v.	)	
	)	_____
CITY OF MONTEZUMA, GEORGIA,	)	
CHIEF MATTHEW MOYE, and	)	
MAYOR LARRY SMITH,	)	
	)	
Defendants.	)	
	)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, the Defendants City of Montezuma, Georgia ("the City"), Chief Matthew Moye ("Moye"), and Mayor Larry Smith ("Smith") file this Notice of Removal within the time prescribed by law and hereby remove the above-captioned civil action from the Superior Court of Macon County, Georgia to the United States District Court for the Middle District of Georgia, Macon Division, respectfully showing the Court as follows:

1.

On August 24, 2020, Plaintiff Ondrea Zink ("Plaintiff") filed this action against the City, Moye, and Smith in the Superior Court of Macon County, Georgia, Civil Action File No. 2020CV00124 (the "State Court Action").

2.

On September 3, 2020, all Defendants were served with a copy of the Summons and Complaint in the State Court Action.

3.

On September 29, 2020, the Plaintiff and Defendants filed a Stipulation Extending Time to Answer or Otherwise Respond to Plaintiff's Complaint through November 5, 2020 in the State Court Action.

4.

On November 2, 2020, the Plaintiff and Defendants filed a Second Stipulation Extending Time to Answer or Otherwise Respond to Plaintiff's Complaint through December 5, 2020 in the State Court Action.

5.

On November 30, 2020, Plaintiff filed her First Amended Complaint for Equitable Relief and Damages ("First Amended Complaint") in the State Court Action in which she asserted for the first time claims pursuant to federal law, including alleged violations of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution (brought pursuant to 42 U.S.C. § 1983) and alleged violation of Title VII of the Civil Rights Act, 42 U.S.C. § 2000e, *et seq*. ("Title VII").

6.

On December 4, 2020, the Plaintiff and Defendants filed a Third Stipulation Extending Time to Answer or Otherwise Respond to Plaintiff's Complaint through January 15, 2020 in the State Court Action.

7.

This Notice of Removal is filed within 30 days after the Defendants' receipt of a copy of the initial pleading (the First Amended Complaint) setting forth the claim for relief under federal

law, and prior to the existing deadline for Defendants to answer or otherwise respond to the Complaint or First Amended Complaint.

8.

True and correct copies of all process, pleadings, and orders served upon Defendants in the State Court Action are attached hereto as Exhibit A.

9.

This is a civil action contains a total of eleven (11) counts. Two counts assert claims pursuant to the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, brought pursuant to 42 U.S.C. § 1983, and two counts assert claims pursuant to Title VII. In Count VIII, Plaintiff alleges Defendants subjected her to sexual harassment/gender discrimination in violation of the Equal Protection Clause, brought pursuant to 42 U.S.C. § 1983. (Compl. ¶¶ 86-97). In Count IX, Plaintiff alleges Defendants retaliated against her in violation of the Equal Protection Clause, also brought pursuant to 42 U.S.C. § 1983. (Compl. ¶¶ 98-107). In Count X, Plaintiff alleges the City subjected her to sexual harassment/gender discrimination in violation of Title VII. (Compl. ¶¶ 108-112). In Count XI, Plaintiff alleges the City retaliated against her in violation of Title VII. (Compl. ¶¶ 113-117).

10.

This is a civil action of which the Court has original jurisdiction under 28 U.S.C. § 1331 and is one which may be removed to this Court by Defendants pursuant to 28 U.S.C. §1441(a) because it is an action that, in part, arises under the laws of the United States. This Court thus has original jurisdiction over this action by reason of federal-question jurisdiction pursuant to 28 U.S.C. § 1331.

11.

Pursuant to 28 U.S.C. § 90(a)(2), the United States District Court for the Middle District of Georgia, Macon Division, is the district court having jurisdiction over the geographical area where the State Court Action is pending. Pursuant to 28 U.S.C. §§ 1441(a) and 1445(a), Defendants are thus entitled to remove this action from the Superior Court of Macon County, Georgia to this Court.

12.

Contemporaneously with its filing of this Notice of Removal with this Court, Defendants have filed a copy of this Notice of Removal with the Clerk of the Superior Court of Macon County and served a notice of this Notice of Removal on Plaintiff, as required by 28 U.S.C. § 1446(d). A copy of such notice is attached hereto as Exhibit B.

13.

For these reasons, Defendants respectfully request that this case be removed to this Court from the Superior Court of Macon County, and that this Court accept jurisdiction over the State Court Action.

Respectfully submitted,

s/ David A. Cole

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Georgia Bar No. 142383
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Attorney for the City of Montezuma

s/ Megan Mathews Noble
Megan Mathews Noble
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s/ Frederick L. Warren
Frederick L. Warren
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Attorney for Mayor Larry Smith

CERTIFICATE OF SERVICE

I certify that I have on this day electronically filed the within and foregoing **NOTICE OF REMOVAL** with the Clerk of the Court using the CM/ECF system and served by electronic mail and U.S. Mail counsel of record as follow:

Cheryl B. Legare
Legare, Attwood & Wolfe, LLC
125 Clairmont Avenue, Suite 380
Decatur, Georgia 30030
cblegare@law-llc.com

John C. Cotton
Cotton Law Firm, P.C.
P.O. Box 897
Cordele, Georgia 31010
craig@cottonlawfirmpc.com

This 30th day of December, 2020.

s/ David A. Cole
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Attorney for the City of Montezuma

EXHIBIT A

EXHIBIT B

JS 44 (Rev. 10/20)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Ondrea Zink

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Cheryl Legare; Legare, Attwood & Wolf, LLC; 125 Clairmont Avenue, Suite 380, Decatur, GA 30030; (470) 823-4000

DEFENDANTS

City of Montezuma, Georgia; Chief Matthew Moye; and Mayor Larry Smith

County of Residence of First Listed Defendant Macon
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

David A. Cole; Freeman Mathis & Gary, LLP; 100 Galleria Parkway, Suite 1600, Atlanta, GA 30339; (770) 818-0000

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- [ ] 1 U.S. Government Plaintiff
- [x] 3 Federal Question *(U.S. Government Not a Party)*
- [ ] 2 U.S. Government Defendant
- [ ] 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	[ ] 1	[ ] 1	Incorporated *or* Principal Place of Business In This State	[ ] 4	[ ] 4
Citizen of Another State	[ ] 2	[ ] 2	Incorporated *and* Principal Place of Business In Another State	[ ] 5	[ ] 5
Citizen or Subject of a Foreign Country	[ ] 3	[ ] 3	Foreign Nation	[ ] 6	[ ] 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- [ ] 110 Insurance
- [ ] 120 Marine
- [ ] 130 Miller Act
- [ ] 140 Negotiable Instrument
- [ ] 150 Recovery of Overpayment & Enforcement of Judgment
- [ ] 151 Medicare Act
- [ ] 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- [ ] 153 Recovery of Overpayment of Veteran's Benefits
- [ ] 160 Stockholders' Suits
- [ ] 190 Other Contract
- [ ] 195 Contract Product Liability
- [ ] 196 Franchise

REAL PROPERTY
- [ ] 210 Land Condemnation
- [ ] 220 Foreclosure
- [ ] 230 Rent Lease & Ejectment
- [ ] 240 Torts to Land
- [ ] 245 Tort Product Liability
- [ ] 290 All Other Real Property

TORTS

PERSONAL INJURY
- [ ] 310 Airplane
- [ ] 315 Airplane Product Liability
- [ ] 320 Assault, Libel & Slander
- [ ] 330 Federal Employers' Liability
- [ ] 340 Marine
- [ ] 345 Marine Product Liability
- [ ] 350 Motor Vehicle
- [ ] 355 Motor Vehicle Product Liability
- [ ] 360 Other Personal Injury
- [ ] 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- [ ] 365 Personal Injury - Product Liability
- [ ] 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- [ ] 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- [ ] 370 Other Fraud
- [ ] 371 Truth in Lending
- [ ] 380 Other Personal Property Damage
- [ ] 385 Property Damage Product Liability

CIVIL RIGHTS
- [ ] 440 Other Civil Rights
- [ ] 441 Voting
- [x] 442 Employment
- [ ] 443 Housing/ Accommodations
- [ ] 445 Amer. w/Disabilities - Employment
- [ ] 446 Amer. w/Disabilities - Other
- [ ] 448 Education

PRISONER PETITIONS

Habeas Corpus:
- [ ] 463 Alien Detainee
- [ ] 510 Motions to Vacate Sentence
- [ ] 530 General
- [ ] 535 Death Penalty

Other:
- [ ] 540 Mandamus & Other
- [ ] 550 Civil Rights
- [ ] 555 Prison Condition
- [ ] 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- [ ] 625 Drug Related Seizure of Property 21 USC 881
- [ ] 690 Other

LABOR
- [ ] 710 Fair Labor Standards Act
- [ ] 720 Labor/Management Relations
- [ ] 740 Railway Labor Act
- [ ] 751 Family and Medical Leave Act
- [ ] 790 Other Labor Litigation
- [ ] 791 Employee Retirement Income Security Act

IMMIGRATION
- [ ] 462 Naturalization Application
- [ ] 465 Other Immigration Actions

BANKRUPTCY
- [ ] 422 Appeal 28 USC 158
- [ ] 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- [ ] 820 Copyrights
- [ ] 830 Patent
- [ ] 835 Patent - Abbreviated New Drug Application
- [ ] 840 Trademark
- [ ] 880 Defend Trade Secrets Act of 2016

SOCIAL SECURITY
- [ ] 861 HIA (1395ff)
- [ ] 862 Black Lung (923)
- [ ] 863 DIWC/DIWW (405(g))
- [ ] 864 SSID Title XVI
- [ ] 865 RSI (405(g))

FEDERAL TAX SUITS
- [ ] 870 Taxes (U.S. Plaintiff or Defendant)
- [ ] 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- [ ] 375 False Claims Act
- [ ] 376 Qui Tam (31 USC 3729(a))
- [ ] 400 State Reapportionment
- [ ] 410 Antitrust
- [ ] 430 Banks and Banking
- [ ] 450 Commerce
- [ ] 460 Deportation
- [ ] 470 Racketeer Influenced and Corrupt Organizations
- [ ] 480 Consumer Credit (15 USC 1681 or 1692)
- [ ] 485 Telephone Consumer Protection Act
- [ ] 490 Cable/Sat TV
- [ ] 850 Securities/Commodities/ Exchange
- [ ] 890 Other Statutory Actions
- [ ] 891 Agricultural Acts
- [ ] 893 Environmental Matters
- [ ] 895 Freedom of Information Act
- [ ] 896 Arbitration
- [ ] 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- [ ] 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- [ ] 1 Original Proceeding
- [x] 2 Removed from State Court
- [ ] 3 Remanded from Appellate Court
- [ ] 4 Reinstated or Reopened
- [ ] 5 Transferred from Another District *(specify)*
- [ ] 6 Multidistrict Litigation - Transfer
- [ ] 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
28 U.S.C. 1441; 42 U.S.C. 1983; 42 U.S.C. 2000e

Brief description of cause:
Removal of employment discrimination case from the Superior Court of Macon County, Georgia

VII. REQUESTED IN COMPLAINT:

[ ] CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $ N/A

CHECK YES only if demanded in complaint:
JURY DEMAND: [x] Yes [ ] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: Dec 30, 2020

SIGNATURE OF ATTORNEY OF RECORD: s/ David A. Cole

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

EXHIBIT A

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
MACON COUNTY, GEORGIA
2020CV00124
W. James Sizemore Jr.
AUG 20, 2020 02:44 PM
Juanita M. Laidler
Juanita M. Laidler, Clerk
Macon County, Georgia

IN THE SUPERIOR COURT OF MACON COUNTY
STATE OF GEORGIA

ONDREA ZINK,	)	Civil Action File No. _____
Plaintiff,	)	
v.	)	**JURY TRIAL DEMANDED**
CITY OF MONTEZUMA, GA, CHIEF MATTHEW MOYE, and MAYOR LARRY SMITH,	)	
Defendants.	)	

COMPLAINT FOR EQUITABLE RELIEF AND DAMAGES

Plaintiff Ondrea Zink ("Plaintiff" or "Ms. Zink") files this Complaint for Equitable Relief and Damages against the City of Montezuma, Georgia, Chief Matthew Moye, and Mayor Larry Smith showing the Court the following:

INTRODUCTION

1. This Complaint[1] arises from the sexual harassment, invasion of privacy, intentional infliction of emotional distress, and retaliation in violation of the Georgia Whistleblower Act against Plaintiff Ondrea Zink by Defendants City of Montezuma, Fire Chief Matthew Moye, and Mayor Larry Smith. The City was aware of Chief Moye's harassment and stalking of Ms. Zink and the City retaliated against Ms. Zink by refusing to assign her to any shifts with the Fire Department after April 30, 2019 despite her repeated requests that she be placed on the schedule. To date, although Ms. Zink has not been terminated, she has not been assigned any shifts and, thus, has not been paid.

2. Ms. Zink brings Georgia tort claims for intentional infliction of emotional distress,

[1] The statutes of limitations in this matter were tolled by Chief Just Melton's Order Declaring Statewide Judicial Emergency relating to the COVID-19 pandemic.

invasion of privacy, and negligent retention and supervision. Ms. Zink also brings a claim for retaliation in violation of the Georgia Whistleblower Act, O.C.G.A. § 45-1-4 *et seq.* ("GWA"). Ms. Zink seeks equitable relief and monetary damages, including but not limited to back and front pay, compensatory damages, and attorney's fees and costs against the City of Montezuma, Chief Moye, and Mayor Smith, and punitive damages against Chief Moye and Mayor Smith.

JURISDICTION AND VENUE

3. This Court has jurisdiction over all the Parties to this lawsuit and all the claims set forth in the Complaint.

4. Ms. Zink is a resident of Houston County, Georgia and submits herself to the jurisdiction of this Court.

5. Chief Moye resides in Macon County and is subject to personal jurisdiction in this Court.

6. Mayor Smith resides in Macon County and is subject to personal jurisdiction in this Court.

7. Macon County is the proper venue for this action because Defendants reside in Macon County and the actions alleged in this lawsuit occurred in Macon County.

THE PARTIES

8. Ms. Zink was a volunteer Firefighter with the City of Montezuma beginning in 2017 and became employed by the City of Montezuma in 2018.

9. At all times relevant to her claims, Ms. Zink was a "public employee" of the City of Montezuma, as defined by the Georgia Whistleblower Act, O.C.G.A. § 45-1-4(a)(3).

10. At all times relevant, Mayor Larry Smith was the Mayor of the City of Montezuma.

11. Mayor Smith may be served with process at his residence at 711 Engram Street, Montezuma, Georgia 31063 or his principal place of business at 408 South Dooley Street, Montezuma, Georgia 31063

12. At all times relevant, Chief Matthew Moye was the Fire Chief of the City of Montezuma.

13. Chief Moye may be served with process at his places of business at 408 South Dooley Street and 301 West Railroad Street, Montezuma, Georgia 31063.

14. The City of Montezuma is a "public employer" as defined by O.C.G.A. § 45-1-4(a)(4).

15. The City may be served with process by serving Mayor Larry Smith, at his principal business office located at 408 South Dooley Street, Montezuma, Georgia 31063.

STATEMENT OF FACTS

16. Ms. Zink was subjected to a hostile work environment throughout her employment with the City.

17. Specifically, Chief Moye, sexually harassed her.

18. In October 2018, Ms. Zink's hours were decreased, and she was taken off the schedule for a month because citizens and a Council Member complained that Chief Moye followed Ms. Zink around like a "puppy dog," loitered at the fire station when she was there, and winked at her during City Council meetings.

19. In March 2019, Ms. Zink discovered that Chief Moye had hidden cameras around the fire station, including facing the bathroom where she showered and facing her bed where she slept while on duty.

20. Ms. Zink reported the cameras and the Georgia Bureau of Investigation ("GBI") was called into investigate.

21. At the time the GBI was called in to investigate, Chief Moye was briefly suspended.

22. Ms. Zink then met with Mayor Smith and told him that Chief Moye had been sexually harassing her.

23. At this meeting, she explained to Mayor Smith Chief Moye's inappropriate conduct and comments, told Mayor Smith that Chief Moye watched pornography on the computer in the fire station, and that he had come to Ms. Zink's home and threatened her in front of her children.

24. Mayor Smith lied to Ms. Zink, telling her that the GBI's investigation was complete and Chief Moye had been exonerated.

25. Mayor Smith told Ms. Zink that Chief Moye's suspension had been lifted and that he would remain her supervisor.

26. Mayor Smith told Ms. Zink that if she did not like it, he would find someone else to cover her shifts.

27. Subsequently, Ms. Zink was suspended for the rest of March but returned to work in April.

28. Although the GBI's investigation was not actually complete, Chief Moye was allowed to return to work.

29. Ms. Zink was retaliated against by Chief Moye and Mayor Smith for reporting Chief Moye.

30. The retaliation against Ms. Zink included, but is not limited to, her shifts being change while no other employees' shifts were, her hours were cut, and she was reassigned to a

different fire station, and, ultimately she was removed from the schedule altogether.

31. Ms. Zink was required to report to the Mayor at the beginning and end of every shift even though no other employee of the City has to do the same.

32. Chief Moye began working shifts out of the station to which Ms. Zink was reassigned even though he does not typically do that.

33. City Councilman Byron Thompson threated Ms. Zink that he will frame her, end her career, and personally sue her if she pursues this matter against the City.

COUNT I
Violations of O.C.G.A. § 45-1-4 – The Georgia Whistleblower Act

34. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

35. Based on the facts alleged above, Ms. Zink asserts a claim for retaliation under the Georgia Whistleblower Act, O.C.G.A. § 45-1-4.

36. At all times relevant to this action, Ms. Zink was a public employee as that term is defined by O.C.G.A. § 45-1-4(a)(3).

37. At all times relevant to this action, Defendant, the City of Montezuma, Georgia, was Ms. Zink's employer and was a "public employer" as defined by O.C.G.A. § 45-1-4(a)(4).

38. While employed with Defendant, Ms. Zink engaged in protected activity when she disclosed violations of laws, rules, or regulations to Mayor Larry Smith, Police Officer Moriarty, and Police Captain Flynt, who contacted Police Chief Finch.

39. The GBI was contacted and came to the firehouse to which Ms. Zink was the only Firefighter assigned and collected three paper bags with one camera plus extension cords, two personal cellphones, bungee cords, a charger, a Walmart bag, a VHS player that had a

pornographic video in it, and a small recording device/microphone that was found under the bed.

40. Although the GBI did not take Chief Moye's office computer, it did take pictures of the office computer and the pornography that was on the same.

41. The City took adverse actions against Ms. Zink when it suspended her, decreased her hours, imposed harsher regulations, transferred her, and ultimately cut her hours altogether in retaliation for disclosing violations of laws, rules, and regulations to either a supervisor or a government agency.

42. The City violated the Georgia Whistleblower Act by adopting or enforcing policies or practices preventing public employees from disclosing violations of laws, rules, and regulations to either a supervisor or a government agency.

43. Instead of insuring that the City complied with the Georgia Whistleblower Act, Defendant actively sought to violate the Act.

44. The City's actions were willful, wanton, and intentionally directed to harm Ms. Zink.

45. The City's actions were reckless and taken in willful disregard of the probable consequences of its actions.

46. As a result of the City's conduct, Ms. Zink has suffered lost wages and benefits, and other remuneration, damage to her professional reputation, and mental and emotional distress.

47. The City's actions and failures to act were the proximate cause of the harm suffered by Ms. Zink as alleged herein.

COUNT II
Invasion of Privacy (Against Chief Moye)

48. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated

herein.

49. Chief Moye, through his offensive and intrusive contact and spying on Ms. Zink, as well as his other conduct constituting an unreasonable intrusion described herein, caused physical and psychological intrusions upon Ms. Zink's seclusion, which would be offensive or objectionable to reasonable people, constituting the tort of invasion of privacy.

COUNT III
Negligent Retention and Supervision (Against the City and Mayor Smith)

50. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

51. The City and Mayor Smith owed a duty of care to Ms. Zink to exercise reasonable caution and diligence to avoid employing individuals who could be reasonably foreseen to sexually harass or otherwise endanger female employees as Chief Moye did in this case.

52. The City and Mayor Smith breached this duty of care when it became aware that Chief Moye was sexually harassing Ms. Zink and took no action to review his employment or remove him from employment.

53. As a direct and proximate result of the City's and Mayor Smith's breach of this duty of care, Ms. Zink has suffered damages, including emotional damages and loss of employment and compensation.

54. The City and Mayor Smith owed a continuing duty of care to Ms. Zink to exercise reasonable caution and diligence in retaining, supervising, and training employees to avoid reasonably foreseeable conduct amounting to sexual harassment, invasion of privacy, or otherwise endangering female employees as Chief Moye did in this case.

55. The City and Mayor Smith breached this duty of care by failing to intercede despite

actual and/or constructive knowledge making it reasonably foreseeable that Chief Moye would sexually harass, invade the privacy of, or otherwise endanger female employees like Ms. Zink as happened in this case.

56. As a direct and proximate result of the City's and Mayor Smith's breach of its duty of care, Plaintiff has suffered damages, including emotional damages and loss of employment and compensation.

COUNT IV
Intentional Infliction of Emotional Distress (Against All Defendants)

57. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

58. Chief Moye sexually harassed Ms. Zink throughout her employment with the City of Montezuma.

59. Chief Moye placed cameras in the firehouse to surreptitiously videotape Ms. Zink when she showered and slept.

60. Chief Moye's also routinely watched pornography while in the firehouse.

61. Chief Moye's threatening and harassing conduct was open and notorious and extreme and outrageous.

62. Ultimately, Ms. Zink was removed from the schedule by the City and Mayor Smith for reporting Chief Moye's intentional, crude and threatening conduct.

63. Chief Moye intentionally, maliciously, wantonly and in gross and reckless disregard for Ms. Zink's health and safety, engaged in extreme and outrageous conduct when he subjected Ms. Zink to embarrassment, humiliation, degradation, and ridicule by harassing her and invading her privacy ultimately resulting in the loss of her employment and causing her to suffer

extreme emotional distress, mental anguish, loss of income, humiliation, and other indignities.

64. Chief Moye's conduct toward Ms. Zink was objectively malicious, wanton, and wholly incompatible with the standards of society.

65. Based on its actual and constructive knowledge of Chief Moye's sexual harassment and his history and propensity for same, coupled with its failure to intercede on Ms. Zink's behalf and ultimate refusal to place her on the schedule thereby constructively terminating her employment, Defendants City of Montezuma and Mayor Smith condoned, adopted, and ratified Chief Moye's conduct, making it liable for Chief Moye's intentional infliction of emotional distress upon Ms. Zink.

66. Defendant City of Montezuma and Mayor Smith's refusal to discipline and/or terminate Chief Moye and its refusal to take action to prevent Chief Moye's actions against Ms. Zink, make Defendants City and Smith independently liable for their own intentional infliction of emotional distress of Ms. Zink.

67. Defendants' conduct actually caused severe emotional distress to Ms. Zink.

68. Defendants are liable for all general and special damages proximately resulting from the intentional infliction of emotional distress.

COUNT V
Ratification (Against the City)

69. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

70. The City acted to ratify the individual Defendants' intentional infliction of emotional distress, and negligent infliction of emotional distress of Ms. Zink by retaining Chief Moye after having actual or constructive knowledge of his unlawful behavior and/or by retaliating

against Ms. Zink after her report of misconduct and is thus liable for all damages which the jury may determine appropriate to compensate Ms. Zink for the harm done.

COUNT VI
Punitive Damages, O.C.G.A. § 51-12-5.1 (Against Defendants Moye and Smith)

71. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

72. Defendant Moye's and Defendant Smith's above-pled actions were willful, malicious, wanton and/or oppressive within the meaning of O.C.G.A. § 51-12-5.1(b).

73. Additionally, and in the alternative, Defendant Moye's and Defendant Smith's actions display within the meaning of that statute, an entire want of care indicative of a conscious indifference to their actions' consequences.

COUNT VII
Attorney's Fees and Expenses of Litigation O.C.G.A. § 13-6-11 (Against All Defendants)

74. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

75. Defendants have acted in bad faith, been stubbornly litigious, and/or caused Ms. Zink unnecessary trouble and expense in litigating this case, and Ms. Zink is thus entitled to recovery of the expenses of this litigation, including attorney's fees, under Georgia law, including but not limited to O.C.G.A. § 13-6-11.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands a TRIAL BY JURY and that the following relief be granted:

a. a declaratory judgment that the City engaged in unlawful employment practices;

b. a declaratory judgment that the City violated the Georgia Whistleblower Act, O.C.G.A. § 45-1-4 *et seq.*;

c. an injunction prohibiting the City from engaging in unlawful employment practices;

d. full back pay from the date of the adverse actions taking into account all raises to which she would have been entitled but for the unlawful actions, and all fringe and pension benefits of employment, with prejudgment interest thereon;

d. compensate Plaintiff Zink for lost future wages and career development, benefits, and pension;

e. compensatory damages, in an amount to be determined by the enlightened conscience of the jury, for Plaintiff Zink's emotional distress, suffering, inconvenience, mental anguish, loss of enjoyment of life and special damages;

f. punitive damages in an amount to be determined by the enlightened conscious of the jury sufficient to punish Defendant Moye and Smith for their conduct toward Plaintiff and to deter Defendants from similar conduct in the future; and

g. that Plaintiff Zink have and recover her attorney's fees and costs of litigation pursuant to O.C.G.A. § 13-6-11 and O.C.G.A. § 45-1-4; and

h. Any and other such further monetary, non-monetary, and equitable relief that this Court deems equitable and just.

Respectfully submitted this 20th day of August, 2020

LEGARE, ATTWOOD & WOLFE, LLC

s/ Cheryl B. Legare
Georgia Bar No. 038553

cblegare@law-llc.com

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Tel: (470) 823-4000
Fax: (470) 201-1212
Co-Counsel for Plaintiff

COTTON LAW FIRM, P.C.

s/ John C. Cotton
Georgia Bar No. 189801
craig@cottonlawfirmpc.com

Post Office Box 897
Cordele, Georgia 31010-0897
229.273.9490
Co-Counsel for Plaintiff

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
MACON COUNTY, GEORGIA
2020CV00124
W. James Sizemore Jr.
AUG 20, 2020 02:44 PM
Juanita M. Laidler
Juanita M. Laidler, Clerk
Macon County, Georgia

General Civil and Domestic Relations Case Filing Information Form

☑ Superior or ☐ State Court of Macon County

For Clerk Use Only

Date Filed 08-20-2020 (MM-DD-YYYY)

Case Number 2020CV00124

Plaintiff(s)

Zink, Ondrea
Last | First | Middle I. | Suffix | Prefix

Last | First | Middle I. | Suffix | Prefix

Last | First | Middle I. | Suffix | Prefix

Last | First | Middle I. | Suffix | Prefix

Defendant(s)

City of Montezuma, GA
Last | First | Middle I. | Suffix | Prefix

Moye, Matthew
Last | First | Middle I. | Suffix | Prefix

Smith, Larry
Last | First | Middle I. | Suffix | Prefix

Last | First | Middle I. | Suffix | Prefix

Plaintiff's Attorney Legare, Cheryl B Bar Number 038553 Self-Represented ☐

Check one case type and, if applicable, one sub-type in one box.

General Civil Cases

- ☐ Automobile Tort
- ☐ Civil Appeal
- ☐ Contract
- ☐ Contempt/Modification/Other Post-Judgment
- ☐ Garnishment
- ☑ General Tort
- ☐ Habeas Corpus
- ☐ Injunction/Mandamus/Other Writ
- ☐ Landlord/Tenant
- ☐ Medical Malpractice Tort
- ☐ Product Liability Tort
- ☐ Real Property
- ☐ Restraining Petition
- ☐ Other General Civil

Domestic Relations Cases

- ☐ Adoption
- ☐ Contempt
  - ☐ Non-payment of child support, medical support, or alimony
- ☐ Dissolution/Divorce/Separate Maintenance/Alimony
- ☐ Family Violence Petition
- ☐ Modification
  - ☐ Custody/Parenting Time/Visitation
- ☐ Paternity/Legitimation
- ☐ Support – IV-D
- ☐ Support – Private (non-IV-D)
- ☐ Other Domestic Relations

☐ Check if the action is related to another action(s) pending or previously pending in this court involving some or all of the same parties, subject matter, or factual issues. If so, provide a case number for each.

_____ Case Number _____ Case Number

☑ I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in O.C.G.A. § 9-11-7.1.

☐ Is a foreign language or sign-language interpreter needed in this case? If so, provide the language(s) required.

_____ Language(s) Required

☐ Do you or your client need any disability accommodations? If so, please describe the accommodation request.

Version 1.1.20

SUPERIOR COURT OF MACON COUNTY
STATE OF GEORGIA

CIVIL ACTION NUMBER 2020CV00124

Zink, Ondrea

PLAINTIFF

VS.

City of Montezuma, GA
Moye, Matthew
Smith, Larry

DEFENDANTS

SUMMONS

TO: CITY OF MONTEZUMA, GA

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

Cheryl B Legare
Legare, Attwood & Wolfe, LLC
125 Clairemont Avenue
Suite 380
Decatur, Georgia 30030

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 20th day of August, 2020.

Clerk of Superior Court

Juanita M. Laidler

Juanita M. Laidler, Clerk
Macon County, Georgia

SUPERIOR COURT OF MACON COUNTY
STATE OF GEORGIA

CIVIL ACTION NUMBER 2020CV00124

Zink, Ondrea

PLAINTIFF

VS.

City of Montezuma, GA
Moye, Matthew
Smith, Larry

DEFENDANTS

SUMMONS

TO: MOYE, MATTHEW

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

Cheryl B Legare
Legare, Attwood & Wolfe, LLC
125 Clairemont Avenue
Suite 380
Decatur, Georgia 30030

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 20th day of August, 2020.

Clerk of Superior Court

Juanita M. Laidler

Juanita M. Laidler, Clerk
Macon County, Georgia

SUPERIOR COURT OF MACON COUNTY
STATE OF GEORGIA

CIVIL ACTION NUMBER 2020CV00124

Zink, Ondrea

PLAINTIFF

VS.

City of Montezuma, GA
Moye, Matthew
Smith, Larry

DEFENDANTS

SUMMONS

TO: SMITH, LARRY

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

Cheryl B Legare
Legare, Attwood & Wolfe, LLC
125 Clairemont Avenue
Suite 380
Decatur, Georgia 30030

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 20th day of August, 2020.

Clerk of Superior Court

Juanita M. Laidler

Juanita M. Laidler, Clerk
Macon County, Georgia

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
MACON COUNTY, GEORGIA
2020CV00124
W. James Sizemore Jr.
AUG 24, 2020 09:52 AM
Juanita M. Leicher
Juanita M. Leicher, Clerk
Macon County, Georgia

IN THE SUPERIOR COURT OF MACON COUNTY
STATE OF GEORGIA

ONDREA ZINK,	)	Civil Action File No. 2020CV00124
	)	
v.	)	**JURY TRIAL DEMANDED**
	)	
CITY OF MONTEZUMA, GA, CHIEF MATTHEW MOYE, and MAYOR LARRY SMITH,	)	
Defendants.	)	

AFFIDAVIT OF DAVID FLURY

David Flury, being first duly sworn before an officer authorized to administer oaths, deposes and states as follows:

1.

I am over the age of eighteen years of age, and I am suffering from no known disabilities that would prevent me from providing the testimony in this Affidavit.

2.

I am an individual citizen of the United States of America.

3.

I am not a party to this lawsuit.

4.

I am not a relative of the parties to this lawsuit.

5.

I am not an attorney of any of the parties to this lawsuit.

6.

I have no financial interest in the outcome of this lawsuit.

DFB
1 of 2

7.

I am not a convicted felon.

8.

I am wholly disinterested in this lawsuit.

Further, Affiant sayeth not.

David Flury

Sworn to and subscribed before me

This 21 day of August, 2020.

KAYLEY BARKER
MY COMMISSION EXPIRES
NOTARY
PUBLIC
AUGUST 21, 2022
BALDWIN COUNTY, GEORGIA

NOTARY PUBLIC

My commission expires: 08/21/2022

4 of 3
2 of 2

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
MACON COUNTY, GEORGIA
2020CV00124
W. James Sizemore Jr.
AUG 24, 2020 09:52 AM
Juanita M. Leidler
Juanita M. Leidler, Clerk
Macon County, Georgia

IN THE SUPERIOR COURT OF MACON COUNTY
STATE OF GEORGIA

ONDREA ZINK,	)	Civil Action File No. 2020CV00124
	)	
v.	)	**JURY TRIAL DEMANDED**
	)	
CITY OF MONTEZUMA, GA, CHIEF MATTHEW MOYE, and MAYOR LARRY SMITH,	)	
	)	
Defendants.	)	

MOTION TO APPOINT SPECIAL PROCESS SERVER

Plaintiff Ondrea Zink respectfully moves this Court, pursuant to O.C.G.A. § 9-11-4-(c), to appoint David Flury, Process Server, 130 Laura Lane, Juliette, GA 31046, (478) 319-3055, as special process server in the above-styled matter to personally serve City of Montezuma, GA, Chief Matthew Moye, and Mayor Larry Smith with process. Mr. Flury is over eighteen years of age, is a citizen of the United States, and is not a party to this action.

This 24th day of August, 2020.

LEGARE, ATTWOOD & WOLFE, LLC

s/ Cheryl B. Legare
Georgia Bar No. 038553
cblegare@law-llc.com

125 Clairemont Ave, Suite 380
Decatur, GA 30030
Tel: (470) 823-4000
Fax: (470) 201-1212
Counsel for Plaintiff

IN THE SUPERIOR COURT OF MACON COUNTY
STATE OF GEORGIA

ONDREA ZINK,	)	
	)	Civil Action File No. 2020CV00124
	)	
v.	)	**JURY TRIAL DEMANDED**
	)	
CITY OF MONTEZUMA, GA,	)	
CHIEF MATTHEW MOYE, and	)	
MAYOR LARRY SMITH,	)	
	)	
Defendants.	)	

ORDER GRANTING MOTION TO APPOINT
DAVID FLURY AS SPECIAL PROCESS SERVER

The foregoing Motion to Appoint David Flury as Special Process Server in the above-styled civil action, having been read and considered, it is hereby

ORDERED AND ADJUDGED that the Motion is granted, and David Flury is appointed as special process server in the above-styled civil action effective,

This _____day of _____, 2020.

_____
SUPERIOR COURT JUDGE

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
MACON COUNTY, GEORGIA
2020CV00124
W. James Sizemore Jr.
SEP 14, 2020 03:49 PM

SHERIFF'S ENTRY OF SERVICE

Civil Action No. 2020CV00124

Date Filed 08/25/20 05:02 PM

Superior Court ☒ Magistrate Court ☐
State Court ☐ Probate Court ☐
Juvenile Court ☐

Georgia, MACON COUNTY

Juanita M. Laidler, Clerk
Macon County, Georgia

Attorney's Address Legare, Cheryl B
Legare, Attwood & Wolfe, LLC
125 Clairemont Avenue
Suite 380
Decatur, Georgia 30030

Zink, Andrea

Plaintiff

VS.

City of Montezuma, GA ; Moye, Matthew; Smith, Larry

Defendant

Name and Address of Party to be Served.
Moye, Matthew

408 South Dooley Street

Montezuma, Georgia 31063

Garnishee

SHERIFF'S ENTRY OF SERVICE

PERSONAL ☒ I have this day served the defendant Matthew Moye personally with a copy of the within action and summons.

NOTORIOUS ☐ I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.
Delivered same into hands of _____ described as follows: age, about _____ years; weight _____ pounds; height, about _____ feet and _____ inches, domiciled at the residence of defendant.

CORPORATION ☐ Served the defendant _____ a corporation by leaving a copy of the within action and summons with _____ in charge of the office and place of doing business of said Corporation in the County.

TACK & MAIL ☐ I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by depositing a true copy of the same in the United States Mail, first class in an envelope property address to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the place stated in the summons.

NON EST ☐ Diligent search made and defendant _____ not to be found in the jurisdiction of this court.

This 3 day of Sept, 20 20

Deputy Hodge
Deputy

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
MACON COUNTY, GEORGIA
2020CV00124
W. James Sizemore Jr.
SEP 14, 2020 03:49 PM

SHERIFF'S ENTRY OF SERVICE

Civil Action No. 2020CV00124

Date Filed 08/25/20 05:02 PM

Superior Court ☒ Magistrate Court
State Court ☐ Probate Court
Juvenile Court ☐

Georgia, MACON COUNTY

Juanita M. Laidler
Juanita M. Laidler, Clerk
Macon County, Georgia

Attorney's Address Legare, Cheryl B
Legare, Attwood & Wolfe, LLC
125 Clairemont Avenue
Suite 380
Decatur, Georgia 30030

Zink, Ondrea

Plaintiff

VS.

City of Montezuma, GA ; Moye, Matthew; Smith, Larry

Defendant

Garnishee

Name and Address of Party to be Served.
City of Montezuma, GA

408 South Dooley Street

Montezuma, Georgia 31063

SHERIFF'S ENTRY OF SERVICE

PERSONAL ☐ I have this day served the defendant _____ personally with a copy of the within action and summons.

NOTORIOUS ☐ I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.

Delivered same into hands of _____ described as follows: age, about _____ years; weight _____ pounds; height, about _____ feet and _____ inches, domiciled at the residence of defendant.

CORPORATION ☒ Served the defendant City of Montezuma a corporation by leaving a copy of the within action and summons with Angela Lester in charge of the office and place of doing business of said Corporation in the County.

TACK & MAIL ☐ I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by depositing a true copy of the same in the United States Mail, first class in an envelope property address to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the place stated in the summons.

NON EST ☐ Diligent search made and defendant _____ not to be found in the jurisdiction of this court.

This 3 day of Sept, 2020

Deputy Hardy
Deputy

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
MACON COUNTY, GEORGIA
2020CV00124
W. James Sizemore Jr.
SEP 14, 2020 03:49 PM

SHERIFF'S ENTRY OF SERVICE

Civil Action No. 2020CV00124

Date Filed 08/25/20 05:02 PM

Superior Court ☒ Magistrate Court ☐
State Court ☐ Probate Court ☐
Juvenile Court ☐

Georgia, MACON

Juanita M. Laidler, Clerk
Macon County, Georgia

Attorney's Address Legare, Cheryl B
Legare, Attwood & Wolfe, LLC
125 Clairemont Avenue
Suite 380
Decatur, Georgia 30030

Zink, Ondrea

Plaintiff

VS.

City of Montezuma, GA ; Moye, Matthew; Smith, Larry

Defendant

Name and Address of Party to be Served.
Smith, Larry

408 South Dooley Street

Montezuma, Georgia 31063

Garnishee

SHERIFF'S ENTRY OF SERVICE

PERSONAL

☐ I have this day served the defendant _____ personally with a copy of the within action and summons.

NOTORIOUS

☐ I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.

Delivered same into hands of _____ described as follows: age, about _____ years; weight _____ pounds; height, about _____ feet and _____ inches, domiciled at the residence of defendant.

CORPORATION

☐ Served the defendant Larry Smith a corporation by leaving a copy of the within action and summons with Angela Lorta in charge of the office and place of doing business of said Corporation in the County.

TACK & MAIL

☐ I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by depositing a true copy of the same in the United States Mail, first class in an envelope property address to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the place stated in the summons.

NON EST

☐ Diligent search made and defendant _____ not to be found in the jurisdiction of this court.

This 3 day of Sept, 20 20

Deputy

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
MACON COUNTY, GEORGIA
2020CV00124
W. James Sizemore Jr.
SEP 29, 2020 04:25 PM
Juanita M. Leidler
Juanita M. Leidler, Clerk
Macon County, Georgia

IN THE SUPERIOR COURT OF MACON COUNTY
STATE OF GEORGIA

ONDREA ZINK,	)	
	)	
Plaintiff,	)	CIVIL ACTION FILE
	)	
v.	)	NO.: 2020CV00124
	)	
CITY OF MONTEZUMA, GA,	)	
CHIEF MATTHEW MOYE, and	)	
MAYOR LARRY SMITH,	)	
	)	
Defendants.	)	

STIPULATION EXTENDING TIME TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT

COMES NOW Defendants City of Montezuma, Georgia, Chief Matthew Moye, and Mayor Larry Smith ("Defendants") and Plaintiff Ondrea Zink ("Plaintiff") and hereby stipulate and agree that the time to answer or otherwise respond to Plaintiff's Complaint shall be, and is, extended until November 5, 2020 without being in default. All jurisdictional, venue, and substantive defenses are reserved.

STIPULATED TO this 29th day of September, 2020.

LEGARE, ATTWOOD & WOLFE, LLC

/s/Cheryl B. Legare
Cheryl B. Legare
Georgia Bar No.
125 Clairmont Avenue
Suite 380
Decatur, Georgia 30030
(T): 470.823.4000
(F): 470.201.1212
(E): cblegare@law-llc.com

Counsel for Plaintiff

FREEMAN MATHIS & GARY, LLP

/s/ David A. Cole
David A. Cole
Georgia Bar No. 142383
Hillary L. Freesmeier
Georgia Bar No. 202626
100 Galleria Parkway, Suite 1600
Atlanta, GA 30339
(T): 770.818.0000
(F): 770.937.9960
(E): dcole@fmglaw.com
hfreesmeier@fmglaw.com

Counsel for Defendants

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing **STIPULATION EXTENDING TIME TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT** via *PeachCourt* e-filing services, upon all counsel of record:

Cheryl B. Legare
Legare, Attwood & Wolfe, LLC
125 Clairemont Ave, Suite 380
Decatur, GA 30030
cblegare@law-llc.com

John C. Cotton
Cotton Law Firm, P.C.
P.O. Box 897
Cordele, GA 31010-0897
craig@cottonlawfirmpc.com

This 29th day of September, 2020.

FREEMAN MATHIS & GARY, LLP

/s/ David A. Cole
David A. Cole
Georgia Bar No. 142383

Counsel for Defendants

100 Galleria Parkway - Suite 1600
Atlanta, Georgia 30339-5948
(T): 770.818.0000
(F): 770.937.9960
(E): dcole@fmglaw.com

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
MACON COUNTY, GEORGIA
SUCV2020000124
WJS
NOV 02, 2020 02:17 PM
Juanita M. Laidler
Juanita M. Laidler, Clerk
Macon County, Georgia

IN THE SUPERIOR COURT OF MACON COUNTY
STATE OF GEORGIA

ONDREA ZINK,	)	
	)	
Plaintiff,	)	CIVIL ACTION FILE
	)	
v.	)	NO.: 2020CV00124
	)	
CITY OF MONTEZUMA, GA,	)	
CHIEF MATTHEW MOYE, and	)	
MAYOR LARRY SMITH,	)	
	)	
Defendants.	)	

SECOND STIPULATION EXTENDING TIME TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT

COMES NOW Defendants City of Montezuma, Georgia, Chief Matthew Moye, and Mayor Larry Smith ("Defendants") and Plaintiff Ondrea Zink ("Plaintiff") and hereby stipulate and agree that the time to answer or otherwise respond to Plaintiff's Complaint shall be, and is, extended until December 5, 2020 without being in default. All jurisdictional, venue, and substantive defenses are reserved.

STIPULATED TO this 2nd day of November, 2020.

LEGARE, ATTWOOD & WOLFE, LLC

/s/Cheryl B. Legare
Cheryl B. Legare
Georgia Bar No.
125 Clairmont Avenue
Suite 380
Decatur, Georgia 30030
(T): 470.823.4000
(F): 470.201.1212
(E): cblegare@law-llc.com

Counsel for Plaintiff

FREEMAN MATHIS & GARY, LLP

/s/ David A. Cole
David A. Cole
Georgia Bar No. 142383
Hillary L. Freesmeier
Georgia Bar No. 202626
100 Galleria Parkway, Suite 1600
Atlanta, GA 30339
(T): 770.818.0000
(F): 770.937.9960
(E): dcole@fmglaw.com
hfreesmeier@fmglaw.com

Counsel for Defendants

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing **SECOND STIPULATION EXTENDING TIME TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT** via *PeachCourt* e-filing services, upon all counsel of record:

Cheryl B. Legare
Legare, Attwood & Wolfe, LLC
125 Clairemont Ave, Suite 380
Decatur, GA 30030
cblegare@law-llc.com

John C. Cotton
Cotton Law Firm, P.C.
P.O. Box 897
Cordele, GA 31010-0897
craig@cottonlawfirmpc.com

This 2nd day of November, 2020.

FREEMAN MATHIS & GARY, LLP

/s/ David A. Cole
David A. Cole
Georgia Bar No. 142383

Counsel for Defendants

100 Galleria Parkway - Suite 1600
Atlanta, Georgia 30339-5948
(T): 770.818.0000
(F): 770.937.9960
(E): dcole@fmglaw.com

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
MACON COUNTY, GEORGIA
SUCV2020000124
WJS
NOV 30, 2020 04:10 PM
Juanita M. Laidler
Juanita M. Laidler, Clerk
Macon County, Georgia

SUPERIOR COURT OF MACON COUNTY
STATE OF GEORGIA

ONDREA ZINK,	)	
	)	Civil Action File No. 2020CV00124
Plaintiff,	)	
	)	
v.	)	**JURY TRIAL DEMANDED**
	)	
CITY OF MONTEZUMA, GA,	)	
CHIEF MATTHEW MOYE, and	)	
MAYOR LARRY SMITH,	)	
	)	
Defendants.	)	

FIRST AMENDED COMPLAINT FOR EQUITABLE RELIEF AND DAMAGES

Plaintiff Ondrea Zink ("Plaintiff" or "Ms. Zink") files this First Amended Complaint for Equitable Relief and Damages against the City of Montezuma, Georgia, Chief Matthew Moye, and Mayor Larry Smith pursuant to O.C.G.A. § 9-11-15(a), showing the Court the following:

INTRODUCTION

1. This First Amended Complaint[1] arises from the gender discrimination, sexual harassment (both hostile work environment and tangible employment action), invasion of privacy, intentional infliction of emotional distress, and retaliation in violation of the Georgia Whistleblower Act against Plaintiff Ondrea Zink by Defendants City of Montezuma, Fire Chief Matthew Moye, and Mayor Larry Smith. The City was aware of Chief Moye's harassment and stalking of Ms. Zink and the City retaliated against Ms. Zink by refusing to assign her to any shifts with the Fire Department after April 30, 2019 despite her repeated requests that she be placed on

[1] The statutes of limitations in this matter were tolled by Chief Just Melton's Order Declaring Statewide Judicial Emergency relating to the COVID-19 pandemic.

the schedule. To date, although Ms. Zink has not been terminated, she has not been assigned any shifts and, thus, has not been paid.

2. Ms. Zink brings Georgia tort claims for intentional infliction of emotional distress, invasion of privacy, and negligent retention and supervision. Ms. Zink also brings a claim for retaliation in violation of the Georgia Whistleblower Act, O.C.G.A. § 45-1-4 *et seq.* ("GWA"). Ms. Zink seeks equitable relief and monetary damages, including but not limited to back and front pay, compensatory damages, and attorney's fees and costs against the City of Montezuma, Chief Moye, and Mayor Smith, and punitive damages against Chief Moye and Mayor Smith. Ms. Zink also brings federal claims for sexual harassment (both hostile work environment and tangible employment action) and retaliation against both the City and Defendants Moye and Smith under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* ("Title VII") and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

JURISDICTION AND VENUE

3. This Court has jurisdiction over all the Parties to this lawsuit and all the claims set forth in the First Amended Complaint.

4. Ms. Zink is a resident of Houston County, Georgia and submits herself to the jurisdiction of this Court.

5. Chief Moye resides in Macon County and is subject to personal jurisdiction in this Court.

6. Mayor Smith resides in Macon County and is subject to personal jurisdiction in this Court.

7. Macon County is the proper venue for this action because Defendants reside in Macon County and the actions alleged in this lawsuit occurred in Macon County.

THE PARTIES

8. Ms. Zink was a volunteer Firefighter with the City of Montezuma beginning in 2017 and became employed by the City of Montezuma in 2018.

9. At all times relevant to her claims, Ms. Zink was a "public employee" of the City of Montezuma, as defined by the Georgia Whistleblower Act, O.C.G.A. § 45-1-4(a)(3).

10. At all times relevant to her claims, Ms. Zink was an employee as defined by Title VII.

11. At all times relevant, Mayor Larry Smith was the Mayor of the City of Montezuma.

12. Mayor Smith may be served with process at his residence at 711 Engram Street, Montezuma, Georgia 31063 or his principal place of business at 408 South Dooley Street, Montezuma, Georgia 31063

13. At all times relevant, Chief Matthew Moye was the Fire Chief of the City of Montezuma.

14. Chief Moye may be served with process at his places of business at 408 South Dooley Street and 301 West Railroad Street, Montezuma, Georgia 31063.

15. The City of Montezuma is a "public employer" as defined by O.C.G.A. § 45-1-4(a)(4).

16. The City of Montezuma is an employer as defined by Title VII.

17. The City may be served with process by serving Mayor Larry Smith, at his principal

business office located at 408 South Dooley Street, Montezuma, Georgia 31063.

STATEMENT OF FACTS

18. Ms. Zink was subjected to a hostile work environment throughout her employment with the City.

19. Specifically, Chief Moye, sexually harassed her.

20. In October 2018, Ms. Zink's hours were decreased, and she was taken off the schedule for a month because citizens and a Council Member complained that Chief Moye followed Ms. Zink around like a "puppy dog," loitered at the fire station when she was there, and winked at her during City Council meetings.

21. In March 2019, Ms. Zink discovered that Chief Moye had hidden cameras around the fire station, including facing the bathroom where she showered and facing her bed where she slept while on duty.

22. Ms. Zink reported the cameras and the Georgia Bureau of Investigation ("GBI") was called into investigate.

23. At the time the GBI was called in to investigate, Chief Moye was briefly suspended.

24. Ms. Zink then met with Mayor Smith and told him that Chief Moye had been sexually harassing her.

25. At this meeting, she explained to Mayor Smith Chief Moye's inappropriate conduct and comments, told Mayor Smith that Chief Moye watched pornography on the computer in the fire station, and that he had come to Ms. Zink's home and threatened her in front of her children.

26. Mayor Smith lied to Ms. Zink, telling her that the GBI's investigation was complete

and Chief Moye had been exonerated.

27. Mayor Smith told Ms. Zink that Chief Moye's suspension had been lifted and that he would remain her supervisor.

28. Mayor Smith told Ms. Zink that if she did not like it, he would find someone else to cover her shifts.

29. Subsequently, Ms. Zink was suspended for the rest of March but returned to work in April.

30. Although the GBI's investigation was not actually complete, Chief Moye was allowed to return to work.

31. Ms. Zink was retaliated against by Chief Moye and Mayor Smith for reporting Chief Moye.

32. The retaliation against Ms. Zink included, but is not limited to, her shifts being change while no other employees' shifts were, her hours were cut, and she was reassigned to a different fire station, and, ultimately she was removed from the schedule altogether.

33. Ms. Zink was required to report to the Mayor at the beginning and end of every shift even though no other employee of the City has to do the same.

34. Chief Moye began working shifts out of the station to which Ms. Zink was reassigned even though he does not typically do that.

35. City Councilman Byron Thompson threated Ms. Zink that he will frame her, end her career, and personally sue her if she pursues this matter against the City.

36. The highest City official(s) with responsibility to protect Ms. Zink against sexual

harassment had actual or constructive knowledge of Moye's and Smith's illegal actions giving rise to this First Amended Complaint.

37. Despite such actual or constructive knowledge, these officials failed to take reasonable, prompt, remedial action as required by federal law to protect Ms. Zink's right to be free from Moye's sexual harassment.

38. Instead, those officials caused Defendant City to terminate Ms. Zink while retaining Moye.

39. Moye and Smith, along with the City officials who know of Maye's illegal harassment and Smith's failures to stop it, acted under color of state law when committing their acts or omissions giving rise to this First Amended Complaint as all of their conduct was perpetrated using the power and authority of their positions as City officials.

40. At all times material to this First Amended Complaint, it was clearly established law that subjecting an employee to sexual harassment or a sexually hostile working environment based upon gender violates the Equal Protection Clause.

41. At all times material to this First Amended Complaint, it was clearly established law that a supervisor or an employer may not take an adverse employment action against a subordinate because she rejects or complains about his sexual advances.

42. Defendants Smith and Moye undertook all of the above-pled unlawful conduct intentionally, willfully, and maliciously with respect to the Ms. Zink and her federally protected rights.

43. Additionally, and in the alternative, Defendants Smith and Moye undertook all of

the above-pled conduct with reckless disregard for the Plaintiff and her federally protected rights.

COUNT I
Violations of O.C.G.A. § 45-1-4 – The Georgia Whistleblower Act

44. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

45. Based on the facts alleged above, Ms. Zink asserts a claim for retaliation under the Georgia Whistleblower Act, O.C.G.A. § 45-1-4.

46. At all times relevant to this action, Ms. Zink was a public employee as that term is defined by O.C.G.A. § 45-1-4(a)(3).

47. At all times relevant to this action, Defendant, the City of Montezuma, Georgia, was Ms. Zink's employer and was a "public employer" as defined by O.C.G.A. § 45-1-4(a)(4).

48. While employed with Defendant, Ms. Zink engaged in protected activity when she disclosed violations of laws, rules, or regulations to Mayor Larry Smith, Police Officer Moriarty, and Police Captain Flynt, who contacted Police Chief Finch.

49. The GBI was contacted and came to the firehouse to which Ms. Zink was the only Firefighter assigned and collected three paper bags with one camera plus extension cords, two personal cellphones, bungee cords, a charger, a Walmart bag, a VHS player that had a pornographic video in it, and a small recording device/microphone that was found under the bed.

50. Although the GBI did not take Chief Moye's office computer, it did take pictures of the office computer and the pornography that was on the same.

51. The City took adverse actions against Ms. Zink when it suspended her, decreased

her hours, imposed harsher regulations, transferred her, and ultimately cut her hours altogether in retaliation for disclosing violations of laws, rules, and regulations to either a supervisor or a government agency.

52. The City violated the Georgia Whistleblower Act by adopting or enforcing policies or practices preventing public employees from disclosing violations of laws, rules, and regulations to either a supervisor or a government agency.

53. Instead of insuring that the City complied with the Georgia Whistleblower Act, Defendant actively sought to violate the Act.

54. The City's actions were willful, wanton, and intentionally directed to harm Ms. Zink.

55. The City's actions were reckless and taken in willful disregard of the probable consequences of its actions.

56. As a result of the City's conduct, Ms. Zink has suffered lost wages and benefits, and other remuneration, damage to her professional reputation, and mental and emotional distress.

57. The City's actions and failures to act were the proximate cause of the harm suffered by Ms. Zink as alleged herein.

COUNT II
Invasion of Privacy (Against Chief Moye)

58. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

59. Chief Moye, through his offensive and intrusive contact and spying on Ms. Zink,

as well as his other conduct constituting an unreasonable intrusion described herein, caused physical and psychological intrusions upon Ms. Zink's seclusion, which would be offensive or objectionable to reasonable people, constituting the tort of invasion of privacy.

COUNT III
Negligent Retention and Supervision (Against the City and Mayor Smith)

60. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

61. The City and Mayor Smith owed a duty of care to Ms. Zink to exercise reasonable caution and diligence to avoid employing individuals who could be reasonably foreseen to sexually harass or otherwise endanger female employees as Chief Moye did in this case.

62. The City and Mayor Smith breached this duty of care when it became aware that Chief Moye was sexually harassing Ms. Zink and took no action to review his employment or remove him from employment.

63. As a direct and proximate result of the City's and Mayor Smith's breach of this duty of care, Ms. Zink has suffered damages, including emotional damages and loss of employment and compensation.

64. The City and Mayor Smith owed a continuing duty of care to Ms. Zink to exercise reasonable caution and diligence in retaining, supervising, and training employees to avoid reasonably foreseeable conduct amounting to sexual harassment, invasion of privacy, or otherwise endangering female employees as Chief Moye did in this case.

65. The City and Mayor Smith breached this duty of care by failing to intercede despite

actual and/or constructive knowledge making it reasonably foreseeable that Chief Moye would sexually harass, invade the privacy of, or otherwise endanger female employees like Ms. Zink as happened in this case.

66. As a direct and proximate result of the City's and Mayor Smith's breach of its duty of care, Plaintiff has suffered damages, including emotional damages and loss of employment and compensation.

COUNT IV
Intentional Infliction of Emotional Distress (Against All Defendants)

67. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

68. Chief Moye sexually harassed Ms. Zink throughout her employment with the City of Montezuma.

69. Chief Moye placed cameras in the firehouse to surreptitiously videotape Ms. Zink when she showered and slept.

70. Chief Moye's also routinely watched pornography while in the firehouse.

71. Chief Moye's threatening and harassing conduct was open and notorious and extreme and outrageous.

72. Ultimately, Ms. Zink was removed from the schedule by the City and Mayor Smith for reporting Chief Moye's intentional, crude and threatening conduct.

73. Chief Moye intentionally, maliciously, wantonly and in gross and reckless disregard for Ms. Zink's health and safety, engaged in extreme and outrageous conduct when he

subjected Ms. Zink to embarrassment, humiliation, degradation, and ridicule by harassing her and invading her privacy ultimately resulting in the loss of her employment and causing her to suffer extreme emotional distress, mental anguish, loss of income, humiliation, and other indignities.

74. Chief Moye's conduct toward Ms. Zink was objectively malicious, wanton, and wholly incompatible with the standards of society.

75. Based on its actual and constructive knowledge of Chief Moye's sexual harassment and his history and propensity for same, coupled with its failure to intercede on Ms. Zink's behalf and ultimate refusal to place her on the schedule thereby constructively terminating her employment, Defendants City of Montezuma and Mayor Smith condoned, adopted, and ratified Chief Moye's conduct, making it liable for Chief Moye's intentional infliction of emotional distress upon Ms. Zink.

76. Defendant City of Montezuma and Mayor Smith's refusal to discipline and/or terminate Chief Moye and its refusal to take action to prevent Chief Moye's actions against Ms. Zink, make Defendants City and Smith independently liable for their own intentional infliction of emotional distress of Ms. Zink.

77. Defendants' conduct actually caused severe emotional distress to Ms. Zink.

78. Defendants are liable for all general and special damages proximately resulting from the intentional infliction of emotional distress.

COUNT V
Ratification (Against the City)

79. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated

herein.

80. The City acted to ratify the individual Defendants' intentional infliction of emotional distress, and negligent infliction of emotional distress of Ms. Zink by retaining Chief Moye after having actual or constructive knowledge of his unlawful behavior and/or by retaliating against Ms. Zink after her report of misconduct and is thus liable for all damages which the jury may determine appropriate to compensate Ms. Zink for the harm done.

COUNT VI
Punitive Damages, O.C.G.A. § 51-12-5.1 (Against Defendants Moye and Smith)

81. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

82. Defendant Moye's and Defendant Smith's above-pled actions were willful, malicious, wanton and/or oppressive within the meaning of O.C.G.A. § 51-12-5.1(b).

83. Additionally, and in the alternative, Defendant Moye's and Defendant Smith's actions display within the meaning of that statute, an entire want of care indicative of a conscious indifference to their actions' consequences.

COUNT VII
Attorney's Fees and Expenses of Litigation O.C.G.A. § 13-6-11 (Against All Defendants)

84. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

85. Defendants have acted in bad faith, been stubbornly litigious, and/or caused Ms. Zink unnecessary trouble and expense in litigating this case, and Ms. Zink is thus entitled to recovery of the expenses of this litigation, including attorney's fees, under Georgia law, including

but not limited to O.C.G.A. § 13-6-11.

COUNT VIII

Sexual Harassment/Gender Discrimination under 42 U.S.C. § 1983 (Against All Defendants)

86. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

87. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution entitles Ms. Zink to equal protection under the laws regardless of her gender.

88. Defendants Moye and Smith violated Ms. Zink's rights to equal protection by, among other things, subjecting her to a sexually harassing and hostile working environment and by taking adverse employment actions against Ms. Zink for her reporting such harassment, and because of her gender.

89. Defendants Moye and Smith did not take similar actions against men in the department.

90. Defendant City violated Ms. Zink's rights to equal protection by failing to take reasonable preventative or corrective measures with respect to the unlawful harassing conduct and by subjecting Ms. Zink to adverse employment actions.

91. The conduct of Defendants constitutes unlawful sexual harassment, based upon gender, in violation of the Equal Protection Clause.

92. Additionally, and in the alternative, Defendants' unlawful conduct constitutes sexual harassment culminating in an ultimate employment action against Ms. Zink.

93. Defendants undertook all of the unlawful conduct giving rise to Ms. Zink's claims

while acting under color of State and local law.

94. Defendants' unlawful conduct violated the above-pled clearly established law.

95. As a direct and proximate result of all of the Defendants' actions, Ms. Zink has suffered damages including emotional distress, inconvenience, loss of income and benefits, humiliation, and other indignities.

96. Defendants undertook their unlawful conduct intentionally and maliciously with respect to Ms. Zink and her federally protected rights, entitling Ms. Zink to recover punitive damages against the individual Defendants.

97. Alternatively, Defendants undertook their unlawful conduct recklessly with respect to Ms. Zink and her federally protected rights, entitling Ms. Zink to recover punitive damages against the individual Defendants.

COUNT IX
Retaliation under 42 U.S.C. § 1983 (Against All Defendants)

98. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

99. The Equal Protection Clause and 42 U.S.C. § 1983 prohibit Defendants from retaliating against employees who report or oppose sexual harassment.

100. Defendants unlawfully retaliated against Ms. Zink in violation of her rights under the Equal Protection Clause and 42 U.S.C. § 1983 by, among other things, taking adverse employment actions against her because she opposed and/or reported Defendant Moye's sexual harassing behavior.

101. Defendants' conduct constitutes unlawful retaliation in violation of the Equal Protection Clause and 42 U.S.C. § 1983.

102. As a direct and proximate result of Defendants' actions, Ms. Zink has suffered damages including emotional distress, inconvenience, loss of income and benefits, humiliation, and indignities.

103. Defendants undertook all the unlawful conduct giving rise to Ms. Zink's claims while acting under color of State and local law.

104. Defendants' unlawful conduct violated the above-pled clearly established law.

105. As a direct and proximate result of all the Defendants' actions, Ms. Zink has suffered damages including emotional distress, inconvenience, loss of income and benefits, humiliation, and other indignities.

106. Defendants undertook their unlawful conduct intentionally and maliciously with respect to Ms. Zink and her federally protected rights, entitling Ms. Zink to recover punitive damages against the individual Defendants.

107. Alternatively, Defendants undertook their unlawful conduct recklessly with respect to Ms. Zink and her federally protected rights, entitling Ms. Zink to recover punitive damages against the individual Defendants.

COUNT X

Sexual Harassment/Gender Discrimination under Title VII (Against the City)

108. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

109. Title VII entitles Ms. Zink to equal treatment under the laws regardless of her gender.

110. Defendant City violated the Plaintiff's rights to equal treatment by, among other things, subjecting her to a sexually harassing and hostile working environment and by taking adverse employment actions against her for refusing to acquiesce to sexual advances. Defendant City violated her Title VII rights by failing to take reasonable preventative or corrective measures with respect to the unlawful harassing conduct.

111. Defendant City's conduct constitutes unlawful sexual harassment, based upon gender, in violation of Title VII. Additionally, and in the alternative, Defendant unlawful conduct constitutes sexual harassment culminating in tangible employment actions against the Plaintiff.

112. As a direct and proximate result of the Defendant City's actions, Plaintiff has suffered damages including emotional distress, inconvenience, loss of income and benefits, humiliation and other indignities.

COUNT XI
Retaliation under Title VII (Against the City

113. Ms. Zink incorporates by reference the preceding Paragraphs as if fully restated herein.

114. Title VII prohibits employers from retaliating against employees who report or oppose sexual harassment.

115. Defendant City unlawfully retaliated against Ms. Zink in violation of her rights under Title VII by, among other things, taking adverse employment actions against her because

she opposed and/or reported Defendant Moye's sexual harassing behavior.

116. Defendant City's conduct constitutes unlawful retaliation in violation of Title VII.

117. As a direct and proximate result of the City's actions, Ms. Zink has suffered damages including emotional distress, inconvenience, loss of income and benefits, humiliation, and indignities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands a TRIAL BY JURY and that the following relief be granted:

a. a declaratory judgment that the City engaged in unlawful employment practices;

b. a declaratory judgment that the City violated the Georgia Whistleblower Act, O.C.G.A. § 45-1-4 *et seq.*;

c. an injunction prohibiting the City from engaging in unlawful employment practices;

d. full back pay from the date of the adverse actions taking into account all raises to which she would have been entitled but for the unlawful actions, and all fringe and pension benefits of employment, with prejudgment interest thereon;

d. compensate Plaintiff Zink for lost future wages and career development, benefits, and pension;

e. compensatory damages, in an amount to be determined by the enlightened conscience of the jury, for Plaintiff Zink's emotional distress, suffering, inconvenience, mental anguish, loss of enjoyment of life and special damages;

f. punitive damages in an amount to be determined by the enlightened conscious of the jury sufficient to punish Defendant Moye and Smith for their conduct toward Plaintiff and to deter Defendants from similar conduct in the future; and

g. that Plaintiff Zink have and recover her attorney's fees and costs of litigation pursuant to federal law, O.C.G.A. § 13-6-11, and O.C.G.A. § 45-1-4; and

h. Any and other such further monetary, non-monetary, and equitable relief that this Court deems equitable and just.

Respectfully submitted this 30th day of November 2020

LEGARE, ATTWOOD & WOLFE, LLC

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Co-Counsel for Plaintiff

SUPERIOR COURT OF MACON COUNTY
STATE OF GEORGIA

ONDREA ZINK,	)	
	)	Civil Action File No. 2020CV00124
Plaintiff,	)	
	)	
v.	)	**JURY TRIAL DEMANDED**
	)	
CITY OF MONTEZUMA, GA,	)	
CHIEF MATTHEW MOYE, and	)	
MAYOR LARRY SMITH,	)	
	)	
Defendants.	)	

CERTIFICATE OF SERVICE

I hereby certify that on November 30, 2020, I electronically filed the foregoing **FIRST AMENDED COMPLAINT** with the Clerk of Court using the Peachcourt system, which will automatically send electronic mail notification of the filing to the following counsel of record:

David A. Cole – dcole@fmglaw.com
Hillary L. Freesmeier – hfreesmeier@fmglaw.com
Freeman Mathis & Gary, LLP

LEGARE, ATTWOOD & WOLFE, LLC

s/ *Cheryl B. Legare*
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Co-Counsel for Plaintiff

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
MACON COUNTY, GEORGIA
SUCV2020000124
WJS
DEC 04, 2020 10:22 AM
Juanita M. Laidler
Juanita M. Laidler, Clerk
Macon County, Georgia

IN THE SUPERIOR COURT OF MACON COUNTY
STATE OF GEORGIA

ONDREA ZINK,	)	
	)	
Plaintiff,	)	CIVIL ACTION FILE
	)	
v.	)	NO.: 2020CV00124
	)	
CITY OF MONTEZUMA, GA,	)	
CHIEF MATTHEW MOYE, and	)	
MAYOR LARRY SMITH,	)	
	)	
Defendants.	)	

THIRD STIPULATION EXTENDING TIME TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT

COMES NOW Defendants City of Montezuma, Georgia, Chief Matthew Moye, and Mayor Larry Smith ("Defendants") and Plaintiff Ondrea Zink ("Plaintiff") and hereby stipulate and agree that the time to answer or otherwise respond to Plaintiff's Complaint shall be, and is, extended until January 15, 2020 without being in default. All jurisdictional, venue, and substantive defenses are reserved.

STIPULATED TO this 4th day of December, 2020.

LEGARE, ATTWOOD & WOLFE, LLC

/s/Cheryl B. Legare
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Counsel for Plaintiff

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Counsel for Defendants

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing **THIRD STIPULATION EXTENDING TIME TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT** via *PeachCourt* e-filing services, upon all counsel of record:

Cheryl B. Legare
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cblegare@law-llc.com

John C. Cotton
Cotton Law Firm, P.C.
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This 4th day of December, 2020.

FREEMAN MATHIS & GARY, LLP

/s/ David A. Cole
David A. Cole
Georgia Bar No. 142383

Counsel for Defendants

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EXHIBIT B

IN THE SUPERIOR COURT OF MACON COUNTY
STATE OF GEORGIA

ONDREA ZINK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Civil Action No. 2020CV00124**
	)	
CITY OF MONTEZUMA, GA,	)	
CHIEF MATTHEW MOYE, and	)	
MAYOR LARRY SMITH,	)	
	)	
Defendants.	)	

NOTICE OF FILING NOTICE OF REMOVAL

To: Cheryl B. Legare
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125 Clairmont Avenue, Suite 380
Decatur, Georgia 30030
cblegare@law-llc.com

John C. Cotton
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PLEASE TAKE NOTICE that Defendants City of Montezuma, Georgia; Chief Matthew Moye; and Mayor Larry Smith have on this date filed a Notice of Removal, a copy of which is attached hereto as Exhibit 1, in the office of the Clerk of the United States District Court for the Middle District of Georgia, Macon Division. A copy of this Notice and the attached Notice of Removal also have been served on Plaintiff.

This 30th day of December, 2020.

[*signatures on following page*]

Respectfully submitted,

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Attorney for Chief Matthew Moye

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Attorney for Mayor Larry Smith

CERTIFICATE OF SERVICE

I certify that on this day I electronically filed the within and foregoing **NOTICE OF FILING OF NOTICE OF REMOVAL** with the Clerk of Court using the PeachCourt e-file system, upon all counsel of record:

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This 30th day of December 2020.

s/ David A. Cole
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Attorney for the City of Montezuma