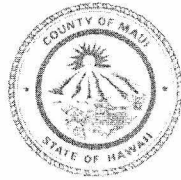


RICHARD T. BISSEN, JR.
Mayor

VICTORIA J. TAKAYESU
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MIMI DESJARDINS
First Deputy

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Risk Management Officer



DEPARTMENT OF THE CORPORATION COUNSEL
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April 14, 2025

Via email only at county.clerk@mauicounty.us

Honorable Alice L. Lee, Chair
and Members of the Council
County of Maui
Wailuku, Hawai'i 96793

SUBJECT: Litigation Matter – Settlement Authorization
MELISSA MAGONIGLE vs. COUNTY OF MAUI POLICE
DEPARTMENT, ET AL.; CIVIL FILE 2CCV-23-0000030

Dear Chair Lee and Council Members:

Please find attached separately a Proposed Resolution entitled
“AUTHORIZING SETTLEMENT OF MELISSA MAGONIGLE vs. COUNTY OF
MAUI POLICE DEPARTMENT, ET AL.; CIVIL FILE 2CCV-23-0000030.” The
purpose of the proposed resolution is to discuss settlement options with
regards to the above-referenced lawsuit.

I request that the proposed resolution be scheduled for discussion and
action, or referral to the appropriate standing committee as soon as possible.
Trial has been rescheduled to August 4, 2025 so that the Council may consider
the recent settlement demand made by Plaintiff Melissa Magonigle and its
options. For further information, I have also attached the Second Amended
Complaint in this matter, which was filed on May 13, 2024.

Executive session will be necessary to discuss questions and issues
pertaining to the powers, duties, privileges, immunities, and liabilities of the
County, the Council, and/or the Committee.

If you have any questions or concerns, please do not hesitate to contact
us. Thank you for your anticipated assistance in this matter.

//
//

Honorable Alice L. Lee, Chair
April 14, 2025
Page | 2

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Sova', with a stylized, cursive-like flourish at the end.

BRADLEY J. SOVA
Deputy Corporation Counsel

cc: John Pelletier, Chief of Police

Attachments

FUJIWARA AND ROSENBAUM, LLC

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JOSEPH T. ROSENBAUM 9205
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Attorneys for Plaintiff
MELISSA MAGONIGLE

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IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

MELISSA MAGONIGLE,) CIVIL NO. 2CCV-23-0000030
) (Other Civil Action)
Plaintiff,)
) SECOND AMENDED COMPLAINT;
vs.) DEMAND FOR JURY TRIAL
)
COUNTY OF MAUI POLICE)
DEPARTMENT; JOHN DOES 1-10; JANE)
DOES 1-10; DOE CORPORATIONS 1-10;)
DOE PARTNERSHIPS 1-10; DOE)
UNINCORPORATED ORGANIZATIONS)
1-10; and DOE GOVERNMENTAL)
AGENCIES 1-10,)
)
Defendants.)
)
)
)
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SECOND AMENDED COMPLAINT

COMES NOW Plaintiff Sergeant MELISSA MAGONIGLE [hereinafter referred to as "MS. MAGONIGLE"], by and through her counsel, ELIZABETH JUBIN FUJIWARA and JOSEPH T. ROSENBAUM, and complains against the above-named Defendants alleges and avers as follows:

I. NATURE OF CASE

1. The basis of this case is, *inter alia*, discrimination and retaliation against MS. MAGONIGLE as a female at the County of Maui Police Department.

II. JURISDICTION

2. MS. MAGONIGLE brings this action pursuant, including, but not limited to HRS Chapter 378 to obtain full and complete relief and to redress the tortious conduct described herein.

3. At all times relevant herein, MS. MAGONIGLE was an employee with the County of Maui Police Department [hereinafter referred to as “MPD”] and a resident of the County of Maui, State of Hawai’i.

4. At all times relevant herein, Defendant MPD's principal place of business is in the County of Maui, State of Hawai’i.

5. Upon information and belief, and at all times relevant herein, Defendants were acting within the course and scope of their duties as employees, agents and/or representatives of MPD; therefore, Defendants are liable for the intentional and/or tortious and/or wrongful conduct of said employees, agents and/or representatives pursuant to the doctrine of Respondeat Superior and/or principles of Agency.

6. Defendants JOHN DOES 1-100, JANE DOES 1-100, DOE CORPORATIONS 1-10, DOE PARTNERSHIPS 1-10, DOE UNINCORPORATED ORGANIZATIONS 1-10, and DOE GOVERNMENTAL AGENCIES 1-10 are sued herein under fictitious names because their true names, identities and capacities are unknown to MS. MAGONIGLE, except that they are connected in some manner with Defendants, and are/were agents, servants, employees, employers, representatives, co-venturers, associates, or independent

contractors of Defendants herein, and were acting with the permission and consent and within the course and scope of said agency and employment and/or were in some manner presently unknown to MS. MAGONIGLE engaged in the activities alleged herein and/or were in some way responsible for the injuries or damages to MS. MAGONIGLE, which activities were a proximate cause of said injuries or damages to MS. MAGONIGLE. MS. MAGONIGLE has made good faith and diligent efforts to identify said Defendants, including interviewing individuals with knowledge of the claims herein. At such time as their true names and identities become known, MS. MAGONIGLE will amend her Complaint accordingly.

7. All events done by MPD described herein occurred within the County of Maui, State of Hawaii, and within the jurisdiction and venue of the Circuit Court of the Second Circuit, State of Hawai'i.

III. STATEMENT OF FACTS

8. MS. MAGONIGLE is a female employee of MPD.

9. She has worked at MPD for over nineteen (19) years.

10. For the past approximately five (5) years, MS. MAGONIGLE has held the position of Business Administrator at MPD.

11. As MPD's Business Administrator, MS. MAGONIGLE is the boss of Human Resources and Budget and Finance for MPD.

12. Since the time Chief John Pelletier and Deputy Chief Charles Hank III became her bosses at the MPD, MS. MAGONIGLE was subjected to pervasive harassment and discrimination and to unequal terms and conditions based on her sex (female) and in retaliation for making a gender discrimination complaint.

13. MS. MAGONIGLE complained about the discrimination, but the discriminatory conduct continued.

14. When MS. MAGONIGLE filed a formal complaint, the discrimination became worse and subsequently, MS. MAGONIGLE filed a retaliation complaint.

15. MS. MAGONIGLE allegations of discrimination and discriminatory

retaliation are based on the following facts.

16. On December 17th, 2021, MS. MAGONIGLE was at MPD's first group office meeting after the hiring of Chief John Pelletier and Deputy Chief Charles Hank III.

17. Deputy Chief Hank yelled at a female secretary, Terry Jones, responsible for the attendance of the meeting, and she immediately started crying.

18. She was sitting right next to Chief Pelletier.

19. Chief Pelletier then warned the group that if anyone disagrees with them or is insubordinate, he will make an example out of them.

20. Chief Pelletier further described that anyone who is insubordinate will be "filleted."

21. The mood in the room was of surprise and silence, being that Chief Pelletier said in his speech on his first day, December 15th, that a spirit of Aloha, Lokahi (Unity) and professionalism would exist under his leadership, and that his theme was 'moving forward'.

22. MS. MAGONIGLE was shaking during the meeting and was in complete shell shock.

23. MS. MAGONIGLE could not eat all day long.

24. MS. MAGONIGLE called Terry Jones after the meeting and she said many people had called her to console her.

25. MS. MAGONIGLE's entire staff all saw her crying at her desk after the meeting was over and throughout the day.

26. MS. MAGONIGLE went home and began crying herself after holding it in all day.

27. MS. MAGONIGLE had never seen a man be able to yell at a female so comfortably and easily, without any hesitation, in front of an entire room of men, on their second day employed with the County of Maui and MPD.

28. The County's top legal representative was there, Ms. Moana Lutey, she sat in between MS. MAGONIGLE and Deputy Chief Hank and witnessed the entire altercation.

29. Chief Pelletier stated during this meeting that Ms. Lutey was in the meeting as their lawyer, and that she's at the meeting on the front end, to protect them on the back end.

30. Prior to this meeting, Ms. Lutey was never in any commander's meetings.

31. MS. MAGONIGLE was distraught and couldn't sleep all weekend long as she was traumatized by what happened to Terry Jones, the Chiefs secretary, the highest-ranking clerical position in the Department, being humiliated in front of a room full of men.

32. The following Monday, Terry Jones came up to MS. MAGONIGLE and said that the Deputy Chief came up to her and apologized for yelling at her and she told MS. MAGONIGLE that she has to learn to "keep her mouth shut."

33. In January 2022, there was an Executive Staff meeting in which Chief Pelletier and the Deputy Chief Hank wanted to create a policy that would prohibit MPD employees from recording conversations and meetings.

34. They stated that they had an officer record them without their knowledge and they do not think it's right, and that in Las Vegas you couldn't do that.

35. However, MS. MAGONIGLE thought it was legal in Hawaii.

36. During this meeting, MS. MAGONIGLE specifically stated to Chief Pelletier and Deputy Chief Hank that MPD previously had a female sworn sergeant that was the victim of sexual assault.

37. She obtained a recording of her assailant admitting to the assault, to which he was later accused and terminated.

38. She had stated in her claim that she recorded the conversation because she didn't think that anyone would believe her without the recording.

39. Consequently, MS. MAGONIGLE said in this meeting to Chief Pelletier and Deputy Chief Hank that recordings are valuable for victims, as we had that exact incident maybe two years prior.

40. Deputy Chief Hank paused and thought about it for a while and said, ok, I see your point and was thinking about it, but then said, you know what, no, let's not do that because then suddenly everybody is going to be playing the victim, everybody is going to be saying that they are being harassed to use it as an excuse to record.

41. Deputy Chief Hank also stated in this meeting that he was giving those present a verbal order that they are not allowed to record anything.

42. MS. MAGONIGLE was scared still from the Dec. 17th meeting that they would be 'filleted' for insubordination as they were threatened of such.

43. Due to this, MS. MAGONIGLE has never recorded any meetings as she

was scared to get in trouble.

44. On January 14th, 2022, Deputy Chief Hank called MS. MAGONIGLE into his office for a meeting and with the door closed, berated MS. MAGONIGLE about the email she sent regarding new placements and personnel movements in the department.

45. Deputy Chief Hank said both he and Chief Pelletier were upset about MS. MAGONIGLE putting the information in writing.

46. Deputy Chief Hank continued to put MS. MAGONIGLE down during this meeting and stressed that MS. MAGONIGLE should not be putting anything in writing.

47. Deputy Chief Hank stated that he wants MS. MAGONIGLE to only call or to go to his office, not to send emails as he does not trust MS. MAGONIGLE.

48. The entire subject email was all work-related topics regarding personnel.

49. Deputy Chief Hank seemed to be fixated on his opinion that the email was being used to set up him and the Chief, even though it was all work-related and he asked MS. MAGONIGLE the previous day to send the email.

50. Deputy Chief Hank specifically told MS. MAGONIGLE multiple times during this meeting that she could not link anything in the email to him, that it's all the Chiefs doing, not on him.

51. He directly looked at MS. MAGONIGLE and said, "You can't link anything on this email to me, can you?"

52. To which MS. MAGONIGLE stated no.

53. MS. MAGONIGLE believes Deputy Chief Hank was correct in his statement, it was all the Chief's decisions.

54. MS. MAGONIGLE explained to Deputy Chief Hank that the content of her emails was consistent with the kind of information that she had sent previous Chiefs in her experience.

55. Deputy Chief Hank told MS. MAGONIGLE that nobody welcomed him or the Chief into MPD including MS. MAGONIGLE and that there was no 'spirit of aloha' given by MS. MAGONIGLE.

56. When MS. MAGONIGLE tried to explain to him that she did send them documents even prior to and would try to defend herself against his accusation he would cut her off and say "you don't need to get so defensive" and dismiss what MS. MAGONIGLE was

saying.

57. Deputy Chief Hank began questioning what MS. MAGONIGLE rank was compared to sworn personnel and kept cutting MS. MAGONIGLE off and telling MS. MAGONIGLE not to speak when she kept trying to answer his question.

58. He told MS. MAGONIGLE not to talk until she was given permission to and upon completion of him speaking.

59. MS. MAGONIGLE didn't understand what relevance her rank had on the situation or why she was being berated and spoken to so offensively.

60. MS. MAGONIGLE went home that day after the meeting and cried as she didn't understand why she was being treated in such an abusive manner.

61. For two and half hours she had to sit there and be degraded, attacked, alone with Deputy Chief Hank with the door closed, not understanding what MS. MAGONIGLE did wrong to deserve this verbal bashing.

62. MS. MAGONIGLE remembers telling my husband as she cried that she felt like she was being treated like a criminal being interrogated for a crime.

63. MS. MAGONIGLE then her husband she actually hoped criminals are questioned and treated better than the way she was by her boss.

64. On January 25, 2022, Deputy Chief Hank took MS. MAGONIGLE and his secretary to lunch.

65. Deputy Chief Hank asked MS. MAGONIGLE at this lunch what he can approve upon and MS. MAGONIGLE stated that as her previous email had said, she was requesting an improvement in communication through channels.

66. Deputy Chief Hank again stated as he did at the Jan. 14th meeting, that it was all on the Chief, not on him, that the Chief was the one that made all of those decisions, not him, and that MS. MAGONIGLE can't link any of it to him.

67. Deputy Chief Hank had also previously told MS. MAGONIGLE in a meeting that although he will take men out to lunch one-on-one, that he will not take MS. MAGONIGLE out to lunch because she is a female and that someone might take a picture of them eating together and put it on social media.

68. Deputy Chief Hank asked how it is in the military and MS. MAGONIGLE stated that she did go out to eat lunch with males all of the time as it's all professional and work

related.

69. Deputy Chief Hank related that if they went to lunch it would always have to be with at least two females, so that's why MS. MAGONIGLE and his secretary were at lunch on Jan. 25th.

70. MS. MAGONIGLE had also relayed to Deputy Chief Hank during this meeting that also in the military, they do not have meetings with the doors closed when there is only a male and female in the room as a form of protection.

71. Deputy Chief Hank responded with 'what does that have to do with lunch?'

72. MS. MAGONIGLE had been extremely uncomfortable with the Deputy Chief Hank closing the door when they meet and have told that to the Chief's secretary, the Deputy Chief's secretary, and MS. MAGONIGLE staff.

73. MS. MAGONIGLE tried to relay that information to Deputy Chief Hank as well, but he did not seem to understand or comprehend MS. MAGONIGLE's uneasiness and discomfort.

74. On January 28th, 2022, MS. MAGONIGLE got called into a meeting in Chief Pelletier's office, with the door closed, and again got scolded about putting her communications in writing.

75. Chief Pelletier added that the only response he wanted from MS. MAGONIGLE's emails was "Yes, Chief."

76. He kept repeating that MS. MAGONIGLE's email communications only created "barriers."

77. MS. MAGONIGLE told Chief Pelletier that all her communications were standard and were related to her job responsibilities.

78. Deputy Chief Hank also relayed in this meeting that he and the Chief had already told MS. MAGONIGLE not to send emails anymore, that they did not want anything in writing.

79. It was conveyed that they wanted MS. MAGONIGLE to go speak to them in person.

80. MS. MAGONIGLE was on the verge of tears during this meeting, where Deputy Chief Hank even made the comment that it's unfortunate you can't see people's reactions

with masks on.

81. MS. MAGONIGLE remembers repeating to herself during this meeting, “don’t let them see you cry” but it was so hard.

82. As soon as the meeting was over, MS. MAGONIGLE went directly to the women’s bathroom and cried in one of the bathroom stalls as she did not want her office staff to see her crying.

83. The Deputy Chief’s secretary asked MS. MAGONIGLE later that day if MS. MAGONIGLE was ok.

84. MS. MAGONIGLE told her yes.

85. MS. MAGONIGLE asked her why she asked MS. MAGONIGLE that, and she said because her and Terry Jones noticed that MS. MAGONIGLE looked like she was not well when MS. MAGONIGLE left.

86. On February 3, 2022, MS. MAGONIGLE received a call from Deputy Chief Hank and Chief Pelletier.

87. They asked if MS. MAGONIGLE knew the names of the personnel that would be on the Lieutenant’s promotional list.

88. MS. MAGONIGLE stated she did not.

89. Deputy Chief Hank, with Chief Pelletier on speaker phone, asked if MS. MAGONIGLE could get the names of those on the list to which she stated that MPD is not privy to the names as they are held by the Department of Personnel Services as a matter of confidentiality.

90. Deputy Chief Hank then asked if MS. MAGONIGLE would call the Department of Personnel Services and ask them if they would “informally” give MS. MAGONIGLE the list of names so that she could provide it to them.

91. MS. MAGONIGLE replied no as she believe was completely immoral and illegal.

92. MS. MAGONIGLE has never in all of her years in the Army or MPD been asked by a boss to complete a task that was unethical.

93. The request was knowingly illegal and unethical because it’s been explained before and which is why MS. MAGONIGLE was asked to complete it “informally.”

94. MS. MAGONIGLE felt so uncomfortable with being asked to do that and

worried that she would now be looked down upon by them because she did not just say “yes chief” as they would like her to do.

95. MS. MAGONIGLE just couldn’t compromise her morals and ethics.

96. Deputy Chief Hank then asked MS. MAGONIGLE if she could tell them if a specific Union Sergeant representative’s name would be on the list.

97. MS. MAGONIGLE told them, as they were aware, he is currently grieving that he did not get selected for promotion last time.

98. MS. MAGONIGLE explained that when someone is not selected for a promotion, in general, their name remains on the list, to which they seemed satisfied and MS. MAGONIGLE was then directed to request a promotional list.

99. This conversation made MS. MAGONIGLE feel so uncomfortable and uneasy with what she was being asked to do.

100. Moreover, she feared that because she did not do what they wanted her to do that she was going to be accused of being insubordinate.

101. On February 22, 2022 when responding to an email from Deputy Chief Hank, in part of MS. MAGONIGLE response she included an example of past practice to use as guidance and reference for Chief Pelletier to make an informed decision.

102. The response from Deputy Chief Hank was insulting in tone and included “Please make sure in the future we discuss and talk out our options on these types of issues and not assume A-1 agrees with past practice where he has discretion... and that past practice can be changed by the current Chief.”

103. MS. MAGONIGLE again cried with this email as again she was being told to come talk to them in person and not by email.

104. On February 28, 2022, during a Executive Staff Meeting, Chief Pelletier assigns one of the two newly promoted assistant chief’s to investigative services and states it is because he’s senior due to his date of rank.

105. By this time, MS. MAGONIGLE was trying to tell herself to just keep her mouth shut during all meetings because of the constant degrading, blaming and attacks during such meetings.

106. MS. MAGONIGLE turned her head when this statement was made and another person in the meeting asked if she had something to say as her eyes got big.

107. MS. MAGONIGLE stated that the two assistant chiefs were assigned the same effective date of March 1, 2022, so they have the same date of rank, so seniority based upon date of rank is incorrect.

108. Deputy Chief Hank then got upset with MS. MAGONIGLE and said well we based it upon the promotion scores.

109. MS. MAGONIGLE then stated that she has not yet tallied up the scores for promotion yet.

110. Deputy Chief Hank got mad again and said well he has seniority because he scored higher on the interview with us.

111. MS. MAGONIGLE just said ok because again she was starting to feel anxious with the way she was being confronted and spoken to.

112. Deputy Chief Hank then tells MS. MAGONIGLE directly that she didn't need to tell him about date of rank, that he knows all about date of rank.

113. MS. MAGONIGLE just said ok and went back to keeping her mouth shut.

114. The next day, the newly assigned acting assistant chief came into MS. MAGONIGLE's office on an unrelated topic and they discussed this meeting.

115. He told MS. MAGONIGLE he noticed the way the Deputy Chief speaks down to her.

116. MS. MAGONIGLE said "Really? You notice it?" to which he responded yes.

117. He also stated, "Since when do we base seniority on interview scores?"

118. This was MS. MAGONIGLE's point in the meeting.

119. Because she spoke up about it, she was attacked for opening her mouth and for not being subservient and obedient to everything they said.

120. It was to a point that even the men in the room notice the way MS. MAGONIGLE was spoken down to.

121. On March 7th, 2022, Chief Pelletier accused MS. MAGONIGLE of targeting employees with a 'hit-list' by providing a list of employees' overtime statistics.

122. On March 7th and March 15th, 2022, during group meetings, Deputy Chief Hank called retired employees "cowards with no value to the department," and these comments made the entire group visibly very uncomfortable.

123. On March 10th, 2022 the Chief and Deputy Chief had an “A1-A5” meeting.

124. In the 5 years MS. MAGONIGLE has been in her position MS. MAGONIGLE have never been excluded from an executive staff meeting, so this was set up to purposely dismiss MS. MAGONIGLE, the only female in these meetings.

125. Per MS. MAGONIGLE's coworkers, never has the Business Administrator been excluded from an executive staff meeting in the twenty (20) plus years they have worked at MPD.

126. The meeting was about personnel movements, which is a part of MS. MAGONIGLE job responsibilities.

127. However, MS. MAGONIGLE was not invited to this meeting by the Chief and Deputy even though it was directly related to MS. MAGONIGLE's performance duties.

128. On March 15, 2022, Deputy Chief Hank accused MS. MAGONIGLE of being the reason that a female Wailuku Patrol sergeant was abusing overtime.

129. Prior to this, on February 23, 2022, MS. MAGONIGLE was directed by Deputy Chief Hank to cease any communication with this Sergeant due to perceived tension.

130. MS. MAGONIGLE stated that she had never met this person until January 26, 2022 and that all of her emails were documented, in writing, and work-related.

131. Deputy Chief Hank stated that he didn't believe MS. MAGONIGLE and that there has been something going on between MS MAGONIGLE and the female Wailuku Patrol sergeant from the past.

132. MS. MAGONIGLE stated multiple times that she never even interacted or spoke to this Sergeant until a month prior at the recruiting council meeting.

133. Deputy Chief Hank again kept accusing MS. MAGONIGLE of lying and told MS. MAGONIGLE to stop emailing, which she did.

134. The overtime abuse was reported regarding this same Sergeant during the March 15, 2022 meeting by the Acting Assistant Chief of Uniformed Services Bureau.

135. When the Deputy Chief asked the group who was approving all of this Sergeant's travel in order to claim all of the overtime, MS. MAGONIGLE stated to him that it was him.

136. MS. MAGONIGLE explained that it is Deputy Chief Hank that approves and signs off on all of this Sergeant's travel requests.

137. He then looks directly at MS. MAGONIGLE and tells her that it's her fault that he has to approve this Sergeant's travel because of the tension that MS. MAGONIGLE had with her.

138. This Sergeant is a Wailuku Patrol sergeant.

139. The requests should first be going through a Wailuku Lieutenant, the Wailuku Captain, the USB Assistant Chief then the Deputy Chief and then Chief.

140. However, for this particular Sergeant, all requests go directly to the Deputy Chief and Chief, bypassing all supervisors and chain of command.

141. But either way, MS. MAGONIGLE was not and is not an approving authority for this Sergeant nor had any control over this Sergeant's travel or overtime.

142. Yet MS. MAGONIGLE was blamed and accused of being the reason for the theft of overtime by this Sergeant, when MS. MAGONIGLE do not have any approval authority for any of it.

143. MS. MAGONIGLE didn't understand why the Deputy Chief was attacking her with this accusation that it was her fault, again, in front of everyone, all men, with no one saying a word.

144. An assistant chief who was in the meeting later came to MS. MAGONIGLE's office and asked, in essence, why the Deputy Chief always attacks her, even when it was him that brought up the overtime abuse in the meeting, not MS. MAGONIGLE.

145. Yet as the only female in these meetings, MS. MAGONIGLE got targeted and degraded.

146. On March 18th, 2022, another female from MS. MAGONIGLE's staff came to MS. MAGONIGLE's office to let MS. MAGONIGLE know that she is looking for another job as she feels very uncomfortable working at MPD and like she is walking on eggshells.

147. She said she spoke to someone in Personnel Services department, and they told her that they should be watching their backs and that the Chiefs had gone to DPS to question how they can make MS. MAGONIGLE's position an appointed one instead so they can select someone else.

148. On April 5, 2022, Deputy Chief Hank was talking of officers being down at Lao Valley sitting in their cars.

149. He said that “these guys have no idea what work even is, it’s laughable”, and then began to laugh.

150. MS. MAGONIGLE’s husband is a police officer at MPD so it was very uncomfortable for MS. MAGONIGLE to hear him say this about MPD’s officers.

151. Deputy Chief Hank then continued that in Las Vegas the radio is always going and here there’s nothing.

152. Between February and March 2022, while in multiple meetings with Deputy Chief Hank, and after everyone was well aware of the previous complaints filed by the highest ranking sworn female and another female sergeant, on multiple occasions stated that their complaints were ‘bullshit’ and that they need to get over it already.

153. Deputy Chief Hank stated about the female sergeant, ‘I don’t know what’s wrong with her that she requested Lahaina and now she’s complaining about it.’

154. When asked about the no-contact he said they were moving the female lieutenant to Lahaina (another district) so that will take care of that, he said.

155. Then they don’t have to worry about it.

156. Statements were made that this was all a set-up and that Deputy Chief Hank and the Chief were purposely sabotaged.

157. Deputy Chief Hank stated many times that people have fights, they have disagreements and that they need to just get over it.

158. Deputy Chief Hank stated that he didn’t know what they did all day anyway except sell patches, that’s it.

159. During these meetings it was so uncomfortable because MS. MAGONIGLE didn’t understand how he could continue to insult these sworn MPD females, even after they filed their complaints.

160. On April 12th, 2022, there was a Budget hearing for the Maui County Council.

161. Chief Pelletier thanked MS. MAGONIGLE multiple times and took MS. MAGONIGLE to lunch to thank her for the good work she did on the budget.

162. Chief Pelletier continued to reiterate how valuable and appreciated MS.

MAGONIGLE was to MPD.

163. On April 13th, 2022, at a group meeting, Chief Pelletier mentioned a position MS. MAGONIGLE advertised in the office.

164. He yelled and cursed at MS. MAGONIGLE in front of five men with the closed door.

165. MS. MAGONIGLE was the only female in the room.

166. MS. MAGONIGLE felt attacked and demoralized.

167. MS. MAGONIGLE could not believe that as a woman, a mother, a Soldier, and a County/MPD employee, that MS. MAGONIGLE was being spoken to with such abuse.

168. MS. MAGONIGLE felt threatened and intimidated and started crying in the meeting with him still yelling and swearing while MS. MAGONIGLE cried.

169. MS. MAGONIGLE didn't understand why Chief Pelletier was so angry to yell and curse like that, almost like in a blind angry rage, nor why MS. MAGONIGLE deserved to be spoken to in this manner.

170. Chief Pelletier even yelled that he didn't even care who heard him yelling and cursing.

171. There was no self-control, even with an entire group of executive staff members present, even with police officer interviews next door, even with staff and police officer applicants in the lobby– it didn't matter to him.

172. MS. MAGONIGLE was fearful and intimidated and just felt like she had to escape somehow.

173. MS. MAGONIGLE eventually gathered the strength to stand up, crying, looked directly at Chief Pelletier and said that she had to leave for a breather.

174. MS. MAGONIGLE walked out of the office crying and went straight to her office and shut the door and continued crying.

175. The yelling and swearing was so loud that those next door conducting the interviews heard it as well.

176. An assistant chief came to MS. MAGONIGLE's office after the meeting and knocked on her door while she was inside it crying, but MS. MAGONIGLE was not in any mental or psychological state to be able to speak to anyone.

177. After having spent twenty-four (24) years in the Army and nineteen (19) with MPD, MS. MAGONIGLE had never experienced such a lashing out.

178. It scared her.

179. Chief Pelletier was pointing his finger with force down on the desk, and was sitting in the chair next to MS. MAGONIGLE, only about 1-2 feet away.

180. That day MS. MAGONIGLE filed a complaint with Maui County against both Chief Pelletier and Deputy Chief Hank.

181. MS. MAGONIGLE found out later that both Chief Pelletier and Deputy Chief Hank were both served with a no-contact order to stay away from MS. MAGONIGLE.

182. MS. MAGONIGLE also knew that her complaint was the third filed by a woman against the Maui Police Department, with the Chief and the Deputy Chief as the responsible party, in just a couple months' time.

183. After receiving a series of emails via Sandy Baz regarding Chief Pelletier and Deputy Chief Hanks complaints about MS. MAGONIGLE's performance, MS. MAGONIGLE decided to file a retaliation complaint with the County on April 21st, 2022.

184. After said complaint, Chief Pelletier and Deputy Chief Hanks began making false accusations that MS. MAGONIGLE was not completing her job assignments, that she was being non-compliant, refusing to do her job and turning work in late.

185. Prior to Chief Pelletier's arrival and the discrimination and retaliation she is facing, MS. MAGONIGLE had only received exceptional reviews from her supervisors.

186. MS. MAGONIGLE believes Chief Pelletier is trying to retaliate against her to get her fired.

187. On April 18th, 2022, Sandy Baz, Managing Director of County of Maui, directed MS. MAGONIGLE to "C.C." or carbon copy him on all email correspondence to Chief Pelletier and Chief Deputy Hank.

188. Chief Pelletier and Deputy Chief Hank wanted to only communicate through him, to which MS. MAGONIGLE complied.

189. Through emails from the Deputy Chief, MS. MAGONIGLE was being accused of not turning work in on time, was told that she needed to be reminded of her job duties, additional duties were placed upon her to complete, and work and communication that MS. MAGONIGLE was allowed to previously complete prior to the complaint on April 13th,

was now not being authorized to perform by Chief Pelletier since having filed the complaint.

190. MS. MAGONIGLE have replied back to all emails with her submissions of work and proof that work had been submitted on time.

191. After filing her complaint, there have been meetings to discuss MS. MAGONIGLE's work performance being "lacking", however, she had all excellent performance evaluations, was never placed on a performance improvement plan, nor had she ever received a profile or a counseling to document a deficiency in her work performance prior to making this complaint.

192. It was not until after her complaint was filed on April 13th that there is now overt retaliation against her job performance.

193. MS. MAGONIGLE feels the Chief and Deputy Chief are using Sandy Baz and the third-person request of communication as a means to defame her and to continue to harass and attack her despite the no-contact order.

194. During this time, MS. MAGONIGLE doctor has diagnosed her with extreme anxiety.

195. MS. MAGONIGLE's psychologist has stated that she is dealing with effects of trauma.

196. MS. MAGONIGLE hasn't slept, has panic attacks, rapid heartbeat and has been having bouts of dizziness because of the stress at work.

197. MS. MAGONIGLE has purchased a blood pressure monitor for work.

198. Prior to Chief Pelletier's and Deputy Hank's arrival, MS. MAGONIGLE did not have any medical issues.

199. On or about May 25, 2022, MS. MAGONIGLE filed charge of Discrimination with the HCRC citing to gender discrimination.

200. After filing said Charge of Discrimination MS. MAGONIGLE was retaliated against by MPD in the form of, *inter alia*: being excluded from meetings she needed to attend to do her job, having lies told about her, falsely accused of release confidential information, purposely not being given written memos directly related to her job duties, then attacked that she was not completing her job duties, trying to have her transferred, being threatened with a performance improvement plan, provided her confidential information to those outside MPD, falsely attacked her work performance, being removed from email chains she

needed to be on to do her job and then accused of not doing her job and having memos baselessly reject and Chief Pelletier refusing to sign them.

201. On or about November 3, 2022, MS. MAGONIGLE was issued her “right to sue” letter from the HCRC.

202. On April 20, 2023, MS. MAGONIGLE filed another Charge of Discrimination with the HCRC detailing and alleging further retaliation which was attached ~~hereto~~ to her First Amended Complaint as Exhibit A for reference and is incorporated into the facts herein alleged.

203. In or around December 2023, MS. MAGONIGLE received information that Chief John Pelletier was working with Corporation Counsel to have MS. MAGONIGLE terminated due to the two complaints she had filed regarding discrimination, etc.

204. MS. MAGONIGLE’s source of information acknowledged that MS. MAGONIGLE’s work performance was superior and that there was no basis in her work performance for her termination.

205. On January 5, 2024, a budget meeting that MS. MAGONIGLE was to prepare for had been rescheduled by Chief Pelletier without MS. MAGONIGLE’s knowledge, thereby preventing her from performing the duties of her job.

206. MS. MAGONIGLE was informed by one of her subordinates that Chief Pelletier removed MS. MAGONIGLE from the email chain because he did not want MS. MAGONIGLE to be present at the meeting and "risk having another complaint against him."

207. Chief Pelletier continued to retaliate against MS. MAGONIGLE due to her prior discriminatory complaints she filed against him in 2022 and 2023.

208. On January 24, 2024, without notice, Chief Wade Maeda called MS. MAGONIGLE into his office and informed MS. MAGONIGLE that she was being discharged from MPD effective immediately due to my ""unwillingness to work collaboratively with the Office of the Chief,"" and my ""untenable"" and ""irretrievably broken"" working relationship with Chief Pelletier.

209. The reasons provided for MS. MAGONIGLE's termination are pretextual and her termination was instead due to retaliation.

210. Despite experiencing ongoing retaliation against her by Chief Pelletier, MS. MAGONIGLE had continued to excel in her performance evaluations, and she had never been counseled, reprimanded, put on a performance improvement plan, or investigated for any workplace violations.

211. On or about February 8, 2024, MS. MAGONIGLE filed another Charge of Discrimination with the HCRC citing retaliation.

212. On or about February 14, 2024, MS. MAGONIGLE was issued her "right to sue" letter from the HCRC regarding said Charge of Discrimination.

COUNT I GENDER DISCRIMINATION

213. MS. MAGONIGLE incorporates paragraphs 1 through ~~202~~ 212 as though fully set forth herein.

214. It shall be unlawful discriminatory practice for an employer to discriminate against an individual under HRS, § 378-2 based on their gender.

215. MPD's conduct as described above is a violation of HRS, § 378-2.

216. The aforementioned acts and/or conduct of the MPD entitles MS. MAGONIGLE to damages as provided by law. As a direct and proximate result of said unlawful employment practices MS. MAGONIGLE has suffered extreme mental anguish, outrage and great humiliation about her future and her ability to support herself, as well as painful embarrassment among her relatives and friends, damage to her good reputation, disruption of her personal life, loss of enjoyment of the ordinary pleasures of everyday life and other general damages in an amount which meets the minimal jurisdictional limits of this Court.

COUNT II RETALIATION

217. MS. MAGONIGLE incorporates paragraphs 1 through ~~206~~ 216 as though fully set forth herein.

218. It shall be unlawful discriminatory practice for an employer to discriminate against an individual under HRS, § 378-2(2) who “has filed a complaint . . . respecting the discriminatory practices prohibited under this part.”

219. MPD’s conduct as described above is a violation of HRS, § 378-2 (1 & 2).

220. The aforementioned acts and/or conduct of the MPD entitles MS. MAGONIGLE to damages as provided by law. As a direct and proximate result of said unlawful employment practices MS. MAGONIGLE has suffered extreme mental anguish, outrage and great humiliation about her future and her ability to support herself, as well as painful embarrassment among her relatives and friends, damage to her good reputation, disruption of her personal life, loss of enjoyment of the ordinary pleasures of everyday life and other general damages in an amount which meets the minimal jurisdictional limits of this Court.

COUNT III
VIOLATION OF HRS 378 PART V WHISTLEBLOWERS’ PROTECTION ACT

221. MS. MAGONIGLE incorporates paragraphs 1 through ~~210~~ 220 as though fully set forth herein.

222. The treatment of MS. MAGONIGLE, as described aforesaid, evidences retaliation against MS. MAGONIGLE at MPD for reporting illegal practices at MPD.

223. An employer shall not retaliate against an employee based on their whistleblowing under HRS, § 378-62 which states in pertinent part as follows:

§ 378-62: An employer shall not discharge, threaten or otherwise discriminate against an employee...because:

- (1) The employee... reports or is about to report to the employer...verbally or in writing, a violation or suspected violation of:

- (A) A law, rule, ordinance, or regulation, adopted pursuant to the law of this State, a political subdivision of the State or the United States;

224. MPD's conduct as described above is a violation of HRS

§ 378-62(1)(A).

225. The aforementioned acts and/or conduct of the MPD entitles MS. MAGONIGLE to damages as provided by law. As a direct and proximate result of said unlawful employment practices MS. MAGONIGLE has suffered extreme mental anguish, outrage and great humiliation about her future and her ability to support herself, as well as painful embarrassment among her relatives and friends, damage to her good reputation, disruption of her personal life, loss of enjoyment of the ordinary pleasures of everyday life and other general damages in an amount which meets the minimal jurisdictional limits of this Court.

PRAYER FOR RELIEF

WHEREFORE, MS. MAGONIGLE respectfully prays that this Court enter judgment granting the following relief on all causes of action:

A. That this Court enter a declaratory judgment that MPD have violated the rights of MS. MAGONIGLE;

B. That this Court award MS. MAGONIGLE special damages for the aforementioned Counts including but not limited to back pay, front pay, and all employee benefits that would have been enjoyed by her in amounts which shall be shown at trial;

C. That this Court award MS. MAGONIGLE compensatory damages, proximately caused by MPD's tortious and abusive conduct, including, but not limited to, general damages for the intentional infliction of mental or emotional distress, assessed against MPD, all in an amount to be proven at trial;

D. As MPD's treatment of MS. MAGONIGLE, as aforesaid, constitutes extreme and outrageous behavior which exceeds all bounds usually tolerated by decent society. In committing the above acts and omissions, MPD acted wantonly and/or oppressively and/or with such malice as implies a spirit of mischief or criminal indifference to civil obligations and/or there has been some willful misconduct that demonstrates that entire want of care which would raise the presumption of a conscious indifference to consequences, justifying an award of punitive or exemplary damages in an amount to be proven at trial, that this Court award MS. MAGONIGLE exemplary or punitive damages in an amount to be proven at trial;

E. That this Court award MS. MAGONIGLE reasonable attorney's fees and costs of suit herein as well as prejudgment and post-judgment interest;

F. That this Court order appropriate injunctive relief;

G. That this Court retain jurisdiction over this action until MPD has fully complied with the order of this Court and that this Court require MPD to file such reports as may be necessary to secure compliance;

H. That this Court award MS. MAGONIGLE such other and further relief both legal and equitable as this Court deems just, necessary and proper under the circumstances.

DATED: Honolulu, Hawaii, May 13, 2024.

/s/ Joseph T. Rosenbaum
ELIZABETH JUBIN FUJIWARA
JOSEPH T. ROSENBAUM
Attorneys for Plaintiff
MELISSA MAGONIGLE

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

MELISSA MAGONIGLE,

Plaintiff,

VS.

COUNTY OF MAUI POLICE
DEPARTMENT; JOHN DOES 1-10; JANE
DOES 1-10; DOE CORPORATIONS 1-10;
DOE PARTNERSHIPS 1-10; DOE
UNINCORPORATED ORGANIZATIONS
1-10; and DOE GOVERNMENTAL
AGENCIES 1-10,

Defendants.

) CIVIL NO. 2CCV-23-0000030
) (Other Civil Action)
)
) DEMAND FOR JURY TRIAL

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury on all issues so triable herein.

DATED: Honolulu, Hawaii, May 13, 2024.

/s/ Joseph T. Rosenbaum
ELIZABETH JUBIN FUJIWARA
JOSEPH T. ROSENBAUM
Attorneys for Plaintiff
MELISSA MAGONIGLE