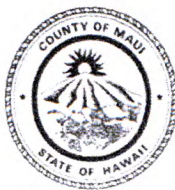


MICHAEL P. VICTORINO
Mayor

MOANA M. LUTEY
Corporation Counsel

RICHELLE M. THOMSON
First Deputy

LYDIA A. TODA
Risk Management Officer



DEPARTMENT OF THE CORPORATION COUNSEL
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OFFICE OF THE
COUNTY CLERK

2022 JUN 16 PM 4: 44

RECEIVED

June 16, 2022

Alice L. Lee, Chair
and Members of the Council
County of Maui
Wailuku, Hawaii 96793
Via email to county.clerk@mauicounty.us

Subject: LITIGATION MATTER – Settlement Authorization (GREAT 11)
Ronda Smythe and Liana P. Kanno v. Brandon Saffeels, et al.,
United States District Court Civil Case No. 21-00056 LEK-RT;
Alisha N.K. Constantino v. Brandon Saffeels, et al.,
United States District Court Civil Case No. 21-00316 LEK-RT

Dear Chair Lee and Council Members:

Attached, please find a proposed resolution entitled "AUTHORIZING SETTLEMENT OF RONDA SMYTHE AND LIANA P. KANNO V. BRANDON SAFFEELS, ET AL., CASE CV 21-00056 LEK-RT AND ALISHA N.K. CONSTANTINO V. BRANDON SAFFEELS, ET AL., CASE CV 21-00316 LEK-RT".

Our Department requests the opportunity to discuss the above-referenced lawsuits with the GREAT Committee, provide an update on the status of the litigation, and discuss a settlement demand with regard to these lawsuits. We are requesting that this matter be scheduled at the earliest possible meeting, which we understand will be on June 28, 2022.

A copy of each complaint is attached for your review. Because this matter is in active litigation, it is anticipated that an executive session will be necessary to discuss County liability and settlement related matters. Should you have any questions or concerns, please do not hesitate to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "Keola R. Whittaker".

KEOLA R. WHITTAKER
Deputy Corporation Counsel
County of Maui

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Attorneys for Plaintiffs
RONDA SMYTHE and LIANA P. KANNO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

RONDA SMYTHE; LIANA P.
KANNO,

Plaintiffs,

vs.

BRANDON SAFFEELS; COUNTY OF
MAUI; JOHN DOES 1-10; JANE
DOES 1-10; DOE PARTNERSHIPS 1-
10; DOE COPORATIONS 1-10; AND
DOE ENTITIES 1-10,

Defendants.

CASE NO. 1:21-cv-00056-LEK-RT
(Other Non-Vehicle Tort)

PLAINTIFFS' SECOND AMENDED
COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES;
CERTIFICATE OF SERVICE

**PLAINTIFFS' SECOND AMENDED COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES**

Plaintiffs, RONDA SMYTHE and LIANA P. KANNO, for causes of action against the above-named defendants, allege and aver as follows:

1. Defendant COUNTY OF MAUI (“County” or “Defendant County”) is and was municipally organized and existing under the laws of the State of Hawaii and the United State of America, and operated MAUI COUNTY POLICE DEPARTMENT (hereinafter referred to as “MPD”), and is and was at all times relevant herein, the principal law enforcement agency of the County of Maui, Hawaii, headquartered in Wailuku, Hawaii.

2. Defendant BRANDON SAFFEELS, (hereinafter referred to as “Defendant Saffeels” or “Officer Saffeels”), was, at all times relevant to this Complaint, an officer with the MPD, and an agent, servant, and employee of the County, acting under the color of state law with the permission and consent and within the course and scope of said agency and employment. He is being sued in his individual and official capacity.

3. Plaintiff RONDA SMYTHE (Sometimes referred to as “Ms. Smythe” or “Plaintiff Smythe”), at all relevant times herein, was and is a resident of Maui County, State of Hawaii.

4. Plaintiff LIANA P. KANNO (Sometimes referred to as “Ms. Kanno”), at all relevant times herein, was and is a resident of Maui County, State of Hawaii.

5. Defendants John Does 1-10, Jane Does 1-10, Doe Partnerships 1-10, Doe Corporations 1-10 and Doe Entities 1-10, are sued herein under fictitious names for the reason that their true names and identities are presently unknown to Plaintiffs, except that they are connected in some manner with the named defendants and are agents, servants, employees, employers, representatives, co-venturers, associates, vendors, suppliers, manufacturers, subcontractors or contractors of the named defendants, and/or are in some manner responsible for the injuries and damages to Plaintiffs and/or manufactured, and/or designed and/or placed on the market a defective product which was the proximate cause of the injuries and damages to Plaintiffs, and/or in some other manner related to the named Defendants and that their true names, identities, capacities, activities and/or responsibilities are presently unknown to Plaintiffs. Plaintiffs have made a good faith investigation into the matter to identify other responsible parties, including but not limited to search of "records, internet research, review of court reports and witness interviews." Plaintiffs herein pray leave to amend their Complaint to allege the true names, identities, capacities, activities and/or responsibilities of the defendants set forth in this paragraph when the same are ascertained and have conducted extensive research in a diligent and good faith effort to ascertain the identity of the unknown Doe Defendants.

6. This United States District Court has jurisdiction over the subject

matter and the parties pursuant 28 U.S.C. §§1331 and 1343(a)(3) and (a)(4) and 42 U.S.C. §§1983, 1985 and 1988.

7. This Court has supplemental jurisdiction over state law claims pursuant to 28 U.S.C. §1367 with remedy pursuant to, *inter alia*, 28 U.S.C. §§2201 and 2202.

8. Venue in this District Court is proper pursuant to 28 U.S.C. §1391(b) and all parties reside in and all claims arose within Hawaii.

I. ALLEGATIONS PERTAINING TO LIANA P. KANNO

9. On or about February 17, 2018, Plaintiff LIANA P. KANNO (“Ms. Kanno”) was assaulted at her residence by a neighbor Hiilani McKee.

10. As a result of the assault, Ms. Kanno contacted MPD, which sent Officer Saffeels to Ms. Kanno’s residence.

11. Rather than identify Ms. Kanno as the victim, Officer Saffeels prepared and filed a false police report, Case Number 18-007244, identifying Ms. Kanno as the “offender” and Ms. McKee as the victim.

12. On or about July 24, 2018, Ms. Kanno was threatened and/or harassed by one or more members of the McKee family, who are Ms. Kanno’s neighbors. Once again, given the harm to her and threat to her safety, Ms. Kanno contacted the MPD, who once again sent Officer Staffeels to respond to the incident.

13. Thereafter, Officer Saffeels submitted another false police report, Case Number 18-030933, identifying Ms. Kanno as the offender, and the father of

her child, Shane E.H. Haas, as the victim, once again omitting any reference to the McKees and wrongfully identifying Ms. Kanno as the “offender” as opposed to the “victim”.

14. During this same time period, Officer Saffeele was sending text messages to Ms. Kanno requesting to have a physical or sexual relationship with Ms. Kanno. Officer Saffeele told Ms. Kanno in words or substance that if she wanted help with the police report involving her neighbors the McKees what was Ms. Kanno willing to do for Officer Saffeele in exchange, which was made clear to Ms. Kanno by Officer Saffeele and the context of the communication that the request was of a sexual nature.

15. Thereafter, Ms. Kanno refused the advances of Officer Saffeele and made a sexual harassment complaint against Officer Saffeele.

16. On August 6, 2018, Ms. Kanno obtained copies of the two police reports, Case Numbers 18-007244 and 18-007244, and learned that she had been falsely identified by Officer Saffeele as the “Offender” in both reports regarding the incidents involving her neighbors, which was, as to one or more of the reports, on information and belief, a direct and proximate result of Ms. Kanno refusing the sexual advances of Officer Saffeele.

17. In the weeks and months following, Ms. Kanno’s rebuffing the advances of Officer Saffeele, members of MPD have pressured and attempted to

coerce Ms. Kanno to withdraw her sexual harassment complaint against Officer Saffeele, and otherwise change her story.

II. ALLEGATIONS PERTAINING TO RONDA SMYTHE

18. In January, 2018, Officer Saffeele approached Plaintiff Smythe, who was repairing an automobile, inquiring if she had heard any “gunshots” in the vicinity; based on this pretext, Officer Saffeele then requested and obtained the confidential information of Ms. Smythe, including her private phone number.

19. Thereafter, on multiple occasions in 2018, Officer Saffeele made multiple texts and verbal communications to Ms. Smythe attempting to establish a physical and/or romantic relationship with Ms. Smythe.

20. Officer Saffeele would randomly call or text Ms. Smythe at different times and dates, asking if she needed anything or if she wanted to go over to his house to take a shower or if she wanted him to buy her cigarettes.

21. Officer Saffeele also sent various suggestive texts/photographs of Officer Saffeele to Ms. Smythe, including of Officer Saffeele with his shirt off.

22. Thereafter, when Ms. Smythe did not respond to the advances of Officer Saffeele, Officer Saffeele threatened he would appear at her employment with his police car, and embarrass her in front of workers or whoever she was with.

23. As a result of Ms. Smythe rebuffing Officer Saffeele’s advances, Ms. Smythe was also illegally detained, and in a 30 day period was issued more than 12

traffic citations; since February, 2018, Ms. Smythe had over 30 court hearings, and was repeatedly humiliated by the police who also called in the “K9” unit on Ms. Smythe and subjected her to multiple unjustified searches and unlawful arrests in violation of the state and federal constitutions prohibition against unlawful searches and seizures.

24. In 2019, following her 9th court hearing, Ms. Smythe was forced to resign from her new job/position due to continuous police harassment following Ms. Smythe’s refusal of the advances of Officer Saffeeles.

COUNT I HARASSMENT

(As to All Defendants)

25. Plaintiffs repeat and reallege paragraphs 1-24.

26. At all times and places above-mentioned, Officer Saffeeles was on official business and used his position as a police officer to facilitate his sexual harassment of the Plaintiffs.

27. Officer Saffeeles was acting under color of state law and deprived the Plaintiffs of their constitutional rights to equal protection and due process under the Fifth and Fourteenth Amendments to the United States Constitution by sexually harassing and intimidating the Plaintiffs in violation of Section 1983 of Title 42 of the United States Code Annotated (42 U.S.C.A. § 1983); Officer Saffeeles’ actions

were not motivated by legitimate law enforcement objectives, but were deliberate and malicious, and shocking the conscience.

28. Defendant County had an unwritten municipal policy or custom condoning harassment, including a policy or custom of inadequate training and supervision of municipal officers constituting deliberate indifference to the rights of citizens, including the Plaintiffs, causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

29. Defendant County also had a custom of tolerance or acquiescence of federal rights violations rising to the level of deliberate indifference to the rights of the Plaintiffs and causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

30. The repeated actions of harassment, intimidation, and retaliation alleged herein constituted a pattern indicating a persistent and widespread practice of MPD/County Officials were common and well settled as to constitute a custom that fairly represents municipal policy.

COUNT II RETALIATION/FAILURE TO TRAIN AND SUPERVISE

(As to All Defendants)

31. Plaintiffs repeat and reallege paragraphs 1-30.

32. Plaintiffs were discouraged from reporting the sexual harassment they had endured by Officer Saffeels and were subjected to adverse police action in a retaliatory, hostile manner when they reported and/or protested against the unlawful sexual harassment or advances by Officer Saffeels, which also demonstrated a pattern of harassment by Officer Saffeels and the MPD.

33. The retaliation against the Plaintiffs included threats to their personal safety to intimidate and coerce them into refraining from objecting and/or reporting incidents of sexual harassment by Officer Saffeels, which were shocking to the conscience and violated the Plaintiffs' due-process, equal protection and Fourth and Fourteenth Amendment rights to be free of arbitrary government action including vindictive retaliation.

34. The harassment that Plaintiff Smythe endured forced her to leave her employment in intellectual property, and in the case of Plaintiff Kanno resulted in false police reports being filed against her.

35. Defendant MPD had a duty to supervise and monitor the actions of Officer Saffeels.

36. Defendant MPD breached its duty to Plaintiffs by tolerating the intimidation and retaliation against the Plaintiffs for reporting of the sexual harassment by Officer Saffeels.

37. Defendant County had an unwritten municipal policy or custom

condoning harassment, including a policy or custom of inadequate training and supervision of municipal officers constituting deliberate indifference to the rights of citizens, including the Plaintiffs, causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

38. Defendant County also had a custom of tolerance or acquiescence of federal rights violations rising to the level of deliberate indifference to the rights of the Plaintiffs and causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

39. The repeated actions of harassment, intimidation, and retaliation alleged herein constituted a pattern indicating a persistent and widespread practice of MPD/County Officials were common and well settled as to constitute a custom that fairly represents municipal policy.

COUNT III EXTORTION

(As to All Defendants)

40. Plaintiffs repeat and reallege paragraphs 1-39.

41. Officer Saffee, while acting under color of law, by threats, harassment, and oppressive conduct, extorted and/or attempted to extort Plaintiffs for the commission of sexual acts or favors in exchange for favorable police

treatment, said acts were shocking to the conscience and violated the Plaintiffs' due-process, equal protection and Fourth and Fourteenth Amendment rights to be free of arbitrary government action including vindictive retaliation.

42. In the case of Ms. Kanno, Officer Saffeeles extorted and/or attempted to extort sexual favors from her in exchange for assistance regarding police reports which when Ms. Kanno did not comply, Officer Saffeeles caused to be filed one or more false police reports regarding Ms. Kanno, deliberately identifying Ms. Kanno as the "offender" when Officer Saffeeles knew she was the victim.

43. Likewise, in the case of Ms. Smythe when Ms. Smythe rebuffed and refused the sexual advances of Officer Saffeeles, Ms. Smythe was subjected to adverse police action and oppression at the behest or on behalf of Officer Saffeeles as alleged above.

44. Defendant County had an unwritten municipal policy or custom condoning extortion, including a policy or custom of inadequate training and supervision of municipal officers constituting deliberate indifference to the rights of citizens, including the Plaintiffs; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

45. Defendant County also had a custom of tolerance or acquiescence of federal rights violations rising to the level of deliberate indifference to the rights of the Plaintiffs and causing the harm alleged herein; the factual contentions will likely

have evidentiary support after a reasonable opportunity for further investigation or discovery.

46. The repeated actions of harassment, intimidation, and retaliation alleged herein constituted a pattern indicating a persistent and widespread practice of MPD/County Officials were common and well settled as to constitute a custom that fairly represents municipal policy.

**COUNT IV FAILURE TO ENFORCE LAWS, VIOLATION OF DUE-
PROCESS**

(As to All Defendants)

47. Plaintiffs repeat and reallege paragraphs 1-46.

48. During the above-referenced time period, Officer Saffells and MPD have been guilty of official misconduct, malfeasance, nonfeasance and neglect of duty in that Officer Saffells and MPD have failed and refused to enforce the laws, arrest the persons committing offenses against Plaintiffs and preserve the peace as required by the laws of the State of Hawaii and the United States.

49. Examples of Officer Saffells' misconduct include, *inter alia*, filing false police reports against Ms. Kanno when she refused to enter into a sexual relationship with him, harassing and surveilling Ms. Smythe and appearing at her workplace and causing her to be harassed and arrested for no justification when she rebuffed his sexual advances.

50. Defendant MPD failed to supervise, monitor or otherwise control the actions of Defendant Saffeele and has otherwise engaged in actions such as turning a blind eye to Officer Saffeele's wrongful conduct and sexual harassment of citizens using the color of authority of his office as a means of coercion; the actions of Officer Saffeele were intentional and deliberate, not motivated by legitimate law enforcement objectives, shocking to the conscience, malicious and oppressive in violation of the 4th, 5th, and 14th Amendments to the U.S. Constitution.

51. Defendant County had an unwritten municipal policy or custom condoning sexual harassment, including a policy or custom of inadequate training and supervision of municipal officers constituting deliberate indifference to the rights of citizens, including the Plaintiffs; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

52. Defendant County also had a custom of tolerance or acquiescence of federal rights violations rising to the level of deliberate indifference to the rights of the Plaintiffs and causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

53. The repeated actions of harassment, intimidation, and retaliation alleged herein constituted a pattern indicating a persistent and widespread practice

of MPD/County Officials were common and well settled as to constitute a custom that fairly represents municipal policy.

COUNT V PROSPECTIVE INJUNCTIVE RELIEF

(As to All Defendants)

54. Plaintiffs re-allege Paragraphs 1 through 53 as though fully set forth herein.

55. As alleged above, Defendant MPD failed to properly monitor, train and discipline its police force. A proximate cause of the actions and/or omissions of Defendant County is the violation of the constitutional rights of its citizens, including Plaintiffs.

56. Plaintiffs are in fear of great bodily harm, further sexual exploitation or harassment, further intrusions to their persons (in violation of the Fourth and Fourteenth Amendments to the United States Constitution) as a result of the custom and practice of Defendant County as alleged above.

57. Plaintiffs request injunctive relief against defendants to cease and desist from engaging in the improper discipline and training of its officers and failing to control and monitor its officers, including allowing them to commit acts of harassment and extortion upon Plaintiffs.

58. Plaintiffs will suffer irreparable injury if the conduct of Defendant County and Officer Saffels continue, as alleged above, as there is an imminent

threat that Plaintiffs will be caused to suffer the same intrusions to their persons as they have already suffered if Defendant County continues to permit police officer misconduct as alleged above.

**COUNT VI- CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS-
SUBMISSION OF FALSE POLICE REPORT IN VIOLATION OF 42 U.S.C.
SEC. 1985**

(As to All Defendants)

59. Plaintiffs alleges and incorporates by reference paragraphs 1 - 58 above as though fully set forth and made a part hereof.

60. Officer Saffeele had a duty to submit a true, accurate and complete police report regarding his interactions with Plaintiffs. Officer Saffeele knew or should have known that the events in question regarding his overtures and sexual advances toward the Plaintiffs would likely result in a civil action or other proceeding and did alter or fabricate or deliberately omit important facts contained in his police reports in order to create the false impression that the Plaintiffs had committed criminal or improper acts in order to defeat or disrupt a potential lawsuit or other civil action or investigation.

61. On information and belief, Officer Saffeele discussed or conspired with one or more of Officer JOHN DOE-1 and/or Officer JOHN DOE-2 and other unknown JOHN DOES or JANE DOES to alter, change, or mislead in official reports and statements on facts and information about what happened regarding his

interactions with the Plaintiffs in order to create the false impression and fabrication that there was no improper pressure on his part to coerce the Plaintiffs into a romantic or sexual relationship in order to defeat or disrupt a potential lawsuit or other civil action or investigation which has been significantly impaired as a result of the inaccurate facts, omissions, and apparent coverup in violation of Plaintiffs' Fourteenth and Fifth Amendment right to property, due process and equal protection of the laws; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

62. On information and belief, Defendant County had an unwritten municipal policy or custom condoning the actions of Saffeele, including a policy or custom of inadequate training and supervision of municipal officers constituting deliberate indifference to the rights of citizens, including the Plaintiffs; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

63. Defendant County also had a custom of tolerance or acquiescence of federal rights violations rising to the level of deliberate indifference to the rights of the Plaintiffs and causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

COUNT VII -42 U.S.C. SEC. 1983

**SUBMISSION OF FALSE POLICE REPORT IN VIOLATION OF THE
PLAINTIFFS FIFTH AND FOURTEENTH AMENDMENT RIGHTS TO
PROPERTY AND DUE PROCESS.**

(As to all Defendants)

64. Plaintiff alleges and incorporates by reference paragraphs 1 - 63 above as though fully set forth and made a part hereof.

65. Officer Saffeele had a duty to submit a true, accurate and complete police report regarding his interactions with the Plaintiffs. Officer Saffeele knew that the events in question regarding his overtures and sexual advances toward the Plaintiffs would likely result in a civil action or other proceeding and did alter or fabricate or deliberately omit important facts contained in his police reports in order to create the false impression that the Plaintiffs had committed criminal or improper acts in order to defeat or disrupt a potential lawsuit or other civil action or investigation which has been significantly impaired as a result of the inaccurate facts, omissions, and coverup in violation of Plaintiffs Fifth and Fourteenth Amendment rights to property and due-process.

66. On information and belief, Defendant County had an unwritten municipal policy or custom condoning the actions of Saffeele, including a policy or custom of inadequate training and supervision of municipal officers constituting deliberate indifference to the rights of citizens, including the Plaintiffs; the factual

contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

67. Defendant County also had a custom of tolerance or acquiescence of federal rights violations rising to the level of deliberate indifference to the rights of the Plaintiffs and causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

WHEREFORE, Plaintiffs request the following relief:

a. For prospective injunctive relief enjoining the Defendants against engaging in the following harmful actions:

1. Harassing Plaintiffs;
2. Targeting Plaintiffs for further reprisals;
3. Filing false police reports regarding Plaintiffs;
4. Unlawfully seizing, detaining or arresting Plaintiffs;
5. In such other relief as the Court deems just and proper under the circumstances;

b. For damages against the Defendants in amounts to be determined at the time of trial, as a result of the Defendants' harmful actions; including general, special and punitive damages;

c. For an order requiring the defendants to pay the Plaintiffs' reasonable attorneys' fees and costs herein.

d. For such other and further relief as this court deems just and proper.

DATED: Honolulu, Hawaii, May 3, 2021.

/s/ Paul V.K. Smith
MICHAEL J. GREEN
TERRANCE M. REVERE
PAUL V.K. SMITH
Attorneys for Plaintiffs
RONDA SMYTHE and
LIANA P. KANNO

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Attorneys for Plaintiffs
RONDA SMYTHE and LIANA P. KANNO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

RONDA SMYTHE; LIANA P.
KANNO,

Plaintiffs,

vs.

BRANDON SAFFEELS; COUNTY OF
MAUI; JOHN DOES 1-10; JANE
DOES 1-10; DOE PARTNERSHIPS 1-
10; DOE COPORATIONS 1-10; AND
DOE ENTITIES 1-10,

Defendants.

CASE NO. 1:21-cv-00056-LEK-RT
(Other Non-Vehicle Tort)

CERTIFICATE OF SERVICE
[PLAINTIFFS' SECOND AMENDED
COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES]

CERTIFICATE OF SERVICE

I hereby certify that, on the date indicated below, a true and correct copy of the PLAINTIFFS' SECOND AMENDED COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES was duly served Electronically through CM/ECF and/or U.S. Mail postage prepaid on the following:

KEOLA R. WHITTAKER
PETER A. HANANO
Deputies Corporation Counsel
County of Maui
200 South High Street
Wailuku, Maui, Hawaii E-mail:

Keola.R.Whittaker@co.maui.hi.us
PaterA.Hanano@co.maui.hi.us

Officer Brandon Saffells
200 S. High Street
Kalana O Maui Bldg.
Wailuku, HI 96793

U.S. Mail

DATED: Honolulu, Hawaii, May 3, 2021.

/s/ Paul V.K. Smith
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PAUL V.K. SMITH
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RONDA SMYTHE and
LIANA P. KANNO

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Attorneys for Plaintiff
ALISHA N.K. CONSTANTINO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ALISHA N.K. CONSTANTINO,

Plaintiff,

vs.

BRANDON SAFFEELS; COUNTY OF
MAUI; JOHN DOES 1-10; JANE
DOES 1-10; DOE PARTNERSHIPS 1-
10; DOE CORPORATIONS 1-10; AND
DOE ENTITIES 1-10,

Defendants.

CASE NO. _____
(Other Non-Vehicle Tort)

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES; DEMAND
FOR JURY TRIAL

COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

Plaintiff, ALISHA N.K. CONSTANTINO, for causes of action against the above-named defendants, alleges and avers as follows:

1. Defendant COUNTY OF MAUI (“County” or “Defendant County”) is and was municipally organized and existing under the laws of the State of Hawaii and the United State of America, and operated MAUI COUNTY POLICE DEPARTMENT (hereinafter referred to as “MPD”), and is and was at all times relevant herein, the principal law enforcement agency of the County of Maui, Hawaii, headquartered in Wailuku, Hawaii.

2. Defendant BRANDON SAFFEELS, (hereinafter referred to as “Defendant Saffeels” or “Officer Saffeels”), was, at all times relevant to this Complaint, an officer with the MPD, and an agent, servant, and employee of the County, acting under the color of state law with the permission and consent and within the course and scope of said agency and employment. He is being sued in his individual and official capacity.

3. Plaintiff ALISHA N. K. CONSTANTINO (“Ms. Constantino” or “Plaintiff”), at all relevant times herein, was and is a resident of Maui County, State of Hawaii.

4. Defendants John Does 1-10, Jane Does 1-10, Doe Partnerships 1-10, Doe Corporations 1-10 and Doe Entities 1-10, are sued herein under fictitious names for the reason that their true names and identities are presently unknown to

Plaintiffs, except that they are connected in some manner with the named defendants and are agents, servants, employees, employers, representatives, co-venturers, associates, vendors, suppliers, manufacturers, subcontractors or contractors of the named defendants, and/or are in some manner responsible for the injuries and damages to Plaintiffs and/or manufactured, and/or designed and/or placed on the market a defective product which was the proximate cause of the injuries and damages to Plaintiffs, and/or in some other manner related to the named Defendants and that their true names, identities, capacities, activities and/or responsibilities are presently unknown to Plaintiffs. Plaintiffs have made a good faith investigation into the matter to identify other responsible parties, including but not limited to search of "records, internet research, review of court reports and witness interviews." Plaintiffs herein pray leave to amend their Complaint to allege the true names, identities, capacities, activities and/or responsibilities of the defendants set forth in this paragraph when the same are ascertained and have conducted extensive research in a diligent and good faith effort to ascertain the identity of the unknown Doe Defendants.

5. This United States District Court has jurisdiction over the subject matter and the parties pursuant 28 U.S.C. §§1331 and 1343(a)(3) and (a)(4) and 42 U.S.C. §§1983, 1985 and 1988.

6. This Court has supplemental jurisdiction over state law claims pursuant to 28 U.S.C. §1367 with remedy pursuant to, *inter alia*, 28 U.S.C. §§2201 and 2202.

7. Venue in this District Court is proper pursuant to 28 U.S.C. §1391(b) and all parties reside in and all claims arose within Hawaii.

8. On or about July 25, 2019, Plaintiff was stopped, arrested and/or seized by Defendant Saffeels, who was acting in his official capacity as a police officer with the MPD, on the grounds of Plaintiff allegedly driving under the influence or operating a vehicle under the influence and being involved in a vehicular collision.

9. Thereafter, Defendant Saffeels, in his official capacity and utilizing confidential information of Plaintiff acquired in her seizure and/or arrest, contacted Plaintiff and attempted to coerce Plaintiff into a sexual relationship in exchange for his testifying in her favor and/or to make the criminal charges against her dropped and/or dismissed.

10. On information and belief, Officer Saffeels actions set-forth above were outrageous and part of a pattern of similar conduct engaged in by Officer Saffeels previously which were known and/or should have been known by Defendant County.

11. Following her arrest, Officer Saffeels sent text messages to Ms. Constantino requesting and attempting to coerce her into a physical or sexual

relationship in exchange for his help on her criminal case to have charges against her dismissed or dropped.

12. Thereafter, Plaintiff refused the advances of Officer Saffeele.

13. Officer Saffeele's actions were undertaken as an officer employed by the Defendant County in the course and scope of his employment and/or under color of law.

COUNT I HARASSMENT

(As to All Defendants)

14. Plaintiff repeats and realleges paragraphs 1-13.

15. At all times and places above-mentioned, Officer Saffeele was on official business and used his position as a police officer to facilitate and perpetuate his sexual harassment of the Plaintiff.

16. Officer Saffeele was acting under color of state law and deprived the Plaintiff of her constitutional rights to equal protection and due process under the Fifth and Fourteenth Amendments to the United States Constitution by sexually harassing and intimidating the Plaintiff in violation of Section 1983 of Title 42 of the United States Code Annotated (42 U.S.C.A. § 1983); Officer Saffeele's actions were not motivated by legitimate law enforcement objectives, but were deliberate and malicious, and shocking the conscience.

17. On information and belief, Defendant County had an unwritten

municipal policy or custom condoning harassment, including a policy or custom of inadequate training and supervision of municipal officers constituting deliberate indifference to the rights of citizens, including the Plaintiff, causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

18. Defendant County also had a custom of tolerance or acquiescence of federal rights violations rising to the level of deliberate indifference to the rights of the Plaintiffs and causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

19. The repeated actions of harassment, intimidation, and retaliation alleged herein constituted a pattern indicating a persistent and widespread practice of MPD/County Officials were common and well settled as to constitute a custom that fairly represents municipal policy.

20. As a direct and proximate result of the Defendants' actions, Plaintiff suffered severe emotional distress and mental suffering, fear, anxiety and mental anguish and suffering, and was further harmed in such amounts as shall be shown at the time of trial.

COUNT II FAILURE TO TRAIN AND SUPERVISE

(As to All Defendants)

21. Plaintiff repeats and realleges paragraphs 1-20.

22. On information and belief, Officer Saffee's actions set forth above were outrageous and part of a pattern of similar conduct of harassment of female arrestees engaged in by Officer Saffee on prior occasions which were known and/or should have been known by Defendant County.

23. Defendants' coercion of the Plaintiff to have sexual relations in exchange for dismissal of criminal charges was shocking to the conscience and violated the Plaintiffs' due-process, equal protection and Fourth and Fourteenth Amendment rights to be free of arbitrary government action including vindictive retaliation, extortion and bribery.

24. Defendant MPD had a duty to supervise and monitor the actions of Officer Saffee.

25. Defendant breached its duty and/or turned a blind eye to Defendant Saffee's repeated sexual harassment, extortion and attempted bribery of women arrested and sexually harassed and coerced for sex by Defendant Saffee.

26. Defendant County had an unwritten municipal policy or custom condoning harassment, including a policy or custom of inadequate training and supervision of municipal officers constituting deliberate indifference to the rights of citizens, including the Plaintiff, causing the harm alleged herein; the factual

contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

27. Defendant County also had a custom of tolerance or acquiescence of federal rights violations rising to the level of deliberate indifference to the rights of the Plaintiff and causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

28. The repeated actions of harassment, intimidation, coercion for sex using police powers, and retaliation alleged herein constituted a pattern indicating a persistent and widespread practice of MPD/County Officials were common and well settled as to constitute a custom that fairly represents municipal policy of permitting.

COUNT III EXTORTION

(As to All Defendants)

29. Plaintiff repeats and reallege paragraphs 1-28.

30. Officer Saffeels, while acting under color of law, by threats, harassment, and oppressive conduct, extorted and/or attempted to extort Plaintiff for the commission of sexual acts or favors in exchange for favorable police treatment following the arrest of the Plaintiff, said acts were shocking to the conscience and violated the Plaintiffs' due-process, equal protection and Fourth

and Fourteenth Amendment rights to be free of arbitrary government action including vindictive retaliation.

31. Officer Saffuels extorted and/or attempted to extort sexual favors from Plaintiff in exchange for assistance, favorable testimony and/or dismissal of the case for which Officer Saffuels had arrested or participated in arresting and charging the Plaintiff.

32. Defendant County had an unwritten municipal policy or custom condoning extortion, including a policy or custom of inadequate training and supervision of municipal officers constituting deliberate indifference to the rights of citizens, including the Plaintiff's; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

33. Defendant County also had a custom of tolerance or acquiescence of federal rights violations rising to the level of deliberate indifference to the rights of the Plaintiff and causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

34. The repeated actions of harassment, intimidation, and retaliation alleged herein constituted a pattern indicating a persistent and widespread practice of MPD/County Officials were common and well settled as to constitute a custom that fairly represents municipal policy.

**COUNT IV FAILURE TO ENFORCE LAWS, VIOLATION OF DUE-
PROCESS**

(As to All Defendants)

35. Plaintiff repeats and reallege paragraphs 1-34.

36. During the above-referenced time period, Officer Saffeels and MPD have been guilty of official misconduct, malfeasance, nonfeasance and neglect of duty in that Officer Saffeels and MPD have failed and refused to enforce the laws, arrest the persons committing offenses against Plaintiff and preserve the peace as required by the laws of the State of Hawaii and the United States.

37. Examples of Officer Saffeels' misconduct include, *inter alia*, harassment and extortion against Plaintiff and/or conditioning favorable treatment and/or testimony or the dropping of charges against the Plaintiff conditioned on Plaintiff engaging in sexual acts or entering into a sexual relationship with Defendant Saffeels.

38. Defendant MPD failed to supervise, monitor or otherwise control the actions of Defendant Saffeels and has otherwise engaged in actions such as turning a blind eye to Officer Saffeels' wrongful conduct and sexual harassment of citizens using the color of authority of his office as a means of coercion; the actions of Officer Saffeels were intentional and deliberate, not motivated by legitimate law

enforcement objectives, shocking to the conscience, malicious and oppressive in violation of the 4th, 5th, and 14th Amendments to the U.S. Constitution.

39. Defendant County had an unwritten municipal policy or custom condoning sexual harassment, including a policy or custom of inadequate training and supervision of municipal officers constituting deliberate indifference to the rights of citizens, including the Plaintiff; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

40. Defendant County also had a custom of tolerance or acquiescence of federal rights violations rising to the level of deliberate indifference to the rights of the Plaintiff and causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

41. The repeated actions of harassment, intimidation, and retaliation alleged herein constituted a pattern indicating a persistent and widespread practice of MPD/County Officials were common and well settled as to constitute a custom that fairly represents municipal policy; said actions being arbitrary and capricious, and not motivated by a legitimate law enforcement motive or objective.

COUNT V PROSPECTIVE INJUNCTIVE RELIEF

(As to All Defendants)

42. Plaintiff re-alleges Paragraphs 1 through 40 as though fully set forth herein.

43. As alleged above, Defendant MPD failed to properly monitor, train and discipline its police force. A proximate cause of the actions and/or omissions of Defendant County is the violation of the constitutional rights of its citizens, including Plaintiff.

44. Plaintiff fears great bodily harm, further sexual exploitation or harassment, further intrusions to their person (in violation of the Fourth and Fourteenth Amendments to the United States Constitution) as a result of the custom and practice of Defendant County as alleged above.

45. Plaintiff requests prospective injunctive relief against defendants to cease and desist from engaging in the improper discipline and training of its officers and failing to control and monitor its officers, including allowing them to commit acts of harassment and extortion upon Plaintiff.

46. Plaintiff will suffer irreparable injury if the conduct of Defendant County and Officer Saffels continues, as alleged above, as there is an imminent threat that Plaintiff will be caused to suffer the same intrusions to their person as they have already suffered if Defendant County continues to permit police officer misconduct as alleged above.

**COUNT VI- CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS- IN
VIOLATION OF 42 U.S.C. SEC. 1985**

(As to All Defendants)

47. Plaintiff alleges and incorporates by reference paragraphs 1 - 46 above as though fully set forth and made a part hereof.

48. Officer Saffeels had a duty to submit a true, accurate and complete police report regarding his interactions with Plaintiff. Officer Saffeels knew or should have known that the events in question regarding his overtures and sexual advances toward the Plaintiffs would likely result in a civil action or other proceeding and did alter or fabricate or deliberately omit important facts contained in his police report in order to create the false impression that the Plaintiff had committed criminal or improper acts in order to defeat or disrupt a potential lawsuit or other civil action or investigation.

49. On information and belief, Officer Saffeels discussed or conspired with one or more of Officer JOHN DOE-1 and/or Officer JOHN DOE-2 and other unknown JOHN DOES or JANE DOES to alter, change, or mislead in official reports and statements on facts and information about what happened regarding his interactions with the Plaintiff in order to create the false impression and fabrication that there was no improper pressure on his part to coerce the Plaintiff into a romantic or sexual relationship in order to defeat or disrupt a potential lawsuit or other civil action or investigation which has been significantly impaired as a result of the

inaccurate facts, omissions, and apparent coverup in violation of Plaintiff's Fourteenth and Fifth Amendment right to property, due process and equal protection of the laws; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

50. On information and belief, Defendant County had an unwritten municipal policy or custom condoning the actions of Saffells, including a policy or custom of inadequate training and supervision of municipal officers constituting deliberate indifference to the rights of citizens, including the Plaintiff; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

51. Defendant County also had a custom of tolerance or acquiescence of federal rights violations rising to the level of deliberate indifference to the rights of the Plaintiff and causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

COUNT VII -42 U.S.C. SEC. 1983

**SUBMISSION OF FALSE POLICE REPORT IN VIOLATION OF THE
PLAINTIFFS FIFTH AND FOURTEENTH AMENDMENT RIGHTS TO
PROPERTY AND DUE PROCESS.**

(As to all Defendants)

52. Plaintiff alleges and incorporates by reference paragraphs 1 - 51 above

as though fully set forth and made a part hereof.

53. Officer Saffeele had a duty to submit a true, accurate and complete police report regarding his interactions with the Plaintiff. Officer Saffeele knew that the events in question regarding his overtures and sexual advances toward the Plaintiff would likely result in a civil action or other proceeding and did alter or fabricate or deliberately omit important facts contained in his police reports in order to defeat or disrupt a potential lawsuit or other civil action or investigation which has been significantly impaired as a result of the inaccurate facts, omissions, and coverup in violation of Plaintiff's Fifth and Fourteenth Amendment rights to property and due-process.

54. On information and belief, Defendant County had an unwritten municipal policy or custom condoning the actions of Saffeele, including a policy or custom of inadequate training and supervision of municipal officers constituting deliberate indifference to the rights of citizens, including the Plaintiff; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

55. Defendant County also had a custom of tolerance or acquiescence of federal rights violations rising to the level of deliberate indifference to the rights of the Plaintiffs and causing the harm alleged herein; the factual contentions will likely have evidentiary support after a reasonable opportunity for further investigation or

discovery.

COUNT VIII – Intentional Infliction of Emotional Distress

56. Plaintiff realleges and incorporates by reference all preceding paragraphs.

57. Defendant Saffells, acting within the course and scope of his employment with the County, engaged in the intentional infliction of emotional distress of Plaintiff through unwanted sexual advances and harassment, which were conditioned upon favorable government treatment of Plaintiff or dismissal of criminal charges against her if she submitted to the sexual advances.

58. Defendants knew or should have known that the Officer's actions would cause Plaintiff severe emotional distress, and that they constituted willful and wanton disregard of the rights of Plaintiff.

59. Defendant Saffells's conduct described in paragraphs 19-55 was (1) intentional and reckless with knowledge that emotional distress would likely result, (2) outrageous and went beyond all bounds of decency to be tolerated in a civilized community, (3) the direct and proximate cause of the emotional distress endured by Plaintiff, and (4) severe and damaging.

60. As a direct and proximate result of Defendants Saffells' actions, Plaintiff suffered severe emotional distress, mental anguish, fear, anxiety and such further harm in such other ways as shall be shown at trial.

61. As a direct and proximate cause of the intentional infliction of emotional distress specified in paragraphs 19-55, Defendant Saffells caused

damage to Plaintiff including psychological trauma, emotional distress, depression, trauma and emotional pain and suffering.

62. The acts of Defendant Saffuels complained of herein were intentional and/or reckless, outrageous, unreasonable, and without just cause or excuse, thereby causing Plaintiff severe and extreme emotional distress.

63. Plaintiff is informed, believes and does thereupon allege that Defendants acted herein knowingly, intentionally, willfully, and/or recklessly, with deliberate indifference for the rights, interests, and/or well-being of Plaintiff.

64. Plaintiff has suffered and/or will suffer various economic, special, general, and non-economic damages to be proven at trial.

WHEREFORE, Plaintiff requests the following relief:

a. For prospective injunctive relief enjoining the Defendants against engaging in the following harmful actions:

1. Harassing Plaintiff;
2. Targeting Plaintiff for further reprisals;
3. Impermissibly Conditioning Official/Government Actions;
4. Unlawfully seizing, detaining or arresting Plaintiff;
5. In such other relief as the Court deems just and proper under the circumstances;

b. For damages against the Defendants in amounts to be determined at the time of trial, as a result of the Defendants' harmful actions; including general, special and punitive damages;

c. For an order requiring the defendants to pay the Plaintiff's reasonable attorneys' fees and costs herein.

d. For special, general, and punitive damages against Defendants.

e. For such other and further relief as this court deems just and proper.

DATED: Honolulu, Hawaii, July 22, 2021.

/s/ Paul V.K. Smith
MICHAEL J. GREEN
TERRANCE M. REVERE
PAUL V.K. SMITH
Attorneys for Plaintiff
ALISHA N.K. CONSTANTINO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ALISHA N.K. CONSTANTINO,

Plaintiff,

vs.

BRANDON SAFFEELS; COUNTY OF
MAUI; JOHN DOES 1-10; JANE
DOES 1-10; DOE PARTNERSHIPS 1-
10; DOE COPORATIONS 1-10; AND
DOE ENTITIES 1-10,

Defendants.

CASE NO. _____
(Other Non-Vehicle Tort)

DEMAND FOR JURY TRIAL

DEMAND FOR JURY TRIAL

Plaintiff, ALISHA N.K. CONSTANTINO, demands trial by jury on all
matters and/or issues allowable and raised herein.

DATED: Honolulu, Hawaii, July 22, 2021.

/s/ Paul V.K. Smith
MICHAEL J. GREEN
TERRANCE M. REVERE
PAUL V.K. SMITH
Attorneys for Plaintiff
ALISHA N.K. CONSTANTINO