

BY LEAVE

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

12 OCT -5 PM 3:55

SHANNON WOOLSEY,)
)
 Plaintiff,)
)
 v.)
)
 CITY OF TOWN AND COUNTRY,)
 MISSOURI,)
)
 Defendant.)

CLERK

Cause No.: 12SL-CC00946

Division No.: 13

JURY TRIAL REQUESTED

PLAINTIFF'S THIRD AMENDED PETITION FOR DAMAGES

Comes now plaintiff Shannon Woolsey, by and through her attorneys, and for her Third Amended Petition for Damages against defendant City of Town and Country states as follows:

1. Plaintiff Shannon Woolsey is a female citizen of the State of Missouri.
2. Defendant City of Town and Country ("Town and Country") is a municipality located in St. Louis County, and is a body politic organized pursuant to the Constitution and laws of the State of Missouri.
3. Venue in this Court is proper pursuant to Mo. Rev. Stat. § 508.101(2) and (6), and Mo. Rev. Stat. § 213.111.1.
4. At all times relevant herein, defendant Town and Country maintained an office or agent for the transaction of its usual and customary business in St. Louis County.
5. At all times relevant to this action, defendant Town and Country was an employer within the meaning of Mo. Rev. Stat. § 213.010(7), in that defendant employed or employs six or more persons within the State of Missouri and is a political subdivision of the State of Missouri.
6. Plaintiff was employed by defendant as a police officer starting on or about April 16, 2001, to on or about May 1, 2011.

*Leave to file granted - Bombardier
10/5/12*

7. At all times during her employment, plaintiff performed the duties of her job in a satisfactory manner. In 2008, Plaintiff received an award of excellence from the St. Louis County Police Critical Incident Team for her response to a situation involving a mentally ill subject.

8. Throughout most of her employment with Town and Country, plaintiff was the only female police officer in the department.

9. During plaintiff's employment with Town and Country, plaintiff was subjected to unwelcome and offensive sexual remarks directed at plaintiff by other police officers. Such remarks include but are not limited to:

- a) "why don't you scratch your throat my dick itches," said on or about March 2, 2004;
- b) asking plaintiff how she liked her husband to touch her, said on or about June 19, 2004;
- c) "shut your man pleaser," said on or about June 25, 2005;
- d) asking plaintiff whether she had performed oral sex on the Chief of police, said on or about June 24, 2001;
- e) "we like dirty girls," said on or about June 26, 2001; and
- f) instructions to plaintiff to think of pulling the trigger on a gun like having sex, said on or about April 27, 2010.

10. During plaintiff's employment, including the period within 180 days of the filing of her charge with the Missouri Commission on Human Rights, officers and supervisors made sexually suggestive comments in plaintiff's presence. Such comments include but are not limited to:

- a) repeated discussions of the size of one officer's penis, from on or about April 26, 2001, to mid-2002;
- b) discussions regarding officers' sex lives, some of which included sexual encounters in a squad, occurred throughout the entire period of plaintiff's employment with Town and Country, including within 180 days of April 8, 2011, the date on which plaintiff filed her Charge of Discrimination;
- c) on or about June 17, 2004, talk of strippers and the "shower scene" at the strip club Roxy's in East St. Louis;
- d) repeated use of the word "man-gina" on a nearly daily basis throughout the entire period of plaintiff's employment with Town and Country, including within 180 days of April 8, 2011, the date on which plaintiff filed her Charge of Discrimination;
- e) from approximately 2008 through 2010, references to the vaginas of teenage girls that officers would encounter in their daily duties; and
- f) on or about August 30, 2004, talk of masturbation, internet pornography and pornographic websites.

11. During the course of plaintiff's employment, plaintiff was present on multiple occasions when officers made statements that women should not be in police work.

12. Several times throughout 2002, plaintiff complained to supervisors that she was being treated differently than male officers. In particular, plaintiff believed she was harshly criticized for actions that she had seen male officers undertake without criticism. No investigations or remedial actions were undertaken in response to plaintiff's complaints.

13. On or about September 21, 2002, while on duty, plaintiff's supervising sergeant Chip Unterberg, told plaintiff that he and plaintiff were obviously attracted to each other and should meet for sex once a month.

14. On or about October 29, 2002, plaintiff reported Sgt. Unterberg's conduct, including other sexually explicit and derogatory comments that he had made to plaintiff, to Capt. Gary Hoesler and Lt. Robert Arthur. Plaintiff was asked to write out a brief statement of the incident and was told that Lt. Rick Kranz, the department designee to handle claims of sexual harassment, would investigate. On information and belief, Lt. Kranz was a good friend of Sgt. Unterberg. Capt. Hoesler and Lt. Arthur assured plaintiff that the investigation would be kept confidential and someone would go over the final report with her.

15. On information and belief, as a result of the investigation, Sgt. Unterberg was suspended for one day and had to attend a class on sexual harassment training.

16. On or about November 1, 2002, plaintiff began being shunned by nearly all the other officers in the department, indicating to her that news of the investigation into Sgt. Unterberg had leaked. Additionally, at or around that time Officer John Nienhaus called plaintiff at home to ask about the investigation into Sgt. Unterberg.

17. No one went over the final report of the investigation with plaintiff.

18. Following her reporting of Sgt. Unterberg's sexual advances and other comments and behavior to supervisors, Plaintiff began to experience what she believed were acts of retaliation. She reported these incidents to superior officers. These incidents included, but are not limited to:

- a) defacement of a nameplate on the wall recognizing plaintiff's perfect attendance record;

- b) the envelope containing plaintiff's paycheck being opened in her mailbox; and
- c) a box containing clothing from the uniform shop meant for plaintiff had a face drawn on it and the face had been stabbed repeatedly with a knife.

19. On numerous occasions in 2003, plaintiff complained to superior officers that the investigation into Sgt. Unterberg clearly had not been kept confidential and that as a result she was being shunned and retaliated against. Plaintiff was told that nothing could be done and to wait for time to pass for things to get better.

20. On or about June 18, 2004, plaintiff was sent home for not qualifying with rifle and forced to use ten (10) hours of vacation time until she was able to qualify. On information and belief, male officers who failed to qualify with firearms were not sent home or forced to use vacation time until they qualified.

21. On or about October 14, 2004, plaintiff applied for a position in the Community Affairs Division. The position was very desirable because it involved regular working hours and an opportunity to learn other aspects of police work. Plaintiff was not selected for the position.

22. On or about November 15, 2006, plaintiff reported to superior officers that the sealed, confidential fitness assessment report left in plaintiff's mailbox had been opened by someone. Plaintiff received no response to this complaint.

23. At some point in 2007, Sgt. Steve Nelke yelled at plaintiff in front of other officers when plaintiff objected that he allowed a less senior officer to pick days off before plaintiff picked her days off. When plaintiff phoned Sgt. Nelke about the outburst he hung up on her. Plaintiff explained the situation to Lt. Kranz who, on information and belief, relayed the incident to Capt. Hoelzer. Plaintiff complained to Capt. Hoelzer that the department seemed amenable to Sgt. Nelke yelling at her and hanging up on her. Plaintiff noted that when she had a

supposed outburst in the past she had been referred to the Employee Assistance Program for counseling. Capt. Hoelzer said that plaintiff could file an official complaint. Plaintiff pointed out that if she filed a complaint she would be retaliated against and labeled a “troublemaker,” but if no action was taken then the male officers would simply run over plaintiff. On information and belief, defendant never undertook any corrective or remedial action in response to Sgt. Nelke’s outburst toward plaintiff.

24. Plaintiff applied for assignment to the detective bureau three times. Each time she was denied the position and the position was awarded to a male officer. The last two times plaintiff applied, the officers who received the positions had less seniority than plaintiff. Capt. Hoelzer had informed the department that officers who had not already been in a special unit would get precedence over those who had already been assigned to such units. Plaintiff had not been in a special unit. In 2008, the final time she applied for the detective bureau, a male officer who had already been assigned to a special unit received the position.

25. On or about July 7, 2010, plaintiff reported to Sgt. Chuck Frohock that officers were complaining that they did not want to be plaintiff’s “tow bitches.” The officers were referring to how back up officers had to wait for a tow truck on arrests because by policy the department towed an arrested person’s vehicle. At the time, plaintiff was assigned to a vehicle with an expensive recognition system used to gather intelligence. On information and belief, other officers had been un-assigned from the vehicle due to the fact that they were not utilizing the equipment to make enough arrests. Plaintiff was told to ignore the comments.

26. In August 2010, plaintiff applied for a position in the newly formed Special Operations Squad (known as “E Squad”). This was a desirable position due to better hours and it would allow the opportunity to gain experience in a variety of areas beyond patrol. Plaintiff was

not selected for E Squad. Male officers with less seniority and training than plaintiff were selected for one or more of the positions on E Squad.

27. On or about October 19, 2010, plaintiff asked Lt. Arthur about not being selected for E Squad. Lt. Arthur told plaintiff that negative comments about plaintiff from other officers were part of the basis for the decision.

28. On or about October 23, 2010, Lt. Nelke assigned plaintiff to work permanent midnight shifts on a squad led by Sgt. John Flanagan. Plaintiff had requested on multiple occasions to not be assigned to Sgt. Flanagan's squad because he had previously harassed her. After the assignment, plaintiff expressed to Lt. Nelke her desire to work for the other midnight supervisor. When Lt. Nelke would not change his mind, plaintiff complained to Lt. Arthur. Lt. Arthur told plaintiff that it was Lt. Nelke's decision. Plaintiff asked if she should bring this matter to Capt. Hoesler's attention and was told that the captain was aware of and supported the decision. Plaintiff concluded that it would be useless to further pursue the matter.

29. On or about November 16, 2010, plaintiff was told to report to the shooting range to qualify again. Plaintiff had met the department standards for firearms qualification the previous week. The head firearms instructor told plaintiff there was a new policy, and that if plaintiff did not qualify under the new policy then she would have to use vacation/comp time, get outside coaching and not return until she was able to satisfy the new policy. Plaintiff knew of no other officer who had to satisfy this "new" policy. Plaintiff was never shown the written policy.

30. At some point during the time period 2009-2010, a Town and Country police officer emailed a picture to plaintiff's cell phone. The image was of men and women engaging in an orgy involving not only sex but also other offensive acts. The officer told plaintiff that the image had been circulating around the department.

31. On the evening of February 28, 2011, plaintiff's sergeant, John Flanagan, called plaintiff into a meeting in the sergeant's office. Plaintiff, Sgt. Flanagan and Cpl. Moore (both of whom were Plaintiff's supervisors) were present at the meeting. Sgt. Flanagan and Cpl. Moore verbally berated, intimidated, threatened, bullied and ridiculed Plaintiff for seven hours. They yelled at plaintiff for leaving the meeting to go to the bathroom, and after that point plaintiff felt that she could not leave the office. Throughout the interrogation, Sgt. Flanagan and Cpl. Moore criticized plaintiff's performance as an officer and discussed her 2003 sexual harassment complaint against Unterberg.

32. Immediately following this meeting plaintiff felt physically ill with a severe headache, chest pain, nausea and dizziness. After several days plaintiff continued to experience physical symptoms and sought treatment through her primary care physician. Plaintiff received a medical note to be absent from work.

33. On or about May 1, 2011, plaintiff resigned from her position with Town and Country.

**COUNT I
SEXUAL HARASSMENT IN VIOLATION
OF THE MISSOURI HUMAN RIGHTS ACT**

34. Plaintiff realleges paragraphs 9-15, 17-18, 22-23, 25, and 28-33, as if fully set forth herein.

35. Venue in this Court is proper pursuant to Mo. Rev. Stat. § 508.101(2) and (6), and Mo. Rev. Stat. § 213.111.1.

36. The unwelcome and offensive remarks and conduct to which plaintiff was subjected were based on plaintiff's sex, and were sufficiently severe and pervasive so as to alter

the terms and conditions of plaintiff's employment and create a hostile or abusive work environment, in violation of the Missouri Human Rights Act, Mo. Rev. Stat. § 213.055.

37. The above unwelcome remarks and conduct constituted sexual harassment against plaintiff.

38. Plaintiff complained to management about the unwelcome and offensive conduct and remarks directed to her.

39. Defendant Town and Country did not take prompt and effective corrective action to prevent and stop the sexual harassment of plaintiff.

40. On April 8, 2011, Plaintiff timely filed charge number FE-4/11-14679 with the Missouri Commission on Human Rights ("MCHR") alleging sexual harassment, sex discrimination and retaliation. A copy of the Charge is attached hereto as Exhibit 2.

41. On December 19, 2011, the MCHR issued a Notice of Right to Sue for the above charge number. A copy of the Notice is attached hereto as Exhibit 1.

42. Plaintiff has filed this lawsuit within 90 days of the date of the above Notice and within two years from the last act of sexual harassment.

43. As a result of defendant's actions, plaintiff has been constructively discharged and has sustained lost wages and benefits of employment.

44. As a result of defendant's actions as set forth above and as set forth in Counts II and III below, and defendant's failure to take prompt and effective corrective action, plaintiff has suffered emotional distress.

45. As a result of defendant's actions and failure to take prompt and effective corrective action, plaintiff has incurred, and will continue to incur, attorneys' fees and costs of litigation.

46. Defendant's conduct was outrageous because of defendant's evil motive or reckless indifference to the rights of others, and therefore, an award of punitive damages against defendant is appropriate.

WHEREFORE, plaintiff prays that this Court, after trial by jury, enter judgment for plaintiff and against defendant in an amount to exceed. \$25,000.00, for plaintiff's economic losses, including plaintiff's lost wages, including prejudgment interest, and front-pay and/or reinstatement, for compensatory damages, including damages for emotional distress; for punitive damages; for attorneys' fees and costs of litigation; and for such further relief as the Court deems just and proper, including equitable relief requiring defendant to cease discriminating against women in hiring and in performing work as police officers.

**COUNT II
SEX DISCRIMINATION IN VIOLATION
OF THE MISSOURI HUMAN RIGHTS ACT**

Comes now plaintiff Shannon Woolsey, by and through her attorneys, and for Count II of her Petition for Damages against defendant Town and Country, states as follows:

47. Plaintiff realleges paragraphs 12, 20-21, 23-29 and 31-33, as if fully set forth herein.

48. Venue in this Court is proper pursuant to Mo. Rev. Stat. § 508.101(2) and (6), and Mo. Rev. State § 213.111.1.

49. The conduct of defendant set forth above constituted sex discrimination in violation of Mo. Rev. Stat. § 213.055

50. Plaintiff's sex was a contributing factor in defendant's discrimination against Plaintiff.

51. On April 8, 2011, Plaintiff timely filed charge number FE-4/11-14679 with the Missouri Commission on Human Rights (“MCHR”) alleging sexual harassment, sex discrimination and retaliation. A copy of the Charge is attached hereto as Exhibit 2.

52. On December 19, 2011, the MCHR issued a Notice of Right to Sue for the above charge number. A copy of the Notice is attached hereto as Exhibit 1.

53. Plaintiff has filed this lawsuit within 90 days of the date of the above Notice and within two years from the last act of sex discrimination.

54. As a result of defendant’s actions, plaintiff has been constructively discharged and has sustained lost wages and benefits of employment.

55. As a result of defendant’s actions and failure to take prompt and effective corrective action, plaintiff has suffered emotional distress.

56. As a result of defendant’s actions and failure to take prompt and effective corrective action, plaintiff has incurred, and will continue to incur, attorneys’ fees and costs of litigation.

57. Defendant’s conduct was outrageous because of defendant’s evil motive or reckless indifference to the rights of others, and therefore, an award of punitive damages against defendant is appropriate.

WHEREFORE, plaintiff prays that this Court, after trial by jury, enter judgment for plaintiff and against defendant in an amount to exceed. \$25,000.00, for plaintiff’s economic losses, including plaintiff’s lost wages, including prejudgment interest, and front-pay and/or reinstatement, for compensatory damages, including damages for emotional distress; for punitive damages; for attorneys’ fees and costs of litigation; and for such further relief as the Court deems

just and proper, including equitable relief requiring defendant to cease discriminating against women in hiring and in performing work as police officers.

**COUNT III
RETALIATION IN VIOLATION
OF THE MISSOURI HUMAN RIGHTS ACT**

Comes now plaintiff Shannon Woolsey, by and through her attorneys, and for Count III of her Petition for Damages against defendant Town and Country, states as follows:

58. Plaintiff realleges paragraphs 13-19, 21-29, and 31-33, as if fully set forth herein.

59. Venue in this Court is proper pursuant to Mo. Rev. Stat. § 508.101(2) and (6), and Mo. Rev. State § 213.111.1.

60. The conduct of defendant set forth above constitutes retaliation against plaintiff for engaging in protected activity.

61. Plaintiff's complaints of sexual harassment and sex discrimination were a contributing factor in defendant's retaliation against plaintiff, and defendant's retaliation violated Mo. Rev. Stat. § 213.070.

62. On April 8, 2011, Plaintiff timely filed charge number FE-4/11-14679 with the Missouri Commission on Human Rights ("MCHR") alleging sexual harassment, sex discrimination and retaliation. A copy of the Charge is attached hereto as Exhibit 2.

63. On December 19, 2011, the MCHR issued a Notice of Right to Sue for the above charge number. A copy of the Notice is attached hereto as Exhibit 1.

64. Plaintiff has filed this lawsuit within 90 days of the date of the above Notice and within two years from the last act of retaliation.

65. As a result of defendant's actions, plaintiff has been constructively discharged and has sustained lost wages and benefits of employment.

66. As a result of defendant's actions and failure to take prompt and effective corrective action, plaintiff has suffered emotional distress.


67. As a result of defendant's actions and failure to take prompt and effective corrective action, plaintiff has incurred, and will continue to incur, attorneys' fees and costs of litigation.

68. Defendant's conduct was outrageous because of defendant's evil motive or reckless indifference to the rights of others, and therefore, an award of punitive damages against defendant is appropriate.

WHEREFORE, plaintiff prays that this Court, after trial by jury, enter judgment for plaintiff and against defendant in an amount to exceed \$25,000.00, for plaintiff's economic losses, including plaintiff's lost wages, including prejudgment interest, and front-pay and/or reinstatement, for compensatory damages, including damages for emotional distress; for punitive damages; for attorneys' fees and costs of litigation; and for such further relief as the Court deems just and proper, including equitable relief requiring defendant to cease discriminating against women in hiring and in performing work as police officers.

Respectfully submitted,

DOBSON, GOLDBERG, BERNS & RICH, LLP

By: 

Jerome J. Dobson, #32099
Meredith S. Berwick, #64389
5017 Washington Place, Third Floor
St. Louis, MO 63108
(314) 621-8363 *phone*
(314) 621-8366 *fax*

Attorneys for Plaintiff

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

ST LOUIS FEDERAL

2011 APR 8 PM 2:07

Missouri Commission on Human Rights

and EEOC

State or local Agency, if any

THE PARTICULARS ARE (Continued from previous page):

7. In 2003, my supervising sergeant Unterberg propositioned me for sex. In October 2003, I reported his conduct along with other sexually explicit and derogatory comments that he had made to me. My complaints were not kept confidential. By November 2003, no one on my squad would talk to me. I received further retaliation from fellow officers into 2004.

8. From 2004 through 2010, several members of the department continued to make sexually explicit comments towards me and derogatory remarks about women. I stopped reporting these incidents because of the retaliation I suffered from my superiors and my peers after my earlier complaints.

9. Between 2004 and December 2010, I applied for 5 separate positions that became available in special units. Each time, my application was denied and a male was given the position instead. Twice, less experienced and less qualified male officers were given the position. I was denied a special unit position in October 2010 for which there were 5 openings. Special unit positions are supposed to be offered first to officers who have never had the opportunity to serve on a special unit. In October 2010, a male officer with less seniority was given one of the open positions, and the four other positions went to officers who had previously worked in special units. One or more of those officers was also less qualified than me.

10. Because officers less senior than me were put into the special unit, I became one of the least senior officers outside of the special unit. When shift assignments were made in November 2010, I knew I'd be assigned a midnight shift because of my lack of seniority. One squad on midnight shift is led by Sgt. Flanagan, who had previously harassed me. I requested to be assigned to the other midnight squad in order to avoid being under Flanagan's direct supervision. The department refused my request. I began working for Sgt. Flanagan again on January 15, 2011. There is still a vacancy on the other midnight squad.

11. At approximately 10 pm on February 28, 2011, while I was on duty, Sgt. Flanagan and Cpl. Moore called me into Flanagan's office. Sgt. Flanagan proceeded to criticize and berate my performance as an officer for seven hours. Sgt. Flanagan brought up my 2003 sexual harassment complaint, and said that if he had listened to Unterberg (the harasser), I wouldn't still be employed by the department. I was anxious and intimidated by Sgt. Flanagan and the other officer. I left to go to the bathroom. When I returned, they yelled at me for leaving the meeting. After that, I felt I could not leave Sgt. Flanagan's office.

12. I am currently on medical leave due to health problems that I am suffering as a result of the stress and emotional abuse I have endured at the police department.

13. I have been discriminated against and subjected to a hostile work environment because of my sex and retaliated against for complaining of discrimination, in violation of the Missouri Human Rights Act and Title VII of the Civil Rights Act of 1964. For relief, I seek all remedies available to me under state and federal law.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State or Local Agency Requirements

declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

4-8-11

Shannon Woodsey

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)

Date

Charging Party Signature

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

13 APR -9 PM 3:40
JUDICIAL CLERK

SHANNON WOOLSEY,)
)
 Plaintiff,) Cause No.: 12SL-CC00946
)
 v.) Division No. 13
)
 CITY OF TOWN AND COUNTRY,)
 MISSOURI,)
)
 Defendants.)

**PLAINTIFF'S MOTION TO QUASH SUBPOENAS AND/OR
FOR PROTECTIVE ORDER**

COMES NOW Plaintiff Shannon Woolsey, by and through counsel, and hereby moves to quash the subpoenas served by Defendants upon Dr. Liza Stanton, Dr. Mary Albright, Dr. Marie Carmi, Dr. Gary Pippinger and Dr. Mohinder Partap and/or for a protective order. As grounds therefor, Plaintiff states as follows:

1. Plaintiff has brought this action against Defendants pursuant to the Missouri Human Rights Act, Mo. Rev. Stat. § 213.010 *et seq.* Plaintiff alleges that Defendant discriminated against Plaintiff due to her sex and retaliated against Plaintiff for her complaints of sexual harassment and sex discrimination.

2. On or about March 28, 2013, Defendant served a subpoena upon Dr. Liza Stanton to produce "all documents relating to your diagnosis, treatment or professional visits with Shannon Woolsey (also known as Shannon Dion) since **April 16, 1991.**" See Exhibit 1 (emphasis supplied), attached hereto.

3. On or about April 4, 2013, Defendant served subpoenas upon Drs. Mary Albright, Marie Carmi, Gary Pippinger and Mohinder Partap to produce "all documents related to your

diagnosis, treatment, or professional visits with Shannon Woolsey (also known as Shannon Dion) since April 16, 2001.” Exhibits 2, 3, 4 and 5, attached hereto.

4. Plaintiff has standing to challenge the subpoenas served upon Drs. Liza Stanton, Mary Albright, Marie Carmi, Gary Pippinger and Mohinder Partap because she has a privacy interest in her medical records.

5. The permissible scope of a subpoena duces tecum is determined by reference to the petition. *State ex rel. Crowden v. Dandurand*, 970 S.W.2d 340, 342 (Mo. 1998). Moreover, a subpoena must designate documents “with sufficient description” to reasonably exclude evidence that is not relevant to the pending cause. *Id.* at 343.

6. The subpoena served by Defendant upon Dr. Liza Stanton should be quashed because it seeks records that are neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiff has already authorized disclosure of all mental health records from Dr. Stanton. Now, Defendant is seeking production of all of Plaintiff’s medical records, which would include details of physical conditions that are irrelevant to this litigation. Plaintiff has alleged nothing in her Petition that has placed anything other than her mental and emotional health at issue and Defendant’s attempt to obtain copies of those records is nothing more than a fishing expedition and an attempt to annoy and harass Plaintiff.

7. The subpoenas served by Defendant upon Drs. Mary Albright, Marie Carmi, Gary Pippinger and Mohinder Partap should be quashed because Plaintiff has already authorized the disclosure of and disclosed her mental health records with these providers.

8. Furthermore, the subpoena issued by Defendant to Dr. Liza Stanton is overly broad in terms of its temporal scope. Defendant seeks Plaintiff’s medical records dating back to 1991 even though Plaintiff did not become employed with Defendant until 2001. Plaintiff’s


medical records from 1991 through 2001 have no bearing on issues in this case and the discovery of those records constitutes a significant invasion of Plaintiff's privacy.

9. For the foregoing reasons, Plaintiff moves the Court to quash the subpoenas issued by Defendant upon Drs. Liza Stanton, Mary Albright, Marie Carmi, Gary Pippinger and Mohinder Partap or, in the alternative, to issue a protective order pursuant to Mo. R. Civ. P. 56.01(c) prohibiting Defendants from obtaining the requested documents.

WHEREFORE, Plaintiff moves the Court to quash the subpoenas issued by Defendants upon Drs. Liza Stanton, Mary Albright, Marie Carmi, Gary Pippinger and Mohinder Partap, to issue a protective order prohibiting Defendants from obtaining copies of the requested medical records, and to provide such further relief as the Court deems just and proper.

Respectfully submitted,

DOBSON, GOLDBERG, BERNS & RICH, LLP

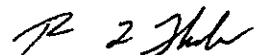
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St. Louis, MO 63108
(314) 621-8363
(314) 621-8363 Fax

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

A copy of the foregoing was sent via email this 9th day of April, 2013 to:

Andrew J. Martone, Esq. (andymartone@hessemartone.com)
Matthew B. Robinson, Esq. (mattrobinson@hessemartone.com)
Hesse Martone, P.C.
1650 Des Peres Road, Ste. 200
St. Louis, MO 63131



Missouri Circuit Court
Twenty-First Judicial Circuit
(St. Louis County)

FILED

MAR 28 2013

JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

SHANNON WOOLSEY,

Plaintiff,

v.

CITY OF TOWN AND COUNTRY,
MISSOURI,

Defendant.

Case No. 12SL-CC00946

Division 13

Order Granting Defendant's Motion for Mental Examination of Plaintiff

Defendant's Motion for Mental Examination of Plaintiff and Motion to Amend the Scheduling Order was called and heard this 28th day of March 2013, with both parties appearing by counsel. For good cause shown, this Court orders as follows:

1. Defendant's Motion for Mental Examination of Plaintiff is granted and Plaintiff Shannon Woolsey is hereby order to appear at the offices of Dr. Elizabeth Pribor, 222 South Meramec Avenue, Suite 201, Clayton, MO 63105-3514 on April 17, 2013 at 10:00 a.m. to complete the Minnesota Multiphastic Personality Inventory-2 and the Millon Clinical Multiaxial Inventory III. At the conclusion of the testing, Dr. Pribor will provide a copy of the answer sheets completed by Ms. Woolsey to her.


2. Plaintiff Shannon Woolsey is hereby order to appear at the offices of Dr. Elizabeth Pribor, 222 South Meramec Avenue, Suite 201, Clayton, MO 63105-3514 on April 29, 2013 at 8:00 a.m. for an interview/examination lasting up to ~~six~~^{four} hours. Should Plaintiff desire to make an audio recording of the examination, Plaintiff will bring an audio recording device and be responsible for ensuring that it properly records the interview.

3. If Plaintiff chooses to audio record the interview, Plaintiff's counsel will produce a copy of the audio tape at their expense to Defendant's counsel within ~~24~~ ^{7 days} hours. ^{If Plaintiff intends to use the tape/ transcript at trial,} Plaintiff's counsel will also pay to have the audio tape transcribed and to provide a copy of the transcript to Defendant's counsel within ten days ^{of transcription}.

4. If the above-referenced dates are no longer available, the parties will work in good faith to find mutually available dates for the written testing and interview that are within fourteen days of one another. If the parties are unable to agree, this Court will order the dates to be selected.

5. Defendant's Motion to Amend the Scheduling Order is hereby granted and it is ordered that the Court's Scheduling Order will be amended to permit Defendant to produce Dr. Pribor for deposition no later than thirty days following the mental examination of Plaintiff.

SO ORDERED:



3/28/13

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

RECEIVED
CIRCUIT COURT OF
ST. LOUIS

13 APR -8 PM 4: 30

SHANNON WOOLSEY,)
)
 Plaintiff,)
)
 v.)
)
 CITY OF TOWN AND COUNTRY,)
 MISSOURI,)
)
 Defendants.)

JOAN M. GILMER
CIRCUIT CLERK

Cause No.: 12SL-CC00946

Division No. 13

**PLAINTIFF'S MOTION FOR ENTRY OF PROTECTIVE ORDER PREVENTING
DEFENDANT FROM SERVING SUBPOENAS UPON AND OBTAINING PERSONNEL
RECORDS FROM PLAINTIFF'S SUBSEQUENT EMPLOYERS**

Comes Now, Plaintiff Shannon Woolsey, by and through her counsel, and moves, pursuant to Rule 56.01(c) of the Missouri Rules of Civil Procedure, for this Court to enter a protective order to prevent Defendant from serving subpoenas upon and obtaining personnel records from Plaintiff's subsequent employers after her employment with Defendant. In support of this motion, Plaintiff states:

1. Plaintiff worked for Defendant as a police officer until her constructive discharge in March 2011. Plaintiff next worked for Hillsdale Manor Nursing and Rehabilitation Facility, and then American Family Insurance, her current employer.

2. On March 28, 2013, Defendant informed Plaintiff that it intended to serve subpoenas on Plaintiff's subsequent employers, including Plaintiff's current employer, to seek information relevant to Plaintiff's mitigation efforts. The subpoenas seek: "all documents relating to the terms and conditions of Shannon Woolsey's employment, the complete compensation package provided to Ms. Woolsey, Woolsey's attendance, and Woolsey's disciplinary history." See Exhibits 1 and 2.

3. Rule 56.01(c) of the Missouri Rules of Civil Procedure, states that, upon motion by a party “and for good cause shown, the court may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense,” including ordering “that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery” and “that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters.”

4. “Employees have a fundamental right to privacy in employment records [and] a subpoena for employment records must be limited to the issues raised in the pleadings.” *State ex. Rel. Crowden v. Dandurand*, 970 S.W.2d 340, 343 (Mo.banc 1998). “Any discovery that is permitted of confidential personnel records must be limited to information that relates to matters put at issue in the pleadings, especially in relation to sensitive personal information.” *State of Missouri ex rel. v. Delmar Gardens North Operating, LLC v. Gaertner* 239 S.W.3d 608, 612 (Mo.banc 2007) (internal quotation omitted).

5. The information sought by Defendant has no bearing on whether Plaintiff was in fact subjected to discrimination. *See State ex rel. Madlock v. O’Malley*, 8 S.W. 3d 890, 891 (Mo.banc 1999) (discovery that is permitted of confidential personnel records must be “limited to information to information that relates to matters put at issue in the pleadings”). Plaintiff’s attendance and disciplinary record at her subsequent employers have not been placed at issue in this case.

6. Defendant’s subpoenas request information that would essentially require the production of Plaintiff’s entire personnel file. The subpoenas to Plaintiff’s subsequent employers are therefore overbroad and seek information that is not reasonably calculated to lead to the

discovery of admissible evidence. *See Delmar Gardens*, 239 S.W.3d at 611-12 (request for “any and all information ... concerning [a person’s] employment is too broad”).

7. “The need for discovery ... must be balanced against the burden and intrusiveness involved in furnishing the information.” *State ex rel. Woytus v. Ryan*, 776 S.W.2d 389, 391 (Mo. 1989). The information sought by Defendant is available through other means of discovery such as interrogatories and questions at Plaintiff’s deposition. Defendant has not propounded an interrogatory requesting information relevant to mitigation. At Plaintiff’s deposition, Defendant failed to explore Plaintiff’s mitigation efforts. Instead, Defendant is attempting to intrude upon Plaintiff’s privacy to get information that is readily available by other means. Plaintiff has produced to Defendant her W-2 forms from 2010 to the present, which detail her income subsequent to her employment with Defendant.

8. The information sought by Defendant is a fishing expedition for improper character evidence or an attempt to harass Plaintiff.


9. Serving the subpoena upon American Family Insurance could damage Plaintiff’s relationship with her current employer by informing the company of this litigation and compelling their participation in the litigation.

10. Pursuant to Rule 56.01, Plaintiff has demonstrated good cause for a protective order to protect her from “annoyance, embarrassment, [and/or] oppression.”

Wherefore, Plaintiff prays this Court enter a protective order preventing Defendant from serving subpoenas upon and obtaining records from Plaintiff’s subsequent employers; order Defendant to discover information regarding mitigation through means other than subpoenaing those employers; and grant any other such relief this Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing was sent via email and U.S. Mail this 8th day of April, 2013 to:

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