

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Keaton Kilkenny,

Case Type: _____

Court File No.: _____

Judge: _____

Plaintiff,

vs.

Associated Courier, Inc. d/b/a Street Fleet,

**SUMMONS
(JURY TRIAL DEMANDED)**

Defendant.

THIS SUMMONS IS DIRECTED TO: THE ABOVE-NAMED DEFENDANTS.

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this summons.

2. **YOU MUST REPLY WITHIN 20 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this summons a **written response** called an Answer within 20 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this summons located at:

SCHAEFER HALLEEN, LLC
412 South Fourth Street, Suite 1050
Minneapolis, Minnesota 55415

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 20 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the complaint. If you do not want to contest the claims stated in the complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the

complaint.

5. LEGAL ASSISTANCE. You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**

6. ALTERNATIVE DISPUTE RESOLUTION. The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

Dated: July 29, 2021

SCHAEFER HALLEEN, LLC

s/ Lawrence P. Schaefer
Lawrence P. Schaefer (#195583)
Timothy Christensen (#0396854)
412 South Fourth Street, Suite 1050
Minneapolis, MN 55415
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STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Keaton Kilkenny,

Case Type: _____

Court File No.: _____

Judge: _____

Plaintiff,

vs.

COMPLAINT

Associated Courier, Inc. d/b/a Street Fleet,

Defendant.

Plaintiff, for her complaint against Defendant, states and alleges as follows:

PARTIES

1. Plaintiff Keaton Kilkenny (“Plaintiff”) is a former female employee of the Defendant and resides in Somerset, Wisconsin.

2. Defendant Associated Courier, Inc. d/b/a Street Fleet (“Defendant” or “Street Fleet”) is a Minnesota corporation with its principal place of business at 2978 Cleveland Ave. N., Roseville, MN 55113.

JURISDICTION AND VENUE

3. This action is brought to remedy Defendant’s employment discrimination against Plaintiff on the basis of sex in violation of the Minnesota Human Rights Act, Minn. Stat. §363A et seq. (“MHRA”). Plaintiff also asserts claims against Defendant for reprisal in violation of the MHRA and a common law claim of breach of contract.

4. This Court has jurisdiction over the parties and the causes of action alleged by Plaintiff because Defendant is a resident of the State of Minnesota, Defendant's principal place of business is in Minnesota, and the events alleged herein affecting the Plaintiff occurred in the State of Minnesota.

5. Venue in this Court is proper because Defendant conducts business in Ramsey County, Minnesota.

FACTUAL ALLEGATIONS

6. Plaintiff was employed by Defendant Street Fleet from July 21, 2015 to June 11, 2021 as a Sales Account Manager.

7. From approximately September 2015 through May 26, 2021, Plaintiff was subjected to sexual and sex-based harassment by Defendant.

8. Defendant has also breached its employment with Plaintiff on multiple occasions by failing to accurately calculate and pay Plaintiff's commissions earned.

9. Additionally, Defendant has retaliated against Plaintiff by rescinding an offer of 3-months' paid leave following Plaintiff making protected complaints.

Street Fleet Director of Operations Patrick Ferret Engages in Sexual Harassment and Sex-Based Harassment Toward Plaintiff in September 2015

10. Beginning in September 2015, Street Fleet's Director of Operations, Patrick Ferret ("Ferret"), without Plaintiff's consent, grabbed Plaintiff's shoulders and rubbed her back in a sexually suggestive manner. This unwelcome touching was very upsetting to Plaintiff.

11. Later that day, Plaintiff and Ferret were meeting with a customer in Chicago to secure a large account (“the Amazon Prime Account”) for Street Fleet. During this meeting, Ferret, without Plaintiff’s consent, revealed that Plaintiff’s boyfriend had cheated on her and stated that he was surprised Plaintiff was not drunk at the bar instead of attending the meeting. Plaintiff had previously disclosed her boyfriend’s infidelity to Ferret.

12. After Plaintiff expressed her disapproval of this comment, Ferret put his arm around Plaintiff and said, “Oh come on, you know I was kidding, but for real he is a piece of shit.” Ferret also stated, in front of the customer, that Plaintiff would be his “work wife” now. Throughout the remainder of Plaintiff’s employment, Ferret repeatedly referred to Plaintiff as his “work wife,” often in the presence of other customers and employees, and despite Plaintiff insisting that Ferret stop referring to her in that way.

**Plaintiff Observes that Street Fleet Does Not Take Appropriate Remedial Action
Against Senior Employees and that It Retaliates Against Employees Who Do Not
Tolerate Hostile Treatment**

13. On or about October 2015, Plaintiff witnessed Ferret make many racist comments and engage in other hostile treatment toward Street Fleet employees. Ferret’s comments were so degrading and demeaning that one employee, Steve Peterson, fainted. In text messages to Plaintiff, Ferret admitted that “I made Steve Peterson pass out.”

14. After Plaintiff took the employee who fainted to the hospital, Plaintiff reported Ferret’s conduct to Street Fleet CEO Joe McGraw, who assured Plaintiff he would do something about it.

15. The next day, Ferret told Plaintiff that Mr. Peterson was out sick but that Street Fleet would “can him as soon as he is well enough to come back anyway.”

16. Weeks later, after the employee had returned, Street Fleet terminated the employee's employment.

17. Based on this experience, it was clear to Plaintiff that Street Fleet and CEO McGraw would not take remedial action against senior employees who engaged in unlawful behavior and that employees who could not tolerate hostile treatment or raised concerns about this treatment would be retaliated against.

Ferret Harasses Plaintiff Repeatedly Over Many Years

18. In the ensuing years, Ferret repeatedly subject Plaintiff to a hostile environment based on her sex. His treatment of Plaintiff, who was the only female sales account manager, significantly differed from Ferret's treatment of male sales account managers.

19. During these years, Ferret routinely gave Plaintiff unwelcome backrubs. There is video footage of the many times Ferret would give Plaintiff unwanted backrubs while walking down the hall with her and her pushing him away. Ferret also often took her phone from her and many times logged into her computer and sent e-mails to the whole company from her account.

20. On one occasion, Ferret impersonated Plaintiff by sending an e-mail from her account to the entire company stating, "I am very ill right now. I packed a can of tuna for my lunch and it is not agreeing with me. Has anyone else had a bad experience with "Fancy Feast" tuna?"

21. Ferret also repeatedly commented on Plaintiff's appearance in a sexually suggestive manner, despite never doing so to male sales account managers.

22. Additionally, Ferret repeatedly asked Plaintiff about her boyfriend. He would repeatedly ask her “what she really sees in him,” “that she deserves a man who is on her level,” and that her boyfriend “did not deserve her.” Plaintiff repeatedly told Ferret that she did not appreciate these comments, but Ferret ignored her and persisted in making these comments frequently.

23. In early 2016, for example, while Plaintiff and Ferret were driving to Chicago related to the DHL Ecommerce account, Ferret repeatedly told Plaintiff that she should not be with her boyfriend and that he was “out of her league.” These comments regarding Plaintiff’s personal life were unwelcome and inappropriate, and would not have been said to a male employee.

24. Ferret also forced Plaintiff into uncomfortable situations where she had to be in close physical proximity to Ferret to adequately perform her job. He would often force her to go out to lunch or make her sit in his office while he typed e-mails in exchange for him helping her with operational matters. For example, if Plaintiff tried to leave while in Ferret’s office, he would refuse to help her.

25. Plaintiff was not the only one who felt that Ferret routinely disrespected and demeaned her, and subjected her to a hostile environment based on her sex.

26. In 2017, Justin Slusher of DHL Ecommerce, a major customer of Street Fleet, called CEO McGraw to let him know that he had observed Ferret speaking to Plaintiff in an inappropriate manner. When Plaintiff and Ferret met with CEO McGraw, he ignored the problem and stated, “I don’t want to hear about this anymore. Figure your stuff out you two and our clients better not be seeing and doing this anymore.”

27. Plaintiff walked out of the meeting feeling mortified and drove straight home and cried in front of her family. Based on this experience, Plaintiff's belief that Street Fleet would not do anything about harassing conduct was reinforced.

28. In 2019, Plaintiff was sitting with the representative of DHL Express, a major customer of Street Fleet, when Plaintiff called Ferret on speakerphone to ask a question regarding operations. When Ferret answered, he said, "what do you want, woman?!" Ferret frequently referred to Plaintiff as "woman." Ferret then stated that he did not have time for Plaintiff and hung up on her. After the representative told Plaintiff that Ferret's conduct was extremely inappropriate, Plaintiff called Ferret outside the representative's office to further discuss the operations issue. During this call, Ferret was yelling so loudly at Plaintiff that the representative could hear him through the closed door. After that, the representative told Plaintiff that he did not want to work with Ferret any longer given his harassment of Plaintiff.

29. In 2021, Plaintiff and Ferret were on the phone with Bob Pankonien of Bergin Fruit and Nut Company, another major customer of Street Fleet, when Ferret told him that Plaintiff had gained a lot of weight during the COVID-19 pandemic. During this conversation, Ferret also made a joke about Plaintiff's sexual performance, which Pankonien thought was inappropriate. Ferret's insistence to make jokes about Plaintiff's sexual performance and weight forced Plaintiff to redirect the conversation to business matters.

30. Many current and former co-workers have also noticed Ferret's harassment of Plaintiff.

31. Former Dispatch Manager James Lavelle worked for many years along with Plaintiff and Ferret. During his employment, he frequently observed Plaintiff's body language to be uncomfortable when she was around Ferret. He also observed Plaintiff physically draw away or distance herself from Ferret if she were able to.

32. When Lavelle observed Ferret and Plaintiff speaking with each other, he noticed that Plaintiff kept her answers as short as possible and did not laugh at Ferret's frequently inappropriate jokes.

33. Lavelle also overheard Plaintiff tell Ferret to leave her alone and not to touch her. He observed Ferret's harassment of Plaintiff to be common.

34. A current employee also reports Ferret's harassment of Plaintiff. This employee has observed Ferret speaking extremely inappropriately and in a demeaning manner toward Plaintiff, and he has also observed that he makes jokes that make Plaintiff visibly uncomfortable. This employee also reports that Ferret frequently and inexplicably accessed Plaintiff's work computer, despite Ferret having his own computer.

35. This employee believes that Ferret continues to be inappropriate toward Plaintiff because there are no repercussions for his behavior, despite frequent complaints.

36. Plaintiff reported all of this conduct to CEO McGraw and Vice President Dan Gau by e-mail on numerous occasions during these years, but Street Fleet never took any remedial action against Ferret.

Defendant Ignores a Customer's Harassment of Plaintiff

37. In December 2018, DHL Express entered into a business agreement with Defendant.

38. Plaintiff's sales efforts secured this agreement and she was assigned the responsibility of managing the day-to-day operations of the DHL Express/Street Fleet relationship from the Minneapolis St. Paul International Airport ("MSP"), where DHL Express was located.

39. In this capacity, Plaintiff frequently was in the physical presence of a representative of DHL Express's operations out of MSP.

40. The representative was very intimidating toward Plaintiff because of his large size and the frequent inappropriate remarks he would make to Plaintiff. These remarks include stating that his father was the President of the KKK, that he could do anything he wanted because his uncle was an attorney for then-President Donald J. Trump. The representative also described frequently dressing as a vampire and go to "underground bars."

41. The representative also created a fake Facebook account and messaged Plaintiff inappropriately at all hours of the day, including sexually suggestive messages that caused significant familial strife for Plaintiff.

42. The representative also forced Plaintiff to endure this behavior by telling her that he would stop doing business with Street Fleet unless he was able to work directly with Plaintiff.

43. On multiple occasions, Plaintiff told CEO McGraw and VP Gau how uncomfortable she was with the representative and that she felt targeted because she was a female.

44. Plaintiff also told these individuals that she felt unsafe being at MSP with the representative day in and day out and that she needed an assistant to be there with her to help her feel safe.

45. Despite all these individuals knowing of the representative's actions and how uncomfortable they made Plaintiff, it was many months before Street Fleet finally provided Plaintiff with an assistant to help her feel safer.

46. In failing to take appropriate remedial action related to this customer, Street Fleet condoned the sexual harassment and sex-based harassment by Street Fleet's customer toward Plaintiff.

Ferret Continues to Harass Plaintiff in Recent Months

47. In April 2021, Ferret came into Plaintiff's work area and stated, "How's our girl doing?," referring to Plaintiff's daughter who is a junior in high school. This statement was consistent with Ferret repeatedly and inappropriately referring to Plaintiff as his "work wife."

48. Following this comment, Ferret came up to Plaintiff and rubbed her shoulders while she was on the computer. Plaintiff immediately said, "Stop, Patrick," and Ferret responded, "What? I'm just trying to make you feel more comfortable." Plaintiff's request for him to stop was ignored, and this clearly communicated that his continued physical touching was not welcome. He nonetheless persisted in engaging in this behavior.

49. On May 3, 2021, Plaintiff e-mailed HR Director Loken a written complaint. In the e-mail, Plaintiff stated:

I have come to you many times in the past about Patrick harassing me with random back rubs, the discriminating comments, him logging into our computers and writing emails as us, and the abusive tones he uses with me and it always gets back to him.

50. Unfortunately, HR Director Loken did not take any remedial action, just as she had failed to do in the past.

51. Instead, when HR Director Loken met with Plaintiff and VP Gau, she sat quietly as VP Gau repeatedly and insultingly stated that Plaintiff was acting like a “victim” and implicitly threatened Plaintiff’s job by telling her he does not know what Street Fleet would do if Plaintiff cannot get along with the Ferret, the Director of Operations.

52. Less than three weeks later, on May 20, 2021, the harassment of Plaintiff culminated in a very frightening and uncomfortable situation. Prior to that time, Plaintiff had submitted to Street Fleet a doctor’s note stating that she should be allowed to stay home, if necessary. The doctor’s note did not forbid Plaintiff from coming into work.

53. Plaintiff came into work briefly on May 20 to fill out a service agreement for a new account. When Plaintiff was in a co-worker’s office, Ferret came in and asked her to stop by his office when she was done.

54. When Plaintiff came into Ferret’s office, he spoke to her in a condescending manner about one of her accounts. He told her, “Oh dear lord, I don’t know where your mind goes.” Later, he told her not to change topics and to come in to the office to meet him next week, despite Plaintiff’s doctor’s note. When Plaintiff told Ferret she needed to check her calendar in her car, Ferret asked her, “Are you dying?” This question was not at all related to the topics Plaintiff and Ferret were discussing.

55. Plaintiff replied that she is not doing well and that she is on anxiety medication.

56. In response, Ferret asked Plaintiff if “she needed a hug.” Plaintiff verbally declined Ferret’s advance. Ferret then stated, “You’ve got yourself an assistant, and you’re still a mess?” Ferret was referring to an assistant working out of Plaintiff’s residence who worked for her fiancé—and not for Plaintiff. Neither the “assistant” nor Plaintiff’s fiancé performed any work for Street Fleet.

57. Plaintiff told Ferret that the assistant was her fiancé’s assistant, to which he replied, “Do you need an assistant, cuz I’m still kinda free.” In conjunction with Ferret previously asking her if she were dying and whether she needed a hug, as well as past conduct, this question made Plaintiff very uncomfortable. Taken aback, Plaintiff did not respond to Ferret.

58. After a long pause, Ferret stated, “Did I not use enough eggplant emojis when I applied the first time?” Plaintiff was unsure what Ferret was referring to, but eggplant emojis are often associated with male genitalia. Plaintiff made this connection in her head and was even more uncomfortable. Consistent with how she was feeling, Plaintiff said, “Patrick...”

59. Ferret then said, seemingly out of nowhere, “I’m telling you, your daughter would have so much fun with me for one day. She would, she’d be like, ‘You know what we did? We went out and shot pigs.’ By the way, all the pigs are dead, but yeah! It’d be amazing.” Plaintiff audibly sighed, and Ferret then asked Plaintiff if her daughter had graduated yet.

60. Following this incredibly uncomfortable exchange, Ferret repeatedly asked Plaintiff if she was “his friend,” despite Plaintiff making it abundantly clear that these were inappropriate questions. Plaintiff said “no” to Ferret’s question and pleaded with him to just focus on work-related issues. Instead, Ferret did not relent, and he continued to ask Plaintiff if she were his friend. He stated, “Keaton, are you my friend?,” to which Plaintiff emphatically stated, “No!” Ferret continued to pester her by saying: “Are we friends, can we be friends?”; “Can we be friends for a minute?”; “Can we be friends for thirty seconds?” Plaintiff stated “no” after each question.

61. Ferret then told Plaintiff, “You look terrible, what’s wrong?” In response, Plaintiff told Ferret that she was on anxiety medication and does not want to talk about it.

62. Rather than listen to Plaintiff, Ferret responded, “You have to tell me why, we’re friends for 30 seconds.” Again, Plaintiff responded, “No.”

63. Ferret again told Plaintiff that she looked terrible and referenced the previous times he has seen her cry.

64. After Plaintiff was visibly in tears, Ferret quickly shut the door, approached Plaintiff, and grabbed her from behind without her consent and despite her telling him repeatedly that she was not his friend and did not want to talk about what was bothering her.

65. After Plaintiff squirmed free, Ferret stated, while Plaintiff was visibly and audibly in tears, “I know I’m very bossy, but believe it or not, we’re actually friends, and I would miss you a lot if you decided to take a whole bunch of pills and fly off to Florida

and go swimming in the ocean forever.” He then stated, “You’re my friend, we’re like real friends, not like Facebook friends, right?”

66. When Plaintiff was finally able to leave, three employees, including VP Gau, were standing outside the door. Despite VP Gau being present, he did nothing to ensure Plaintiff was doing okay, despite her being visibly upset.

67. Plaintiff had a major panic attack immediately following this incident.

Plaintiff Files Another Complaint Against Ferret

68. Plaintiff reported this incident in writing to HR Director Loken on the evening of May 20, 2021. In her e-mail, she noted that she was “really struggling” to do her job because she is harassed by Ferret when she comes into the office and he physically pushes himself onto her when it is obvious she is in a terrible mindset.

69. Plaintiff also explained that she was scared to come to HR Director Loken out of fear Ferret would retaliate against her and be even more hostile and sexually aggressive than normal. She stated that her anxiety level is “through the roof,” that she is on blood thinners for blood clots, and that she had previously gone to the emergency room when her blood pressure was 171.

70. On May 26, 2021, HR Director Loken interviewed Plaintiff regarding her complaints about Ferret.

71. HR Director Loken also interviewed Ferret regarding the Plaintiff’s complaint. Based on information and belief, Defendant Street Fleet has not taken any remedial action against Ferret despite this apparent investigation. Instead, it has justified and excused Ferret’s conduct.

72. After Plaintiff's meeting with HR Director Loken, Plaintiff met with CEO McGraw. During that meeting, CEO McGraw offered that Plaintiff could take three months' of paid leave "to let her heal" and then return to work. CEO McGraw told Plaintiff that she did not have to decide that day. Plaintiff left the meeting with an understanding that this option was still available to her.

**Plaintiff Continues to Work for Street Fleet and Suffers Adverse Health Events;
Street Fleet Does Not Honor Its Offer of Three-Months' Paid Leave**

73. While Plaintiff was considering whether to accept CEO McGraw's offer, she continued to work for Street Fleet in a remote capacity.

74. Plaintiff had three major customers coming online in the coming weeks (from contracts she had secured), and she wanted to assure a smooth transition onto the Street Fleet network of drivers.

75. Throughout this time, Plaintiff experienced many adverse health events that were directly attributable to the harassment she experienced at Street Fleet.

76. On June 7, 2021, Plaintiff checked in to the emergency room because she experienced a severe panic attack. She received a Toradol and steroid injection because her panic attack was so severe it caused her muscles to flare up so badly in her neck that it caused a rib to pop out or strain.

77. On June 9, 2021, Ryan William, P.A., stated that in his "professional medical opinion," Plaintiff "is suffering significant emotional and physical trauma directly related to her employment with Street Fleet." He recommended that for Plaintiff's "current health and health going forward" that Plaintiff "discontinue her employment with [Street Fleet]

as soon as possible.” He further stated that “[s]uffering PTSD related to events that occurred at [Street Fleet], and repeated exposure to similar events will only worsen physical and mental symptoms.”

78. During this period, and following Street Fleet’s investigation in which it interviewed Ferret, Plaintiff had extreme difficulty getting a hold of Ferret to address operational issues. Upon information and belief, Ferret was avoiding her calls in retaliation for Plaintiff’s complaint regarding Ferret.

79. During this period, Ferret also repeatedly requested that Plaintiff come into the workplace, despite Street Fleet and Ferret knowing that Plaintiff had a doctor’s note stating that she should be allowed to continue to work from home.

80. Plaintiff communicated to HR Director Loken that Ferret was continuing to request her to come into the office despite her doctor’s note. She reported to HR Director Loken that her level of anxiety was dangerously high, which exacerbated the side effects caused by the blood thinners she was taking for blood clots/pulmonary embolism. She also expressed that Ferret was making it “very difficult” for her to do her job because of his requests, even though she had successfully onboarded many clients while working remotely during the COVID-19 pandemic.

81. Ferret’s ongoing harassment of Plaintiff, and Defendant’s failure to take any corrective action despite her complaints, had a devastating emotional impact on Plaintiff. She also began to cry uncontrollably in many situations, zone out throughout the day, and shake uncontrollably.

82. On June 10, 2021, through counsel, Plaintiff communicated to Street Fleet that Plaintiff suffered a severe panic attack and that her medical provider recommended that she no longer work at Street Fleet. In the letter, Plaintiff informed Street Fleet that she “intends to accept CEO Joe McGraw’s previous offer of three-months’ paid leave, effective June 10, 2021.” The letter also stated that Plaintiff expected to be compensated “fairly based on her total expected compensation, including base salary and commissions, over the next three months.”

83. On June 10, 2021, and later confirmed, counsel for Street Fleet indicated that it would not be honoring CEO McGraw’s offer of three-months’ paid leave. Street Fleet’s failure to honor such offer was in direct retaliation for protected complaints that Plaintiff had made in a written letter from counsel on June 3, 2021.

84. On June 11, 2021, Ashley Ramm, LPC, ATR, stated that Plaintiff “is receiving treatment for chronic post-traumatic stress disorder.” She also stated that Plaintiff has “presented a sudden increase of intensity and severity of symptomology which correlates with employment expectations.” She stated that it is her “clinical request that Ms. Kilkenny take an immediate medical leave of absence from her employer Street Fleet and that they support her with the transfer of complete job responsibilities to another person(s) before she starts medical leave.”

85. On June 11, 2021, Street Fleet restricted Plaintiff’s access to all work-related applications and information. Previously, when Plaintiff or other employees had taken leave, Street Fleet did not restrict access to work-related applications and information. The restriction of Plaintiff’s access was in direct retaliation for protected complaints that

Plaintiff had made in a written letter from counsel on June 3, 2021 and for her attempting to take the three-months' paid leave that had been offered to her by CEO McGraw.

86. Later that day, Plaintiff pulled over on the side of the road due to a severe panic attack and suicidal ideation. She considered driving her car into a tree or off a bridge. Given Defendant's refusal to remediate the harassing conduct, its responses to Plaintiff's good faith complaints and request for leave, and Plaintiff's medical condition, she was constructively discharged on June 11, 2021.

87. On June 12, 2021, Plaintiff went to the emergency room because of her suicidal thoughts and ideation. She was unable to sleep the previous night. Upon her return from the emergency room, Plaintiff was on a safety plan to ensure she was around someone else for the next few days on a consistent basis.

88. On June 16, 2021, while Plaintiff was on leave, VP Gau called former Street Fleet employee Ali Weske. VP Gau conveyed to Weske that he would like her to return to Street Fleet as a sales account manager because Street Fleet had just lost a sales account manager. VP Gau had to be referring to Plaintiff because all of the other sales account managers remained employed with Street Fleet. When Plaintiff heard of the contents of this conversation, she understood that Street Fleet had no intention to continue to employ Plaintiff when she returned from leave.

89. On or about June 19, 2021, Plaintiff checked herself into the emergency room because she wanted to kill herself due to the ongoing stress associated with her employment situation with Street Fleet.

Defendant Breaches Its Employment Agreement with Plaintiff

90. Defendant has breached its contract with Plaintiff on many occasions in relation to Plaintiff's commission payments.

91. In 2015, months after Plaintiff began employment, she brought on Amazon, a major customer, to do business with Street Fleet throughout the Minneapolis—St. Paul metropolitan area.

92. Weeks before Plaintiff's commissions were due, CEO McGraw sent an e-mail to Street Fleet employees stating that he was altering how commissions were calculated on large accounts. CEO McGraw communicated the commission changes in an October 14, 2015 e-mail. This action was not consistent with Plaintiff's contract with Street Fleet.

93. At the time, Amazon Prime was the only customer subject to these new large account commission calculations.

94. As a result of this targeted action, Plaintiff's commissions fell from 12% on the Amazon Prime account to 3%. Over the duration of the Amazon account, this amounted to tens of thousands of dollars in lost commissions for Plaintiff.

95. Similarly, in late 2018 or early 2019, and shortly after Plaintiff brought on the DHL Express account, CEO McGraw again altered the commission calculations, which costs Plaintiff tens of thousands of dollars. CEO McGraw communicated the commission changes in a January 28, 2019 e-mail. This action was not consistent with Plaintiff's contract with Street Fleet.

96. Additionally, Plaintiff discovered that Ferret was moving money from different accounts at Street Fleet, including the DHL Express account, which unlawfully deprived Plaintiff of contractually due commissions. When Plaintiff approached Ferret, he told her that some of the routes to Duluth, MN were not cost effective unless some of the profit margin from the DHL Express account were shifted to the routes going to Duluth.

97. Despite Plaintiff explaining to CEO McGraw and Ferret that this affected her commissions, nothing was done to remedy the situation.

98. Other current and former employees also report that Street Fleet is not transparent regarding commissions and that they are often modified without compelling explanations. These current and former employees state that Street Fleet might say that the customer did not pay the bill or that there was a change in the account, and that the employees must take what they are given in the commission report. According to the former Dispatch Manager, nearly every employee operating on a commission structure has complained about being shortchanged by Street Fleet. Independent drivers for Street Fleet also report being denied commissions without adequate explanations. These demonstrate a pattern or practice of Street Fleet breaching its employment agreements with their employees.

COUNT I

SEX DISCRIMINATION IN VIOLATION OF THE MINNESOTA HUMAN RIGHTS ACT (Against Defendant Street Fleet)

99. Plaintiff realleges the above allegations as if hereinafter set forth in full and further states and alleges as follows:

100. Plaintiff was an employee of employer Defendant Street Fleet within the meaning of the Minnesota Human Rights Act, Minn. Stat. §363A et seq (“MHRA”).

101. The Minnesota Human Rights Act prohibits sex-based discrimination, which includes subjecting an employee to a hostile work environment based on sex. Minn. Stat. § 363A.03, subd. 13; *LaMont v. ISD #728*, 814 N.W.2d 14, 19 (Minn. 2012).

102. Plaintiff was subjected to the acts described above, all of which were unwelcome and due to her being female, which amounts to a hostile work environment based on sex. These harassing actions were so severe and pervasive that they affected the terms, conditions, or privileges of Plaintiff’s employment. Street Fleet also knew or should have known of the harassment Plaintiff experienced and failed to take any appropriate remedial action.

103. The hostile work environment caused the terms and conditions of Plaintiff’s employment to be affected in such a degree that she was constructively discharged on June 11, 2021. Plaintiff was constructively discharged because she was subjected to intolerable working conditions which were created by the employer (1) with the intent to force Plaintiff to quit or (2) knowing that such conditions would make it reasonably foreseeable that Plaintiff would quit.

104. Because Plaintiff’s protected complaints, it would have been illegal for Defendant Street Fleet to terminate Plaintiff’s employment.

105. As a result of the foregoing Plaintiff is entitled to recover damages, including lost back and front pay and benefits, mental suffering damages, and other damages in a

reasonable amount in excess of \$50,000, which should be trebled, and an award of her reasonable attorneys' fees, costs and disbursements incurred herein pursuant to the MHRA.

COUNT II

SEX DISCRIMINATION IN VIOLATION OF THE MINNESOTA HUMAN RIGHTS ACT (Against Defendant Street Fleet)

106. Plaintiff realleges the above allegations as if hereinafter set forth in full and further states and alleges as follows:

107. Plaintiff was an employee of employer Defendant Street Fleet within the meaning of the Minnesota Human Rights Act, Minn. Stat. §363A et seq ("MHRA").

108. The Minnesota Human Rights Act prohibits sex discrimination, which includes sexual harassment. Minn. Stat. §§ 363A.03, subd. 13 and 363A.08, subd. 2.

109. Plaintiff was subjected to the acts described above, all of which were meet the definition of "sexual harassment" in the Minnesota Human Rights Act. Minn. Stat. § 363A.03, sub. 43. Such actions meet the definition because they had the purpose or effect of substantially interfering with Plaintiff's employment or created an intimidating, hostile, or offensive employment environment. These harassing actions were so severe and pervasive that they affected the terms, conditions, or privileges of Plaintiff's employment. Street Fleet also knew or should have known of the harassment Plaintiff experienced and failed to take any appropriate remedial action.

110. The hostile work environment caused the terms and conditions of Plaintiff's employment to be affected in such a degree that she was constructively discharged on June

11, 2021. Plaintiff was constructively discharged because she was subjected to intolerable working conditions which were created by the employer (1) with the intent to force Plaintiff to quit or (2) knowing that such conditions would make it reasonably foreseeable that Plaintiff would quit.

111. Because Plaintiff's protected complaints, it would have been illegal for Defendant Street Fleet to terminate Plaintiff's employment.

112. As a result of the foregoing Plaintiff is entitled to recover damages, including lost back and front pay and benefits, mental suffering damages, and other damages in a reasonable amount in excess of \$50,000, which should be trebled, and an award of her reasonable attorneys' fees, costs and disbursements incurred herein pursuant to the MHRA.

COUNT III

BREACH OF CONTRACT (Against Defendant Street Fleet)

113. Plaintiff realleges the above allegations as if hereinafter set forth in full and further states and alleges as follows:

114. Plaintiff and Street Fleet entered into an employment contract on or about July 2015.

115. Incorporated into the terms of the employment contract was a commission plan, which entitled Plaintiff to 12% commissions on new accounts.

116. Plaintiff brought on a new Amazon account in October 2015.

117. Prior to commissions being paid on the Amazon account, Street Fleet lowered the commissions on such account to 3%.

118. This change violated Plaintiff's contractual agreement with Street Fleet and caused her tens of thousands of dollars of lost commissions, the exact value of which will be known through discovery.

119. Defendant engaged in similar actions in 2019, after Plaintiff brought on a new DHL Express account in December 2018.

120. Prior to commissions being paid on the DHL Express account, Street Fleet lowered the commissions.

121. This change violated Plaintiff's contractual agreement with Street Fleet and caused her tens of thousands of dollars of lost commissions, the exact value of which will be known through discovery.

122. Additionally, Street Fleet breached Plaintiff's contract by shifting payments from customers away from the DHL Express account to other accounts, thereby lessening Plaintiff's commissions, the exact value of which will be known through discovery.

COUNT IV

REPRISAL

(Against Defendant Street Fleet)

123. Plaintiff realleges the above allegations as if hereinafter set forth in full and further states and alleges as follows:

124. Defendant Street Fleet is an employer as that term is defined by the MHRA.

125. Plaintiff complained about and opposed Defendant's harassing conduct. Her conduct constituted protected activity under the MHRA.

126. Defendant Street Fleet took adverse and retaliatory action against Plaintiff by revoking her access to all work-related applications and information, rescinding its offer of three-months' paid leave, and not answering Plaintiff's work-related phone calls. These actions constitute an unfair retaliatory practice in violation of Minn. Stat. § 363A.15, subd. 1.

127. As a result of the foregoing Plaintiff is entitled to recover damages, including lost back and front pay and benefits, mental suffering damages, and other damages in a reasonable amount in excess of \$50,000, which should be trebled, and an award of her reasonable attorneys' fees, costs and disbursements incurred herein pursuant to the MHRA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that

A. The practices of Defendant complained of herein be declared illegal as above alleged.

B. Judgment be entered in favor of Plaintiff on Counts I through IV, and each of them in an amount in excess of \$50,000 as determined by the Court and jury herein, together with prejudgment interest thereon.

C. As soon as reasonable, upon Plaintiff's motion pursuant to Minn. Stat. § 549.191, this Court grant leave for Plaintiff to assert a claim for punitive damages pursuant to Minn. Stat. § 549.20.

D. Plaintiff be awarded such other and further legal and equitable relief as may be found appropriate and as the Court may deem just or equitable.

E. Plaintiff be awarded her legal expense, including reasonable attorneys' fees, experts' fees, and other costs and expenses incurred in this litigation.

F. Defendants pay a civil penalty to the State of Minnesota, under Minn. Stat. § 363A.29, subd. 4, for Defendants' violations of the Minnesota Human Rights Act.

Jury Demand

Plaintiffs demand trial by jury on all issues triable of right by jury.

Dated: July 29, 2021

SCHAEFER HALLEEN, LLC

s/ Lawrence P. Schaefer

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ACKNOWLEDGEMENT

The undersigned acknowledges that pursuant to Minn. Stat. § 549.211, subd. 2, that costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass, or committed a fraud upon the Court.

Dated: July 29, 2021

SCHAEFER HALLEEN, LLC

s/ Lawrence P. Schaefer

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