

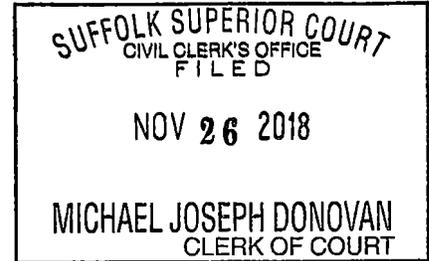
COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT OF THE COMMONWEALTH

Suffolk, ss.

Superior Court Department
Civil Action No. 1684-CV02490

LISA BUTNER, DEBORAH RYAN, MARION
FLETCHER, CLEVELAND COATS, LUIS
MARTINEZ, AND DANA OLIVER on behalf of
themselves and all similarly situated individuals,
Plaintiffs

v.
MASSACHUSETTE STATE POLICE,
Defendant



AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

NATURE OF ACTION

- 1) Plaintiffs, Lisa Butner, Deborah Ryan, Marion Fletcher, Cleveland Coats, Luis Martinez, and Dana Oliver bring this present action on behalf of themselves and all similarly situated individuals against Massachusetts State Police for violation of Massachusetts General Laws, Chapter 151B, Sections 4(1) and 4(5), and for violation of Title VII of the Civil Rights Act of 1964. Each Plaintiff has requested a private right of action from the MCAD for these claims.

THE PARTIES

- 2) Lisa Butner (hereinafter referred to as "Butner") is a black female residing in North Reading, Middlesex County, Massachusetts.
- 3) Deborah Ryan (hereinafter referred to as "Ryan") is a white female residing in Burlington, Middlesex County, Massachusetts.

- 4) Marion Fletcher (hereinafter referred to as “Fletcher”) is a white female residing in Wakefield, Middlesex County, Massachusetts.
- 5) Cleveland Coats (hereinafter referred to as “Coats”) is a black male residing in Lexington, Middlesex County, Massachusetts.
- 6) Luis Martinez (hereinafter referred to as “Martinez”) is a Hispanic male residing in East Longmeadow, Massachusetts.
- 7) Dana Oliver (hereinafter referred to as “Oliver”) is a biracial male residing in Holden, Worcester County, Massachusetts.
- 8) Massachusetts State Police (hereinafter “MSP” or “the Department”) is a law enforcement agency of the Executive Office of Public Safety and Security of the Commonwealth of Massachusetts.

FACTS RELEVANT TO BUTNER and others SIMILARLY SITUATED

- 9) Lisa Butner has over 34 years of law enforcement experience, including more than 20 as an investigator.
- 10) Butner began working with the Metro Police Department in 1987, which merged with the Massachusetts State Police (“MSP”) in or around July 1, 1992.
- 11) Butner was promoted to the rank of Sergeant in 2003 and then to Lieutenant in November 2012.
- 12) Butner has a total of over 29 years of uninterrupted service and her work performance has always been satisfactory.
- 13) In July 2013 MSP posted a position with the Internal Affairs Section on DocuShare. This position involved a salary raise and a promotion in rank.

- 14) There were rumors that the position had already been promised to a male individual when it was posted. After interviews, the position several weeks later was indeed given to that individual.
- 15) Other women had applied for this position, including Deborah Ryan, who has filed a discrimination action at the MCAD
- 16) In November 2013, two more openings were posted for the Internal Affairs Section of MSP, with informal notification of a possible third opening.
- 17) Again, Butner applied and was interviewed and again the position went to white male counterparts.
- 18) At that time, Butner's experience was equivalent to, if not greater than, those individuals chosen for the position.
- 19) On February 7, 2014 a meeting was set up with Colonel Alben¹ and MSP's Recruitment and Diversity Officer. Also at the meeting was Lt. Colonel Hanifan (Deputy). Before arriving to this meeting Butner spoke with other female and minority troopers throughout the state regarding the pattern of discriminatory practices that prevent many from obtaining choice assignments throughout the department.
- 20) During the meeting Butner explained the four Internal Affairs positions she had applied for and how the board had had the opportunity to add diversity to the unit yet chose to go with white males who were less qualified and/or affiliated with the command staff.
- 21) MSP's bypassing Butner for the positions not only had a negative impact on her ability to advance professionally; she also suffered a monetary impact as the positions involved pay raises.

¹ Colonel Timothy Alben was head of the MSP at that time.

- 22) Butner expressed at this particular meeting that not posting positions and putting in officers whom they deem qualified while ignoring others was limiting equal access and opportunity for woman and minorities.
- 23) Specifically, there were two white males who were handpicked and appointed to head a unit for positions that were never posted. There were also three postings for open positions for troopers in the same unit; on the same day the jobs were posted, a transfer notice came out filling the same three positions. The ten-day posting and interview process was not adhered to.
- 24) In the February 2014 meeting with Colonel Timothy Alben, Butner discussed the practice of transferring the vast majority of women and minorities out of specialty units upon promotion versus their male counterparts, who remain in their positions when promoted.
- 25) These women and minorities are being transferred and placed back in Field Services (uniform division) and transferred to the western part of the state, hours away from their homes, while working midnight shift. Their male counterparts, who also have less seniority, never become transferred and remain nearer their homes.
- 26) Butner also explained a common practice of utilizing some past and/or phantom disciplinary issues as a reason or justification for removing women and/or minorities out of positions or preventing them from getting a position.
- 27) Some of the men being awarded positions have worse disciplinary records than their counterpart women or minorities.
- 28) During this meeting with the Colonel, Butner also explained that there were absolutely no minorities and only one woman on the Command Staff. She also pointed out that there

was only one minority captain, absolutely no minorities above the rank of captain, and only one minority in charge of a detective unit.

- 29) At that time, of the 58 appointed positions in MSP, 51 belonged to white males.
- 30) Also at the time of this meeting, there were 2064 troopers: 133 female, 11 minority females; and 222 minorities working in MSP.
- 31) On January 23, 2013 a meeting was had with Colonel Timothy Alben regarding recruitment and diversity issues. Although many issues and ideas were discussed, none were implemented and no changes made. This was a department-wide meeting open to all women and minorities.
- 32) In the February 2014 meeting, other issues discussed were the awarding of two points for all promotional exams, which had a disparate impact on women and minorities and which could advance an applicant ten to twenty places, as well as appointing a Commissioned Officer in charge of Diversity and Recruitment to sign off on appointments and job postings to ensure proper hiring process. These ideas were taken under advisement and notification was to issue within a few weeks.
- 33) In February 2014, many promotions occurred, including that of a Recruitment and Diversity Unit. Butner made it known to the newly appointed Diversity Officer that all positions should be posted.
- 34) Despite her many communications with the Recruitment and Diversity Unit there were still positions not being posted or positions being appointed before the ten-day posting requirement.
- 35) All the scenarios have been reported to the Recruitment and Diversity Unit in an attempt to have those addressed.

- 36) MSP's failure to follow existing rules and regulations regarding promotions and transfers has contributed to the significant disparity among women and minorities as evidenced by MSP's own personnel statistics.
- 37) At the time of filing the First Amended Complaint, MSP was comprised of 2186 troopers and officers, of which 132 were female and 222 minorities.² To date, of the 301 Sergeants, 250 are white males; of the 159 Lieutenants, 140 are white males; of the 33 Captains, 32 are white males; of the 16 majors, 14 are white males; and of the 4 Lt. Colonels, all are white males.
- 38) In September 2018, MSP was comprised of 2162 troopers and officers, of which 103 (4.76%) were females, consisting of 11 (.51%) minority females, and 198 (9.16%) minorities.
- 39) Butner maintains that since February 2014, the number of women and minorities has steadily declined.
- 40) MSP has historically masked their low percentages of women and minorities by manipulation of its workforce statistics.
- 41) MSP has counted civilians in its numbers to increase its female percentages and has counted women as minorities when providing its minority count to third parties and other government agencies.
- 42) Further, the Department historically used certain "diversity" agents to aid and abet discrimination as opposed to finding and addressing it.
- 43) By the end of 2015, Butner individually and on behalf of others similarly situated began to reach out individually to women, minorities, and LGBT members of the MSP across

² Of the 222 minorities, 12 are female.

the state to discuss and assess the magnitude and impact of the MSP's systemic discriminatory practices.

- 44) After confirming that there were a great number of troopers across ranks who had been negatively impacted by the practices, Butner organized a meeting to bring all together to discuss the issues.
- 45) On January 21, 2016, Butner headed the first meeting with this diverse group of troopers, who have since become known as One Blue.
- 46) At this meeting plans were made to address several problematic issues and potential solutions were raised by Butner and other members of One Blue.
- 47) A follow-up meeting of the members of One Blue was held on March 17, 2016. At this meeting the name, board members, mission statement, and goals of the group were discussed. Board members were elected. Goals and mission statements were established, including the short term goal of setting up a meeting with Colonel McKeon for further discussions about MSP discriminatory practices.
- 48) A name for the task force and a mission statement for the organization were formally voted on by the membership in 2016.
- 49) A meeting was scheduled with Colonel McKeon/MSP and the One Blue Task force. This meeting was held on May 19, 2016.
- 50) This meeting with Administration has not changed MSP's discriminatory practices and the MSP continues to discriminate and retaliate against One Blue members including Lisa Butner and other persons similarly situated, either currently or formerly on the MSP based on their gender, race, and sexual orientation through various methods, including but not limited to transfer, hiring, and promotional practices.

- 51) In addition to the likelihood of intentional discrimination, there is evidence of disparate impact discrimination.
- 52) The processes used by the MSP for transfer and promotion for various positions do not result in the promotion and transfers of women and minorities to sought after and desired jobs and disproportionately are awarded to white men.
- 53) The damages caused by these MSP processes are significant to the members of One Blue and others similarly situated in that the transfers and appointments of these same white men are used for further promotions and the basis to select these candidates for even more profitable and desirable positions.
- 54) Further, the promotional exams given by the MSP result in the promotion of an overwhelming number of white men, which is further evidence of a disparate impact adverse to women and minorities. (This same fact was pleaded in *Lisa Butner v. Massachusetts State Police*, MCAD Docket No.:14BEM02795, wherein she pled discrimination claims for the same for herself and those similarly situated.
- 55) In the current climate, where all members of law enforcement are at risk due to social unrest and violence arising out of community and individual's reaction to racism or the perception of racism in police departments, it is critical that Massachusetts have a police force representative of the community.
- 56) Diversity in the MSP is more than ever necessary, from hiring to the promotional process.
- 57) The Commonwealth and the MSP have created, maintained, and enforced substantial headwinds that fly against the possibility of having a diverse force.
- 58) Further, at a time when the Commonwealth boasts that it is in line with the march towards pay equity for women, it has failed to police its own backyard and has failed to

ensure that good state jobs, such as state police jobs, are available for women and minorities.

- 59) On August 11, 2016, Butner filed a civil action in Superior Court outlining these complaints on behalf of herself and others similarly situated.
- 60) On August 18, 2016, Colonel McKeon responded to Butner in a Memorandum (See Attached.)
- 61) In his response, Colonel McKeon used words that constitute threats, intimidation, and coercion that were designed to chill my speech and my anti-discrimination petitioning activity. See attached letter marked as Exhibit 1, which speaks for itself. It was Butner's right to petition the MSP administration and to complain about the acts of the MSP on behalf of herself and others for whom she was permitted to speak. Colonel McKeon's response is in violation of G.L. c. 151B, its federal equivalent and the constitutional right to free speech and due process.
- 62) The content of the Colonel's Memorandum is retaliatory in violation of Chapter 151B and is typical of the Department's conduct, which acts to dissuade members of the MSP from making complaints and otherwise standing up for their rights.
- 63) The Department uses extreme and aggressive methods to prevent women and minorities from supporting each other.
- 64) In July 2016, One Blue sent correspondence to Colonel McKeon to express disappointment with how the MSP was handling its complaints and the legitimate discrimination its members felt was occurring in the MSP.
- 65) On August 18, 2016, Colonel McKeon responded to that letter in a Memorandum addressed to Lieutenant Lisa Butner.

- 66) In his response, Colonel McKeon threatened Lt. Butner, calling her work on behalf of One Blue “insubordination.”
- 67) Colonel McKeon also characterized One Blue membership as engaging in “outside employment,” despite its mission statement and cause clearly being to affect change within the MSP.
- 68) Colonel McKeon also warned Lt. Butner and the members of One Blue to “seek the advice of competent” counsel before again reaching out to MSP Command Staff to discuss complaints of discrimination.
- 69) The insistence that employees use “chain of command” when presented with complaints of discrimination violates the purpose and spirit of anti-discrimination laws and their anti-retaliation provisions.
- 70) These responses by the Department clearly show a campaign to chill and frustrate the “complaining” members of MSP.
- 71) At no time has the Department investigated the lawful complaints of discrimination, harassment, and retaliation, instead choosing to further harm those who complain.
- 72) The content of Colonel McKeon’s Memorandum is retaliatory, constitutes illegal intimidation and coercion, and is in violation of Butner’s and all the members of One Blue’s right to free speech. Further, the response is typical of the MSP’s conduct, which acts to dissuade members of the MSP from making legitimate and protected complaints and otherwise standing up for their rights and the rights of others.
- 73) Further, the prohibition of using department email addresses was not a prohibition put on others, compounded by the fact that the Department refused to recognize One Blue as a legitimate organization is further evidence of discrimination and retaliation.

- 74) Through these actions, Massachusetts State Police has discriminated against Butner and other similarly situated women and minorities based upon gender and race.
- 75) MSP's actions are discriminatory against all women and minorities.
- 76) Butner filed timely complaints with the Massachusetts Commission Against Discrimination based on the above allegations and plead same as a class for women and minorities. She did so in her claim Docket No: 14 BEM 02795 as amended on January 12, 2015 and then she filed claims for retaliation at the MCAD on December 23, 2016 (Docket No: 16-BEM-03420).
- 77) On August 11, 2016, Butner sought a private right of action from the MCAD to pursue this first complaint which was allowed November 2, 2016.
- 78) On October 26, 2018 Butner sought a private right of action from the MCAD to pursue her additional claims of discrimination/retaliation she alleged in MCAD Docket No.: 16-BEM-03420.
- 79) To date, the MCAD filing brought on June 14, 2017 by One Blue (Docket No: 17-BEM-01687) has not been brought in superior or federal court and is NOT plead herein.
- 80) As of February 1, 2019, Butner has almost 37 total years of police service, with 32 years of uninterrupted policing service with the Commonwealth (Metro and State Police).

FACTS RELEVANT TO DEBORAH RYAN

- 81) Deborah Ryan is employed by the Massachusetts State Police with the rank of Lieutenant and currently in the duty office at State Police Headquarters as a Shift Commander.
- 82) Ryan began working for the Massachusetts State Police in or around June 1988.

- 83) Ryan began her career as a Trooper and was then promoted to Sergeant in July 2005. Her work performance has always been satisfactory.
- 84) In spring 2013 Ryan inquired about a vacant Operations Officer Position and was told that she would be put in for consideration for this particular position.
- 85) At that time another lieutenant (a male) had been transferred to the duty office and was performing the roles of both Duty Officer and Operation Officer.
- 86) In summer 2013 the Operation Officer position was filled by that (male) lieutenant.
- 87) This position was not posted and there was no formal opportunity for Ryan to apply.
- 88) Ryan was not considered for the position despite the fact that she had specifically expressed interest in it.
- 89) The male who was appointed was not more qualified than Ryan for that position.
- 90) An appointment to that position would have advanced the development of Ryan's career.
- 91) In July 2013 Ryan submitted her resume to the Division of Standards and Training for a position within Internal Affairs.
- 92) Ryan and another female lieutenant interviewed for the position.
- 93) At the same time as this interview process, there were rumors that this position was already spoken for; that it would be given to a specific man.
- 94) Several weeks later, the position was indeed given to the male it was rumored to go to.
- 95) Ryan feels she was at least equally qualified for this position, if not more qualified.
- 96) In November 2013 Ryan again applied for a posted Internal Affairs position by submitting her resume.
- 97) Again, Ryan and two other qualified female lieutenants interviewed for the position, but the positions were ultimately given to two white male applicants with less experience

and, upon information and belief, fewer qualifications. These Internal Affairs positions came with a promotion to Detective lieutenant and a pay raise (7.5%).

- 98) In spring 2014 a Station Commander was promoted to a position that was never posted per State Police policy. As the position was not posted, Ryan was never given the opportunity to apply for it. This position is considered a "leadership" position and would have enhanced Ryan's professional development within the department.
- 99) Since this opening was never mentioned nor posted, Ryan was unable to express an interest and ultimately not given the opportunity to be considered.
- 100) In summer 2014 Ryan submitted her resume for a posted position in the Narcotics Inspection Unit.
- 101) Ryan was interviewed for the position, but it was ultimately given to a male, who again had less time in rank than Ryan and who had no substantial experience to make him more qualified.
- 102) Ryan was also more qualified and significantly more senior to him.
- 103) In fall 2014 a male co-worker was promoted to Lieutenant and immediately placed into the Violent Fugitive Arrest Squad. There was no posting for this position, which Ryan would have applied for if it had been.
- 104) Ryan was equally or more qualified for this position than the selected male and is senior to him.
- 105) Several weeks later this same male lieutenant was transferred to the Fire Marshal's Office. There was again no posting for this position.
- 106) Once again, Ryan was equally or greater qualified for this position and senior to him.

- 107) In September 2014 Ryan accompanied Lisa Butner when she filed a complaint with the MCAD for gender discrimination as it relates to the above referenced promotional/transfer practices and policies of the Massachusetts State Police.
- 108) Butner's Complaint was brought on behalf of herself and all those similarly situated.
- 109) The above factual history was discussed with the MCAD agents and the agents of the Massachusetts State Police.
- 110) In October 2014 another Station Commander position became available after the previous station commander was advanced to an un-posted position. It was explained that those interested in the now vacant station commander position would have to submit a resume and be interviewed, and Ryan did so.
- 111) Before interviews were conducted for the station commander position Ryan was approached by an agent of the MSP who attempted to discourage her from applying for this position.
- 112) The discouragement included statements, such as the job would be an "on-call" 24/7 job; that she would be responsible for narcotics and contraband and to monitor prisoners; that she could get sued; and other statements clearly designed to discourage her.
- 113) Upon information and belief, male competitors were not given this same speech or words of discouragement.
- 114) This Station Commander position was again given to a male counterpart with less time as a lieutenant than Ryan. Upon information and belief, Ryan was more qualified than this person. Ryan approached the Troop "A" major and asked why she was passed over. His explanation was that this man had "barracks experience" as a sergeant. Ryan explained to him that as a sergeant in the C.A.R.S. Unit (Collision Analysis and Reconstruction

Section) she had supervised the Northeast team for seven years performing the same/similar functions as a barracks sergeant.

- 115) In January 2015 another barrack's Station Commander position was becoming available due to the impending retirement of the current station commander. This information was kept all hush-hush. Ryan sent an email to Major Sugrue on Thursday January 1, 2015, expressing interest in the position, and received no response. The following week another male lieutenant, who had not expressed interest in nor been involved in the previous station commander interview process in October 2014, was given the position. Ryan again asked for an explanation as to why she was passed over. The Major responded in an email that Ryan had been asked by the Captain soon after the prior interview process to take on an additional administrative duty and had replied that she did not want to, which was an outright lie. Ryan told the Major that there had been a discussion that the additional administrative duty may not be able to be performed if she was working the midnight shift and that it would probably be best suited for a lieutenant on the day or evening shift, but that the Captain would find Ryan something else. Ryan was also told the lieutenant who got the Station Commander position had been a lieutenant for ten years and commanded three separate detective units (but no barracks experience, so no different than her time in the C.A.R.S. Unit.). This lieutenant had also been removed from two of the units as a form of disciplinary action. Ryan has no disciplinary record in her 26 years on the MSP.
- 116) There have been many positions filled within the MSP without being posted, denying Ryan the opportunity to apply and strengthen her professional skills, and ultimately affecting her professional development.

- 117) Over the past several years the MSP has created a continuing pattern and practice of promoting men over women for valuable and desired promotions and opportunities.
- 118) The consideration of women employees for advancement is not equal.
- 119) The MSP has a formal policy requiring posting of all non-emergency positions but does not follow its own policy.
- 120) Females do not have equal and fair access to the promotion process at the MSP.
- 121) This above described discriminatory process is just one of the means that women at the MSP are not treated equally or fairly.
- 122) The above discrimination has economically harmed Ryan and has impacted the advancement of her career, and she has otherwise been harmed.
- 123) This above treatment impacted the numbers of women seeking advancement within the MSP and has likely discouraged women from seeking a career with the MSP. It has also discouraged women who are currently employed with the MSP from putting in for posted jobs, feeling they would just be wasting their time.
- 124) Through these actions, the Massachusetts State Police has discriminated against Ryan based upon gender.

FACTS RELEVANT TO MARION FLETCHER

- 125) Marion Fletcher is employed by the MSP with the rank of Sergeant and is currently in the Police Marine Unit.
- 126) Fletcher began working for the MSP in or around June 1992.
- 127) Fletcher began her career as a Trooper and was then promoted to Sergeant in February 2009. Her work performance has always been satisfactory.

- 128) In February 2013 the MSP posted a position for a Sergeant within the Gaming Enforcement Division, which was a newly formed position within the Attorney General's Office.
- 129) The position as posted on DocuShare, MSP's document posting system.
- 130) Fletcher responded to the posting by submitting the requested resume and writing samples.
- 131) On March 15, 2013, Fletcher was interviewed for the position by Det. Lt. Robert Irwin (CO), Lt. Michael Cooney (XO), and AAG Patrick Hanley, Gaming Division.
- 132) Fletcher has educated herself, on the job, for years about Gaming enforcement.
- 133) Fletcher has extensive knowledge and experience in organized crime and is extremely familiar with advanced money laundering schemes. She is also highly educated and well read.
- 134) Upon information and belief, Fletcher was and is a highly qualified candidate for this position.
- 135) Fletcher worked for 13 years as an undercover operative and investigator assigned to the Attorney General's Office, Special Investigation, and Narcotics Section/Division, her most comparable position to the one posted.
- 136) Historically, Fletcher has been repeatedly complimented on her work ethic and conviction rates.
- 137) Fletcher is the recipient of the "George L. Hanna" Medal of Valor; MPA Distinguished Service award; MSP Medal of Honor, Medal of Merit, and Trooper of the Year; multiple MSP superintendent's commendations; multiple division commanders commendations; multiple SPAM Bulldog; LAPOAM Medal of Valor; ICPA 1 of 10 honorable mention for

Police Officer of the Year 2005; U.S. Attorney's Office Commendation; DEA Commendation; FBI Commendation for Operation Excavator, and several other awards and medals.

- 138) The vast majority of Fletcher's cases, which earned her numerous awards and commendations, involved infiltrating organized crime groups involved in the acquisition and distribution of illegal narcotics, money laundering, and illicit gambling.
- 139) Fletcher was ultimately denied the Gaming Enforcement position.
- 140) Fletcher was significantly more qualified than the person selected (a male), who had no gaming experience; he came from the ballistics department.
- 141) Moments after having been informed of the denial for the position, Fletcher received a phone call from an assistant attorney general who explained who the office (AGO) had chosen, a white male. Fletcher advised that she had no idea who he was, i.e. that he had no organized crime or narcotics experience otherwise she would know him.
- 142) Fletcher was also told by the assistant attorney general who interviewed her that she had done a great interview but that the choice was not his to make and the position would go to this white male.
- 143) On September 27, 2013, the MSP posted a position for a Sergeant within the Gaming Enforcement Division on DocuShare. Fletcher responded to the posting by again submitting the requested resume and writing samples.
- 144) Prior to the actual submission of her packet, Fletcher telephoned a classmate regarding the status of the position and was told it would not be a waste of time to apply. She submitted her packet and was shortly thereafter emailed with a request to meet regarding the position in the near future.

- 145) The scheduled meeting never occurred, and in January 2014 Fletcher was informed that the position had been filled.
- 146) Once again, Fletcher was passed up for a white male for the position.
- 147) On July 16, 2014, the MSP posted a position for a Homicide Sergeant for Middlesex SPDU on DocuShare. Fletcher again submitted the requested resume and writing samples.
- 148) Fletcher had an interview on July 22, 2014. Upon beginning her interview with a board of members she attempted to hand out copies of her application packet; two members collected it, and the other two explained they had photocopies. Fletcher observed during the interview that the two members representing the MSP did not look at their packets and did not observe any member of the panel take notes during the interview process.
- 149) At the conclusion of her interview Fletcher was asked how she felt she would fit in within the unit, which she felt was asked in a sexist and prejudicial manner.
- 150) Upon leaving the interview, Fletcher reflected on the fact that she was never asked if she had ever been involved in a homicide investigation or any other points of interest mentioned in her cover letter, that the only comments made were about aspects of the position that were mundane and repetitive, and no questions or comments were made about her achievements, meritorious citations, or ability to do the job as posted.
- 151) Following her interview for the Homicide Sergeant position, Fletcher received a call informing her that the position was to be filled by a male who had previously been in the unit and had investigated a homicide. Fletcher inquired whether the board was aware of whether she had investigated a homicide and received no answer to her question, and the conversation went no further.

- 152) On September 2, 2014 the MSP posted a position for a Unit Commander Marine Unit on DocuShare. Fletcher informally (as the posting was for a Lieutenant) responded to the posting, submitting the required documentation directly to the division commander.
- 153) Fletcher's experience for this position was significant: of the fourteen items listed in the minimum requirements on the posting she satisfied all criteria and more. Specifically, her qualifications included:
- a) USCG "Master" License (highest within the unit), allowing the operation of 100 ton vessels, in near coastal waters (Open Ocean);
 - b) Completed all NIMS certification, in addition to other FEMA courses, which relate to critical incidents.
 - c) Was currently in charge of the purchasing, procuring, and accounting for the unit's budget.
 - d) Extensive knowledge of OSD (Operational Service Division) Procurement Policies and Procedures, both MGLs and CMRs, to insure OIG (Office of the Inspector General) compliance.
 - e) Assisted in and authored grant proposals for the acquisition of three vessels; authored all RFR's for the grant vessels; ascertained specifications of vessels to insure vessels satisfied the needs to accomplish the Marine Unit's mission.
 - f) Extensive background in mechanics; both diesel and gas powered boat engines; and widespread knowledge and experience in troubleshooting electrical systems, electronics, and diagnostics.
 - g) Oral and written communications developed during prior assignment within the Bureau of Investigative Services.

- h) Exceptional relationship with partnering agencies, both state and federal.
 - i) Authored several major security plans involving multiple agencies to insure waterside security.
 - j) No history of disciplinary problems.
 - k) Have responded to on call situations on numerous occasions.
 - l) Exemplary organizational and administrative skills
 - m) Extensive experience in open water. Has authored and been in charge of three grants in which we obtained three assets; been in charge of all major events; been in charge of all waterside security plans; and maintained and deployed all personnel for such plans since 2012. Prior to 2012 she also attended to these duties from 2006 to 2009.
 - n) Maintain the unit's budget.
- 154) Fletcher was never even contacted about the posted position. Another applicant was appointed on September 30, 2014.
- 155) Again Fletcher was more qualified than the person selected – a white male.
- 156) The male selected was a Lieutenant but had no maritime experience. He had no boating experience, no mechanical aptitude or skill, was not within the Special Operations Troop/division, had no experience in developing tactical operation security plans involving multiple agencies/partnerships, and had no experience or knowledge involving Department of Homeland Security Small Vessel Security Strategy.
- 157) All positions mentioned have been filled by white males.
- 158) Through these actions, the MSP has discriminated against Fletcher based upon gender.
- 159) Through this conduct, Fletcher has been subjected to a pattern and practice of continuous discrimination and has been harmed by it.

- 160) The MSP discrimination is getting worse over time.
- 161) Twenty years ago the workplace was fairer than it is today; it is literally going backwards.
- 162) Many female and minority members of the Department have been afraid to speak out for fear of retaliation, but the ongoing pattern of discrimination is increasing in severity.
- 163) In September, Lisa Butner, on behalf of herself and other women and minorities in the department, filed a complaint at the MCAD and asked for an investigation.
- 164) Butner raised Fletcher's above bypasses as examples of discrimination.
- 165) After Fletcher's complaint of discrimination she was been retaliated against.
- 166) Fletcher received a negative EES (Employee Evaluation System) on October 28, 2014, arising out of an alleged event that occurred on October 2, 2014. Fletcher first heard of her negative EES after she confirmed the MSP was aware of Butner's MCAD complaint.
- 167) Upon information and belief Fletcher received a negative EES to keep her in line and retaliate against her, and is not based on a legitimate disciplinary event.
- 168) If anything, Fletcher will prove that on October 2, 2014, she was protecting the rights of workers under state wage and hour laws.
- 169) In recent years Fletcher has been involved in multiple maritime events along with several of her colleagues. Several of these events would be considered "heroic" at a minimum, but did not result in medals or recognition. Numerous comments have been made by members of management regarding Fletcher's awards and medals, including "you have no room for anymore medals, it looks like 'fruit salad' on your chest." It has been brought to Fletcher's attention that management wants to ensure she not receive any more awards or medals.

- 170) This above discrimination has caused Fletcher damages.
- 171) This discrimination has the effect of causing women to be discouraged from remaining with the state police or seeking advancement.
- 172) Fletcher is aware of other women in the MSP who have been discriminated against in the same manner as she has been. This pervasive discrimination has affected her in that it has created an environment preventing women from advancing despite their work ethic, efforts, and performance, and has discouraged women from entering this career.
- 173) Women also have the odds stacked against them in the hiring and promotional process in that veterans get points added to their scores. The number of female veterans is insignificant, which gives white men a disproportionate advantage in the hiring and promotional process over women. This has a disparate impact on women and minorities.
- 174) Fletcher was up for the position of Lieutenant and was impacted by this discriminatory promotional process.

FACTS RELEVANT TO CLEVELAND COATS

- 175) Cleveland Coats brings this Complaint on behalf of himself and those similarly situated.
- 176) Coats is now retired from the Massachusetts State Police.
- 177) Coats began working for the Massachusetts State Police in or around 1983 and retired in October 2015.
- 178) Coats was forced to retire from MSP because of discriminatory treatment of him and other similarly situated officers in the MSP.

- 179) Specifically, Coats' employment and the employment of other similarly situated officers were greatly affected by the discriminatory manner in which the MSP made promotions and transfers in the department.
- 180) MSP has a longstanding practice of transferring white male officers to desirable positions and promoting white males, to the detriment of minorities and women.
- 181) More specifically, the rank of Detective Lieutenant is attained through appointment.
- 182) Those appointed to Detective Lieutenant are overwhelmingly white males.
- 183) When it comes time for promotional exams, those who have received these appointments are automatically put ahead of someone who has not received an appointment.
- 184) Thus, the promotions made through discriminatory promotional exams are biased even further by the appointment process.
- 185) The promotion and transfer practices at MSP greatly disadvantaged Coats and other minorities.
- 186) Through these actions, Massachusetts State Police has discriminated against Coats and other similarly situated individuals based upon race.
- 187) Further, Coats did not take promotional exams because he believed they were discriminatory and believed with the two point veteran preference he would be unlikely to attain advancement through that process.
- 188) Coats brought claims in 2014 at the MCAD prior to retiring, which are still pending and are remaining at the MCAD.
- 189) Additionally, Coats has been an interested party to other pending claims at the MCAD, including the complaints by Lisa Butner filed on behalf of herself and similarly situated people, such as him.

- 190) Lastly, Coats brought a claim on behalf of him and those similarly situated at the MCAD on August 5, 2016 for the discriminatory promotional processes that resulted in his early retirement. It is for this 2016 MCAD claim that he sought a private right of action from the MCAD to be added as a party in this action.
- 191) Coats has been consistently discriminated and retaliated against by his efforts to preserve his rights.
- 192) Coats retired early from the MSP due to the ongoing discriminatory practices.
- 193) Upon information and belief, other similarly situated individuals have been negatively affected by these practices and Coats brings this action on behalf of himself and all those similarly situated.

FACTS RELEVANT TO LUIS MARTINEZ

- 194) Luis Martinez is a Hispanic male who is employed by the Massachusetts State Police as a Trooper.
- 195) Martinez began working for the Massachusetts State Police in March 2012. His work performance has always been satisfactory.
- 196) In or around mid to late November 2015, Martinez applied for a promotion to the detective unit.
- 197) During the interview, Martinez was asked whether he spoke Spanish fluently and replied that he did not.
- 198) After his interview, Respondent hired a white male with less experience than Martinez had.
- 199) In or around May 2016, Martinez applied for a position in the K-9 unit.

- 200) During the interview, Martinez mentioned that the unit lacked Latino representation and that he had been working on his Spanish-speaking skills to the point where he could give commands in Spanish. There was no response to his mention of these facts.
- 201) Martinez was passed over again in favor of a white male with equal or less qualifications. The K-9 unit is made up of all Caucasians.
- 202) Martinez also applied for several other positions, including the Hampden County Detective Unit, Franklin County Detective unit, Berkshire County Detective Unit, and Anti Terrorism Task Force. He was equally or more qualified than the white men who received these positions.
- 203) Martinez believes he was not hired for these positions based on his race and that it is evidence there is an ongoing and continuous pattern and practice of discriminatory hiring and appointments within MSP.
- 204) Martinez believes the stated reasons for not being hired for these positions were pretexts for the discrimination experienced by himself and other minorities in the MSP, including the allegations of such discrimination above.
- 205) Martinez filed claims for discrimination and retaliation at the MCAD, Docket No. 16-SEM-01588, on June 21, 2016.
- 206) Since filing his lawsuit with the MCAD, Martinez has applied to several other positions. Martinez also been discouraged from applying for several other positions due to feeling that bridge was burned due to his filings with the MCAD.
- 207) In August 2017, Martinez applied to the Hampden County Detective Unit, run by Captain Wilcox, and is a unit Martinez previously mentioned in his earlier MCAD complaint.

- 208) Martinez has also applied to the Franklin County Detective Office. This unit used to be run by Captain Habel. Neither of these men were his supervisors when Martinez applied to the unit. Captain Habel is now Major Habel and currently oversees him currently as he is the Troop B commander.
- 209) Martinez was qualified for these positions.
- 210) After Martinez applied to Hampden County Detective Unit in August, Martinez was not afforded an interview as he had been after previous applications.
- 211) On information and belief, these positions were filled by non-minorities who Martinez was more qualified than or as equally qualified for these positions.
- 212) Martinez called the office of diversity and equal opportunity toward the end of August 2017 and left several voicemails. Martinez was finally able to speak with a trooper, Robert Rose, in early September.
- 213) Martinez explained to Rose how he felt he was being discriminated against, and Rose stated he would pass his name on to Captain Ana Brooks. Detective Lieutenant Debra Derise was able to reach him on September 6, 2017 to discuss why Martinez felt he was being discriminated against.
- 214) At that time Martinez filed an internal complaint regarding discrimination, complaining about several units, including the K-9, Hampden County Detective, Franklin County Detective, Berkshire County Detective, and C.E.R.T.
- 215) On September 7, 2017, Martinez's wife's vehicle was stolen, and inside the vehicle was a firearm Martinez owned. Martinez filed a report with the Springfield Police Department regarding the stolen vehicle and contents thereof. Martinez also spoke with Lt. Larriu the same evening to report what had happened to he and his wife.

- 216) Captain James Penniman was also in the office that same evening, and upon learning of the stolen property, did not make an issue of the matter or direct Lt. Larriu to take any further actions.
- 217) However, when Captain Wilcox heard of the matter, he took it upon himself to create an issue for Martinez. Caption Wilcox was not Martinez's supervisor, nor has he ever been.
- 218) Captain Wilcox reported the theft of his car and gun to Major Habel, at which time Major Habel requested an Internal Affairs investigation into Martinez for being the victim of a felony.
- 219) To his knowledge, no other individual at MSP has been subjected to an internal investigation due to the theft of their property.
- 220) In February 2018 a position on the Joint Terrorism Task Force was filled.
- 221) Martinez had applied for this position and was well qualified based on his training and security clearance.
- 222) The individual chosen for this position was a white male.
- 223) Martinez has also been subject to difference terms and condition of employment than white employees.
- 224) In late 2017, Martinez was made the subject of an internal affairs complaint when his wife's car was stolen.
- 225) Based on information and belief, white males similarly situated were not investigated after having their property stolen, which is further evidence of discrimination, retaliation, and disparate treatment of minorities at MSP.

- 226) Martinez further believes the opportunities for minorities in MSP are being more restricted than those for white men and that this problem is of a continuing and on-going nature.
- 227) Martinez filed additional claims of discrimination and retaliation with the MCAD on March 29, 2018, Docket No: 18-SEM-00784, and has sought the right to bring this private right of action for that claim and his first complaint.

FACTS RELEVANT TO DANA OLIVER

- 228) Dana Oliver is a bi-racial male who is employed by the Massachusetts State Police as a Trooper.
- 229) Oliver began working for Massachusetts State Police (“MSP” or “the Department”) in March 2004. His work performance has always been exemplary.
- 230) Oliver has been in honorable military service since 1986, and for the last 23 years in US Army Special Forces.
- 231) During his military services, Oliver gained valuable experience that has helped him in his career at MSP and provided him with valuable skills that make him an asset to the Department in his role as a trooper and potentially multiple other roles.
- 232) Despite this valuable experience, Oliver maintains that his military background has been used against him in his career as a Trooper and which is not the case for white men with military backgrounds at MSP.
- 233) In the past few years, Oliver has made multiple attempts to get out of patrol, but at every turn has been passed over in favor of white males in the Department.

- 234) In May 2016, Oliver applied for transfer to the Division of Homeland Security and Preparedness (Anti-Terrorism Unit).
- 235) His years of military service engaged in anti-terrorism and previously established high level security clearance made him an excellent and highly qualified candidate for this position.
- 236) During his interview for this position, the lieutenant conducting the interview told him that the position was already spoken for, which was dictated to him by his Command.
- 237) In May 2016, Oliver was passed over in favor of a white male who, based on their respective backgrounds, was less qualified, without any security clearance.
- 238) In early January 2017, Oliver applied for transfer to the Division of Investigative Services (Gaming Enforcement Unit).
- 239) Oliver's years of service and excellent record as a trooper made him an excellent candidate for this position.
- 240) On January 17, 2017, a white male, less experienced and less qualified than Oliver, was chosen for this position.
- 241) In August, 2017, Oliver applied for a position in the Division of Standards and Training (State Police Armorer).
- 242) As a Special Forces weapons sergeant, Oliver had duties that closely resembled the job tasks of Armorer and thus was an excellent and highly qualified candidate for this position.
- 243) On September 5, 2017, a white male who was less qualified than him was chosen for this position.

- 244) Around November 15, 2017, Oliver learned of the lawsuits being filed against the MSP alleging racial bias in the promotion and transfer process at MSP by MSP employees such as Lisa Butner, Cleve Coats, Luis Martinez, and others.
- 245) Oliver then began to believe that the decisions against him regarding these transfers and promotions were likely the result of racial bias.
- 246) This feeling was affirmed through subsequent actions taken against him by MSP.
- 247) In early March 2018, Oliver again applied for transfer to the Division of Homeland Security and Preparedness (Anti-Terrorism Unit).
- 248) Again, Oliver was told the position was already spoken for.
- 249) On March 20, 2018, Oliver was passed over again in favor of a white male who, based on their respective backgrounds, was less qualified.
- 250) On that date, he was also passed over for a position on the CINRET – Commonwealth Interstate Narcotics Reduction Effort Team, after he had applied and interviewed for the position.
- 251) The white male given the position was no more qualified than Oliver.
- 252) Given the above, Oliver believes he was not hired for these positions based on his race as there is a pattern of discriminatory hiring and appointments within the MSP.
- 253) Oliver believes the stated reasons for not hiring him for these positions were pretexts for the discrimination experienced by himself and other minorities in MSP.
- 254) Oliver believes the opportunities for minorities in MSP are less than for white men and that this problem is of a continuing and on-going nature.

255) Oliver filed a claim at the MCAD on March 23, 2018 for discrimination, MCAD Docket No: 16C-2018-01613 (EEOC Charge No: 18WEM 01372), based on the above facts and sought the right to bring this private right of action.

COUNTS 1, 2, and 3
(Lisa Butner, Deborah Ryan, and Marion Fletcher)
Violation of G.L. c. 151B, § 4(1)
Gender Discrimination

256) Plaintiffs Butner, Ryan, and Fletcher repeat and re-allege all of the above paragraphs and incorporate same by reference as if originally stated herein.

257) MSP's hiring, promotional, transfer, and other employment practices have discriminated against women by and through disparate and intentional treatment, and which has had a disparate impact on Butner, Ryan, Fletcher, and other similarly situated females in the Massachusetts State Police.

258) As a result of Defendant's discriminatory conduct, Plaintiffs and all others similarly situated have suffered emotional distress and economic and other damages.

WHEREFORE, Plaintiffs Lisa Butner, Deborah Ryan, Marion Fletcher, and those similarly situated, demand judgment against Defendant Massachusetts State Police in an amount the Court deems just, including but not limited to equitable and injunctive relief of this Court, and compensatory damages, punitive damages, attorneys fees, and interest.

COUNTS 4, 5, 6 and 7
(Lisa Butner, Cleveland Coats, Luis Martinez, and Dana Oliver)
Violation of G.L. c. 151B, § 4(1)
Racial Discrimination

259) Plaintiffs Butner, Coats, Martinez, and Oliver repeat and re-allege all of the above paragraphs and incorporate same by reference as if originally stated herein.

260) Defendant has violated G.L. c.151B, § 4(1), through the use of hiring, promotional, transfer, and other employment practices that discriminate against minorities.

- 261) This is by and through disparate treatment and disparate impact.
- 262) As a result of Defendant's discriminatory conduct, Plaintiffs Butner, Coats, Martinez, and Oliver, and all others similarly situated, have suffered emotional distress and economic and other damages.

WHEREFORE, Plaintiffs Lisa Butner, Cleveland Coats, Luis Martinez, Dana Oliver, and those similarly situated demand judgment against Defendant Massachusetts State Police in an amount the Court deems just, including but not limited to equitable and injunctive relief of this Court, and compensatory damages, punitive damages, attorneys fees, and interest.

COUNTS 8, 9, and 10
(Lisa Butner, Deborah Ryan, and Marion Fletcher)
Violation of Title VII of the Civil Rights Act of 1964
42 U.S.C. §§ 2000e et seq.
Gender Discrimination

- 263) Plaintiffs Butner, Ryan, and Fletcher repeat and re-allege all of the above paragraphs and incorporate same by reference as if originally stated herein.
- 264) MSP's hiring, promotional, transfer, and other employment practices have discriminated against Butner, Ryan, Fletcher, and those similarly situated, by way of disparate treatment as well as disparate impact in violation of Title VII of the Civil Rights Act of 1964.
- 265) The hiring, promotional, transfer, and other employment practices have had a disparate impact on Plaintiffs Butner, Ryan, and Fletcher, and on other women in the Massachusetts State Police.
- 266) As a result of Defendant's discriminatory conduct, Plaintiffs Butner, Ryan, Fletcher, and all others similarly situated have suffered emotional distress and economic and other damages.

WHEREFORE, Plaintiffs Lisa Butner, Deborah Ryan, Marion Fletcher, and those similarly situated demand judgment against Defendant Massachusetts State Police in an amount the Court deems just, including but not limited to equitable and injunctive relief of this Court, and compensatory damages, punitive damages, attorney fees, and interest.

COUNTS 11, 12, 13, and 14

(Lisa Butner, Cleveland Coats, Luis Martinez, and Dana Oliver)

Violation of Title VII of the Civil Rights Act of 1964

42 U.S.C. §§ 2000e *et seq.*

Race Discrimination

- 267) Plaintiffs Butner, Coats, Martinez, and Oliver repeat and re-allege all of the above paragraphs and incorporate same by reference as if originally stated herein.
- 268) Defendant has violated Title VII of the Civil Rights Act of 1964 through the use of hiring, promotional, transfer, and other employment practices that discriminate against minorities.
- 269) The discrimination is by disparate treatment and/or disparate impact.
- 270) As a result of Defendant's discriminatory conduct, Plaintiffs Butner, Coats, Martinez, Oliver, and all others similarly situated have suffered emotional distress and economic and other damage

WHEREFORE, Plaintiffs Lisa Butner, Cleveland Coats, Luis Martinez, Dana Oliver, and those similarly situated demand judgment against Defendant Massachusetts State Police in an amount that the Court deems just, including but not limited to equitable and injunctive relief of this Court, compensatory damages, punitive damages, attorney fees, and interest.

COUNT 15

(Luis Martinez)

Violation of G.L. c. 151B, § 4(4)

Retaliation

- 271) Plaintiffs repeat and re-allege all the above paragraphs and incorporate same by reference as if originally stated herein.
- 272) After Plaintiff Luis Martinez engaged in protected activity within the meaning of G.L. c. 151B and filed his original claim of discrimination against MSP, Defendant treated Martinez differently than those who had not filed complaints.
- 273) Defendant has violated G.L. c. 151B § 4(4) by retaliating against Martinez when he engaged in protected activity and filed actions with the Massachusetts Commission Against Discrimination.
- 274) As a result of Defendant's retaliatory conduct, Martinez and all others similarly situated have suffered emotional distress and economic and other damages.

WHEREFORE, Plaintiffs Luis Martinez and those similarly situated demand judgment against Defendant Massachusetts State Police in an amount that the Court deems just, including but not limited to equitable and injunctive relief of this Court, compensatory damages, punitive damages, attorney fees, and interest.

COUNT 16
(Lisa Butner)
Violation of G.L. c. 151B, § 4(4)
Retaliation

- 275) Plaintiffs repeat and re-allege all the above paragraphs and incorporate same by reference as if originally stated herein.
- 276) After Plaintiff Butner engaged in protected activity within the meaning of G.L. c. 151B, including but not limited to her actions stated above, the filing of her discrimination claims as listed above, and the claims stated on behalf of others by and through One Blue, Defendant engaged in conduct that was retaliatory and treated Butner differently than others who had not engaged in protected activity.

277) Defendant has violated G.L. c. 151B § 4(4) by retaliating against Butner.

278) As a result of Defendant's retaliatory conduct, Butner and others similarly situated have suffered emotional distress and economic and other damages.

WHEREFORE, Plaintiffs Lisa Butner and those similarly situated demand judgment against Defendant Massachusetts State Police in an amount that the Court deems just, including but not limited to equitable and injunctive relief of this Court, compensatory damages, punitive damages, attorney fees, and interest.

PLAINTIFFS DEMAND A JURY TRIAL ON ALL TRIABLE ISSUES.

PLAINTIFFS, LISA BUTNER, DEBORAH RYAN, MARION FLETCHER, CLEVELAND COATS, LUIS MARTINEZ, and DANA OLIVER on behalf of themselves and all other similarly situated individuals

Date:



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