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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Patricia M. Vroom, a single woman, Plaintiff, v. Jeh Johnson, Secretary, United States Department of Homeland Security, Defendant.	Case No. CIV **COMPLAINT** **(Jury Trial Demanded)**

Plaintiff, by and through counsel, for her Complaint against Defendant, alleges:

INTRODUCTION

Plaintiff is a 59-year-old woman. She has been an attorney in the United States Government for 30 years, the last 26 of which have been with U.S. Immigration and Customs Enforcement (ICE) and its predecessor agency, the U.S. Immigration & Naturalization

Service (INS). Plaintiff has had a stellar career with these two agencies, having earned Outstanding ratings year in and year out, as well as numerous awards, including twice receiving the "District Counsel of the Year Award."

In January 2013, Plaintiff was honored with a Department of Homeland Security (DHS) Office of General Counsel "Award of Excellence," as a member of the DHS team that worked behind the scenes on the "Arizona Litigation," a lawsuit against the State of Arizona challenging the infamous Arizona immigration law known as "S.B. 1070," giving rise to the U.S. Supreme Court decision in favor of the federal government in *Arizona v. U.S.*, 132 S. Ct. 2492 (2012). In May, 2014, Plaintiff and her counterpart in ICE Enforcement and Removal Operations in Arizona were honored by the Immigration Section of the Arizona State Bar with one of two annual awards the organization gives, for their joint implementation of former ICE Director John Morton's Prosecutorial Discretion Initiatives.

Plaintiff has been an attorney-manager since 1990, when she was selected for the position of Deputy District Counsel in Phoenix, and she was later promoted to Phoenix District Counsel in 1994. In this capacity, Plaintiff managed five offices of attorneys in the two states of Arizona and Nevada. After the tragic events of September 11, 2001, the federal agencies dealing with "homeland security" underwent a massive reorganization by Congress. In March 2003, the Department of Homeland Security was formed from 22 agencies pulled from various departments, including the Department of Justice (where the INS had resided) and the Department of the Treasury (where the U.S. Customs Service had resided). U.S Immigration and Customs Enforcement assumed the responsibilities and authorities

associated with Immigration enforcement in the interior of the United States, as well as the responsibilities and authorities associated with significant aspects of Customs enforcement.

With the stand-up of ICE, Plaintiff's position transitioned from INS District Counsel for Phoenix to become ICE Chief Counsel of the newly-created Arizona Area-of-Responsibility (AOR), comprising the state of Arizona. In this capacity, Plaintiff has managed four offices across the state, with what would eventually be a total of 38 attorneys daily appearing on behalf of the U.S. government in immigration court in a total of 13 immigration courtrooms in the four locations.

Plaintiff has also been responsible for providing legal advice to the two operational programs in ICE in Arizona – the Field Office Director (FOD) of the Office of Enforcement and Removal Operations (ERO – the deportation branch), and the Special Agent in Charge (SAC) of Homeland Security Investigations in ICE in Arizona (HSI – the criminal investigations branch). Plaintiff has also provided litigation support to the U.S. Attorney's Office for the District of Arizona.

Over the years, Plaintiff enjoyed a sterling reputation among the almost 1,000 ICE attorneys and across ICE and DHS, and with Department of Justice (DOJ). Plaintiff has had an outstanding relationship with her Special Agent in Charge and her Field Office Director. Plaintiff has often been tapped to participate in and chair ICE Office of the Principal Legal Advisor (OPLA) strategic planning working groups and to serve in high profile temporary positions. This was particularly true throughout 2011, when she was twice detailed by the Principal Legal Advisor to OPLA Headquarters (HQ) to serve in the Senior Executive

Service position of Director of Enforcement and Litigation, for a total of seven weeks in the winter and spring of that year.

In 2011, Plaintiff was also appointed lead negotiator for ICE in the mediation associated with the *Franco-Gonzalez* class action federal lawsuit filed in the U.S. District Court for the Central District of California (Los Angeles) by a network of legal rights organizations on behalf of mentally incompetent individuals in ICE custody in the states of California, Washington, and Arizona. To fulfill this function, Plaintiff travelled to Los Angeles, California, to participate in the mediation and to ICE HQ to attend high-level meetings about the case at the Department of Justice with the Executive Office for Immigration Review, the DHS Office of General Counsel, and the DOJ Office of Immigration Litigation.

I. NATURE OF CLAIM

1. This is a proceeding for damages against Defendant Jeh Johnson, Secretary of the United States Department of Homeland Security, to redress the deprivation of rights secured to the Plaintiff by Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq*. and the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §621.

II. JURISDICTION

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§1331 and 1343(4) and pursuant to The Civil Rights Act of 1964 (Title VII), as amended and modified, 42 U.S.C. §§2000e *et seq*., and the Age Discrimination in Employment Act of 1967 (ADEA), as amended and modified, 29 U.S.C. §§621 *et seq*.

III. VENUE

3. Based on 28 U.S.C. §1391, Title VII and the ADEA, venue is proper because the acts detailed in this Complaint occurred within the State of Arizona and the jurisdiction of this Court.

IV. PROCEDURAL REQUIREMENTS

4. Pursuant to 29 C.F.R. §§1614.105 and 1614.204, Plaintiff made initial contact with an EEO Counselor on November 18, 2013 regarding allegations of discrimination on the basis of sex (female) and age (DOB: 1955) and a hostile work environment. Plaintiff requested mediation of her complaint. Mediation did not result in resolution, and pursuant to 29 C.F.R. §1614.204(c), Plaintiff filed a formal complaint on April 4, 2014, Case HS-ICE-00216-2014. The Agency accepted the Complaint for investigation on June 6, 2014. A Report of Investigation was issued by Bashen Corporation on or about September 29, 2014. Because more than 180 days has passed from her filing her formal Complaint, Plaintiff may proceed with filing this civil action. Plaintiff had therefore filed a timely Complaint and satisfied all procedural requirements necessary to bring this action.

V. PARTIES

5. Plaintiff Patricia Vroom is a female over the age of 40, has been employed by the U.S. Immigration & Naturalization Service since 1988 and its successor agency, U.S. Immigration and Customs Enforcement, an agency of the Department of Homeland Security, since its formation on March 1, 2003, and at the time of the events hereinafter described, was and is a Chief Counsel, Office of the Principal Legal Advisor (OPLA) in Phoenix, Arizona.

6. Defendant Jeh Johnson is the Secretary, Department of Homeland Security.

7. The Department of Homeland Security is an employer of 20 or more employees and is therefore defined as an "employer" with respect to Title VII of the Civil Rights Act (42 U.S.C. §2000e, *et seq*.) and the Age Discrimination in Employment Act, (29 USC §621, *et seq.*).

VI. FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

A. The Precipitous Decline In Performance Ratings

8. At the end of the 2010 – 2011 performance rating year, Plaintiff received a rating commensurate with the Outstanding ratings she had always achieved in the past. This was the **highest** rating of any of the 26 Chief Counsel in ICE that year – **4.94** on a scale of **5.0**. Comments from Plaintiff's supervisors in the mid-term progress review on May 16, 2011 included the following: "[Plaintiff was] handpicked to serve as ICE's lead negotiator on the *Franco* litigation… It would be difficult to overstate the importance of the *Franco* litigation, which deals with the issue of aliens in proceedings who have mental competency issues. The potential results of the litigation are far reaching; both DHS and DOJ are concerned about this at the highest levels. [Plaintiff's] work has received praise from Assistant Secretary [ICE Director] John Morton. At a recent Division Chief's meeting PLA Peter Vincent stated that when he discussed the *Franco* negotiations, A/S Morton gave [her] an unequivocal vote of confidence and stated 'Pat is one of our superstars.'"

9. Comments from the Plaintiff's end-of-year appraisal, dated December 9, 2011, authored by Director of Field Legal Operations, Jim Stolley, as "Rating Official," and Deputy Principal Legal Advisor Riah Ramlogan, as "Reviewing Official," included the following: "[Plaintiff has] a well-earned reputation throughout OPLA, [she is] respected by [her]

colleagues and [her] advice and judgment are valued by the senior management of the agency."

10. A mere two years later, on November 15, 2013, at the end of the 2012 – 2013 performance rating year, Plaintiff received the **lowest** rating of any of the 12 Chief Counsel rated by Field Legal Operations (FLO) Deputy Director - West, Sarah Hartnett, **3.53** on a scale of **5.0**. Indeed, Plaintiff's was one of the lowest ratings of all 26 Chief Counsel in the country for that year. The narrative in the Plaintiff's 2013 mid-year progress review, dated May 8, 2013, and issued by Plaintiff's supervisor, FLO Deputy Director Hartnett, was replete with the language of ageism. The rating purported to document the sudden and unexplained decline of a "superstar" of OPLA to the status of a doddering has-been who resisted progress, who could not understand instructions, and who could not adapt to change.

11. Key words in Ms. Hartnett's review of Plaintiff's performance at the mid-year included the following: "[Plaintiff has engaged in] inefficient practices," "failure to adapt," "struggled with embracing new goals and initiatives of ICE Senior leadership." "[Plaintiff] also continued with previous inefficient practices until instructed otherwise," "[Plaintiff] continued to handle JMTRs as [she] had in the past and pushed back on changing…" "[Plaintiff's] office has struggled with managing [her] dockets in line with agency priorities and has spent unnecessary resources on cases that were eventually administratively closed…" "When [Plaintiff was] instructed to exercise discretion most recently on cases specific to Arizona, [Plaintiff] struggled to grasp this initiative and as such [Plaintiff's] client also struggled to embrace this OPLA initiative." "[Plaintiff] should understand the pressures and requirement of HQ and understand that responsiveness in the field is imperative."

12. At the end of the year, Plaintiff's final appraisal, dated November 15, 2013, followed the same pattern, reflecting blatant ageism. Key words in the final appraisal included: "[Plaintiff's] office has not fully embraced the goal of finding innovative solutions to strategically manage your immigration dockets in line with agencies (sic) priorities and also implement timely and efficient process." Regarding the Arizona Identity Theft Initiative, Ms. Hartnett scolded, "[Plaintiff's] office managed over time, through much collaboration with HQ, to establish an efficient and effective process to deal with these cases. While [Plaintiff has] described this as an 'extremely challenging' and 'overwhelming' task, this was really a simple exercise in prosecutorial discretion." "This task should have been little more than routine."

13. Ms. Hartnett criticized Plaintiff for other alleged deficiencies, suggesting that Plaintiff had outlived her productive life as a manager. The narrative stated: "The Phoenix OCC needs to be more adaptable to changes in OPLA's workload." "At the end of the rating cycle, [Plaintiff's] office had yet to implement other docket efficiencies to strategically mange (sic) [Plaintiff's] docket;" "it was clear at the end of the rating cycle, after another case from the Tucson docket [W-] was brought to HQ's attention, that [Plaintiff's] staff has not embraced prosecutorial discretion." "This too is reflective of a lack of adaptability in your office." This precipitous drop in Plaintiff's performance appraisal ratings did not happen in a vacuum. Rather, it was part of an orchestrated, coordinated effort by Principal Legal Advisor Peter Vincent and his close circle of subordinate executives and managers to purge OPLA of senior Chief Counsel so that much younger, much less experienced, and thus much

more impressionable individuals who were beholden to them, could be installed in their place.

B. The Purge of Senior Chief Counsel

14. Plaintiff was just the most recent target of this coordinated scheme, directed by Principal Legal Advisor Peter Vincent and Deputy Principal Legal Advisor Riah Ramlogan, and carried out with relentless precision by what would become the three Field Legal Operations (FLO) managers – Director Stolley, and Deputy Directors Hartnett and Downer. Starting shortly after Peter Vincent became Principal Legal Advisor in May 2009, senior Chief Counsel after senior Chief Counsel began being targeted for harassment, reassignment of duties to much less desirable ones, public humiliation, and brutal scape-goating. The pattern became very clear – individuals who were at or close to retirement eligibility were subjected to increasingly frequent harsh treatment by OPLA senior leadership, gradually chipping away at their self-esteem and the fine reputations they had earned over the years, and then, as they started to succumb to the pressure, the FLO managers would step up the momentum and severity of the pressure to finish the job.

15. Principal Legal Advisor (PLA) Vincent and Deputy Principal Legal Advisor Ramlogan and the FLO managers became more and more brazen in their use of various prohibited personnel practices, such as placing their close friends into key positions without announcement or competition, and abusing the performance appraisal system by either artificially inflating ratings to justify awards and favorable personnel decisions that were not warranted, or by artificially deflating ratings to justify adverse personnel decisions that were not warranted.

16. PLA Vincent and his compatriots took the long view – plotting out strategies that would sometimes take years to fully execute, focusing their pernicious attentions on only one or two senior Chief Counsel at a time, letting the others, including Plaintiff, believe they were safe and on good terms with "Senior Leadership," so as to "divide and conquer," until it was their turn. In June 2009, immediately after he received the political appointment to the top position in the legal program of ICE, Peter Vincent brought his close friend and former supervisor, San Francisco Deputy Chief Counsel Jim Stolley, to Washington to serve in an acting capacity as his Chief of Staff. Until he was appointed Principal Legal Advisor, Peter Vincent had never had any experience as a manager. Peter Vincent had never before even been a supervisor.

17. A few months later, when the retirement-eligible Los Angeles Chief Counsel was forced to step down from his chief counsel position, Mr. Vincent quickly installed Mr. Stolley as Los Angeles Chief Counsel. The Los Angeles Chief Counsel position was at the time a GS-15 position, like all of the 26 Chief Counsel positions around the country. Mr. Stolley assumed the Los Angeles Chief Counsel position on September 28, 2009. When, eighteen months later, on March 11, 2011, the Los Angeles Chief Counsel position was reclassified as a Senior Executive Service (SES) position, the first of what would eventually be three offices to be so classified, Mr. Stolley, the incumbent, was selected for that position. Once he was a member of the Senior Executive Service, Mr. Stolley was eligible to be moved into other executive positions without competition. This is exactly what happened a mere six months later, in September 2011, when PLA Vincent appointed him Director of Field Legal Operations, responsible for all of the Chief Counsel offices across the country.

18. This would prove to be a key turning point in advancing PLA Vincent's plans to purge the Chief Counsel ranks of "old" Chief Counsel, as Mr. Stolley became the primary "enforcer" of the scheme. Thanks to his long-time close association with Mr. Vincent, Mr. Stolley had risen, in a matter of barely two years, from Deputy Chief Counsel in San Francisco, to fill one of only four Senior Executive Service positions in OPLA, managing all 26 Chief Counsel from OPLA HQ.

19. Another of PLA Vincent's "enforcers" would be Matt Downer, who was initially Mr. Vincent's "Senior Advisor" and would remain a close confidant. In February 2010, Mr. Downer revealed to Glenda Raborn, who was serving as Acting Chief of Staff after Jim Stolley had left Washington to assume the Los Angeles Chief Counsel job, "Here's the playbook – you don't put things in writing, and never under-estimate the power of psy-ops." Mr. Downer explained to Ms. Raborn that PLA Vincent, then-Director of Field Legal Operations Riah Ramlogan, he, and Jim Stolley had come up with a 3-point plan to get rid of employees, even when they did not have enough basis to fire them – 1) threaten to move their position; 2) find out what they liked to do and take it all away, and find out what they did not like to do and load them up with it; and 3) stay on them constantly, never giving them a moment's peace. Ms. Raborn would find these principles applied to her in 2013, after she had become Chief Counsel in Oakdale, Louisiana on June 21, 2010.

20. By May 23, 2013, Ms. Raborn would be filing an EEO complaint against Mr. Stolley and Mr. Downer, after having been screamed at by Mr. Downer when she requested leave to take her son to a school function, and he responded by calling her a "Fucking high-maintenance single mama," among other reasons. By mid-October 2013, Ms. Raborn would

feel compelled to resign from her position as Oakdale Chief Counsel, after Mr. Stolley told her that the Oakdale Detention Center was closing, and her position was going to be moved to New Orleans, some 185 miles away. Ms. Raborn learned that, in fact, Oakdale was not closing, and she confronted Mr. Stolley with this, and also told him that she wasn't able to move because of family commitments. Mr. Stolley responded, "Not my problem."

21. The former Los Angeles Chief Counsel's position is a case in point. When he was asked to step down by PLA Vincent from his Chief Counsel job in September 2009, PLA Vincent put out a broadcast message on email to all OPLA staff announcing the long-time Chief was leaving his position as Los Angeles Chief Counsel because he had "been selected to serve in the newly created position of Special Counsel for Legal Affairs." The new position was described in the announcement as one that would utilize "[The Los Angeles Chief's] depth of experience and knowledge of immigration law [to] benefit OPLA at the national level." In fact, the Los Angeles Chief's new position was to be nothing like it was described, and ultimately, virtually all he was allowed to do for the next six months, until he retired, was to review U.S. citizenship claims. This is work normally done by a line attorney. The disingenuousness of Mr. Vincent's announcement in 2009 is evident when, in announcing the former Los Angeles Chief's retirement in April 2010, his title was suddenly and inexplicably changed to "Special Counsel for Field Legal Operations."

22. Once the Los Angeles Chief Counsel was dispatched, PLA Vincent, then-Field Legal Operations Director Riah Ramlogan, and their close friends and advisors began to focus their aggression on the long-time, retirement-eligible Chief Counsel in Houston. Starting in August of 2010, the Houston Chief Counsel was subjected to scape-goating by

senior OPLA management. The pattern of the Houston Chief Counsel's fall from grace would become very familiar. He was at first praised by then-FLO Director Ramlogan in emails and on a Chief Counsel Conference Call for being "out front" in his embrace of ICE Director Morton's June 30, 2010 landmark Prosecutorial Discretion (PD) initiative, only to later be completely disowned by Ms. Ramlogan and Mr. Vincent when public criticism of the initiative became intense.

23. The hypocrisy of the OPLA leaders was well-documented in an expose' in the Houston Chronicle, after the media outlet's receipt of the response to a Freedom of Information Act (FOIA) request it had made to ICE. The articles describing the Houston Chief Counsel's betrayal and documents released under FOIA that support that conclusion can be viewed: http://www.chron.com/news/houston-texas/article/Report-Feds-downplayed-ICE-case-dismissals-2080532.php.

24. When the Houston Chief Counsel shared with Ms. Ramlogan the office protocol he had created to comply with then-ICE Director Morton's PD directive on August 10, 2010, she responded the same day, praising him, saying, "Outstanding, …. I would like you to talk about this on our next Chief Counsel call which will likely not be until August 19. I really appreciate your efforts." The Houston Chief did speak on the Chief Counsel Call, for 20 minutes, and Ms. Ramlogan told everyone on the call, "You all see what [the Houston Chief Counsel] is doing – he's being proactive." However, when the first Houston Chronicle article hit on August 26, 2010, Ms. Ramlogan scrambled to distance herself from the Houston Chief Counsel's protocol and to discredit him. The minutes for the Chief Counsel Call were purged of any reference to the Houston Chief's presentation or Ms. Ramlogan's praise for his

plan. Indeed, Ms. Ramlogan ordered the Houston Chief Counsel to rescind the protocol. From this point on, he was made to feel uncomfortable and unwelcome by Mr. Vincent and Ms. Ramlogan. The Houston Chief Counsel was detailed to HQ for 30 days in January 2011, and quickly realized he was being set up to fail. This was confirmed at the end of the detail when the Houston Chief was called to a meeting with Mr. Vincent, Ms. Ramlogan, and others, and Mr. Vincent screamed at him in a manner that another senior OPLA executive described to Plaintiff as "so excruciating that even Riah looked uncomfortable." Seeing the writing on the wall, the Houston Chief Counsel would decide to retire after this meeting, and did retire a few months later, on July 1, 2011. A much younger individual was selected to take his place. Her name was Sabrina Gray. Ms. Gray became Houston Chief Counsel on June 30, 2011.

25. By September 23, 2013, Ms. Gray would be filing an EEO complaint against Mr. Vincent, Ms. Ramlogan, Mr. Stolley, Mr. Downer and Ms. Hartnett, for sex discrimination, another prohibited pattern and practice of the OPLA senior leadership. Ms. Gray's complaint was prompted by, among other abusive treatment, the FLO managers threatening to place her on a "Performance Improvement Plan" on a conference call convened by the three of them only four days after her return from maternity leave. Focused on the need to care for her small baby, and unable to endure the extreme stress of continuing to deal with Mr. Stolley, Mr. Downer, and Ms. Hartnett as her supervisors, Ms. Gray reluctantly settled her EEO complaint on March 26, 2014. Ms. Gray agreed to step down from her Chief Counsel position in order to escape the abusive chain of command of Mr. Stolley, Mr. Downer, and Ms. Hartnett. Mr. Vincent, Mr. Ramlogan, and Mr. Stolley would soon replace

Ms. Gray as Houston Chief Counsel with one of the key perpetrators of the discrimination Ms. Gray had been forced to endure, Ms. Hartnett.

26. The next target for the orchestrated campaign to rid OPLA of senior Chief Counsel was San Diego Chief Counsel Martin Soblick, another long-time, retirement-eligible Chief Counsel. Despite a career marked by outstanding ratings and accolades, Chief Counsel Soblick suddenly found himself on the receiving end of unduly harsh treatment by the FLO managers and Ms. Ramlogan and Mr. Vincent. Mr. Soblick and two of his three deputies were summoned to Washington, D.C. with one day's notice to a meeting with PLA Vincent on October 4, 2012, where the Principal Legal Advisor treated Chief Counsel Soblick like a misbehaving child in front of his deputies and his entire chain of command, harshly chastising him for his office's handling of two cases. Chief Counsel Soblick told Plaintiff that the tone of the encounter felt more like an inquisition than a professional meeting. Chief Counsel Soblick decided as he left the meeting that he would retire as soon as he could. When he did retire, at the end of the year, he was replaced by a much younger male, who had been Deputy Chief Counsel in Los Angeles under Jim Stolley.

C. Plaintiff Becomes The Next Chief Counsel Target

27. Despite Mr. Vincent pleading with Plaintiff during one of her details to OPLA HQ in the Spring and Summer of 2011 to serve as Acting Director of Enforcement and Litigation, "Am I correct in my assumption that there is nothing we could do to persuade you to leave Arizona and come to Washington?" Plaintiff would soon find herself the next "long-time Chief Counsel" to be targeted by Mr. Vincent, Ms. Ramlogan, Mr. Stolley and his deputies. In late 2011, Plaintiff started to become victim to inappropriately harsh treatment -

first delivered by Deputy Principal Legal Advisor Riah Ramlogan. Having always previously been accorded respectful treatment by her supervisors, Plaintiff felt justified to complain to her new supervisor, FLO Director Jim Stolley, when she was publicly humiliated and ridiculed by Ms. Ramlogan in a meeting of all of the Chief Counsel in Washington, D.C. in the first week of December 2011. In response to her complaint, Mr. Stolley reassured Plaintiff, in a December 7, 2011 email, "You are a cheerleader and a can-do trouper for OPLA. Please don't let Riah's occasional snaps (to the one CC who always has her hand raised!) get to you. She relies on you enormously, as do I. We are always less polite with the people we hold closest. Remember that. Safe travels."

28. Ms. Ramlogan, too, issued an effusive apology to Plaintiff in an email on December 9, 2011: "I did not want too much time to pass before I apologized to you for cutting you off on the full service law firm discussion. As usual I committed myself to engage in too many things and realized that I would not have time to adequately deal with any of them. Because you and I have had many talks about these matters and because I know that I can always call you to get your frank perspective, I wanted to spend the limited time I had hearing from folks who are less verbal and shier. In doing so, I was unbelievably rude to you and for that I apologize. If I have not said this before, I want you to know that I have the utmost respect for you. If circumstances were different, you could easily be my boss and would likely be doing a better job than I am doing. Please forgive me. I hope that by the time we chat next week we can put this behind us. I hope you enjoy your weekend. Your friend, first and foremost."

29. On December 24, 2011, Plaintiff received an email from ICE then-Deputy Director Kumar Kibble, addressed to Plaintiff, then-Arizona FOD Katrina Kane, and SAC Matt Allen. PLA Vincent and DPLA Ramlogan were copied. Deputy Director Kibble wrote: "Katrina, Matt and Pat, You three set the standard for collaboration among the components in the field. It's been a privilege for me to witness the way you cover each others' backs throughout the past year. I want to thank you for your teamwork under difficult circumstances that are often featured in the harsh glare of the spotlight … the rest of us have a lot to learn from you three about building Team ICE."

30. Nevertheless, between December 2011 and November 18, 2013, when Plaintiff filed her informal EEO complaint, Plaintiff was subjected to relentless bullying and harassment by Director Stolley, who was Plaintiff's rating official from early September 2011 until April 26, 2012; Sarah Hartnett, who was selected for the position of Deputy Director of Field Legal Operations – West in March 2012, without the position having been announced and without competition, and who became Plaintiff's supervisor and rating official immediately thereafter; and Matt Downer, who was selected for the position of Deputy Director of Field Legal Operations – East in March 2012, again without announcement or competition, and who became Plaintiff's supervisor and rating official on October 1, 2013 when Ms. Hartnett and he switched regions – she became Deputy for the East and he became Deputy for the West. Once the Deputy FLO Directors were in place, Mr. Stolley became Plaintiff's second-line supervisor and "reviewing official" on her ratings.

31. Initially, having received apologies from Ms. Ramlogan and Mr. Stolley on her behalf for Ms. Ramlogan's harsh public treatment of her in December 2011, Plaintiff

assumed everything was back to normal. Indeed, on January 25, 2012, Mr. Stolley wrote to Plaintiff about some training her office had been asked to do, saying, "Thank you—my goal is to get other OCCs as good as yours!" Plaintiff was invited to give a presentation at an OPLA Management Conference in Dallas, Texas on April 17, 2012 on "Motivating Employees." Ms. Ramlogan was in the audience and sent Plaintiff an email afterwards, praising her presentation and inviting her to dinner. Just one week later, on April 25, 2012, Plaintiff received her mid-term progress review from Mr. Stolley.

32. Expecting a favorable review, Plaintiff instead saw comments from Mr. Stolley in the review that warned her to "focus more on the positive than the negative… Instead of merely reporting that morale in your office is low, please try to find ways to improve it." Plaintiff was distraught and confused and asked to speak with Mr. Stolley about the review. When Mr. Stolley eventually contacted Plaintiff on May 14, 2012, he made light of the comments, saying, "What's the big deal? It's only a progress review." Plaintiff responded that these comments would become part of her permanent employment record, and besides, they had no basis in fact. Mr. Stolley then told Plaintiff, "Well, after Sandweg [then Senior Advisor to DHS Secretary Janet Napolitano, and later Acting DHS General Counsel, and still later, Acting ICE Director John Sandweg] visited your office in Phoenix he came back and called Peter [Vincent] and screamed at him and said, 'Phoenix is all fucked up!'" Plaintiff told Mr. Stolley this made no sense as Mr. Sandweg had expressed nothing but approval for the efforts of Plaintiff's office toward implementing ICE Director Morton's Prosecutorial Discretion initiative when he was visiting in Phoenix, and besides, no one had asked Plaintiff about it.

33. Plaintiff inquired of Mr. Stolley, "Was there anything else?" Mr. Stolley then told her, "Well, you've said some things in management meetings that have not been well-received." Mr. Stolley could not explain what those comments might have been. The only meeting Plaintiff had attended since her last appraisal in December 2011 was the OPLA Management Conference attended by Ms. Ramlogan and Mr. Downer, just a week before the progress review. Mr. Stolley acknowledged on the call with Plaintiff "It would be hard to find ways of improvement," and, "Your areas of improvement are so small." Plaintiff insisted the negative comments in her mid-term progress review be removed, and Mr. Stolley eventually did so. Nevertheless, with Ms. Hartnett now Plaintiff's supervisor, Plaintiff began to experience the uncomfortable feeling that something very worrisome was taking shape.

34. Disregarding the chain of command, Mr. Stolley, Ms. Hartnett and Mr. Downer began operating with respect to Plaintiff as if they, collectively, were one supervisor, as "FLO leadership," in a fluid manner. Plaintiff began receiving harsh, accusatory telephone calls and emails from Ms. Hartnett, Mr. Stolley, and Mr. Downer. Each of the three FLO managers would make groundless accusations against Plaintiff, out of the blue. When Plaintiff would, time after time, demonstrate the accusations were unfounded, Mr. Stolley, Ms. Hartnett, and Mr. Downer would simply drop the subject; they never apologized or withdrew any of the false claims. Subsequently, in private, and just among themselves, the three FLO managers would then forward the messages around to each other, and make disparaging comments about Plaintiff. Ms. Hartnett would even mark one of her triumphant messages about Plaintiff with a smiley-face.

35. At the end of the rating year, on October 31, 2012, Ms. Hartnett rated Plaintiff just low enough to push her below the "Achieved Excellence" level of performance (**4.5** or better), which equated to an "Outstanding" rating, for the first time since very early in Plaintiff's career. Ms. Hartnett rated Plaintiff **4.4** on a **5.0** scale. Without explanation, Plaintiff was down-graded from a "5" to a "4" in three of four goals, and from a "5" to a "4" in two of seven Competencies. There were only four short paragraphs of positive comments to accompany the rating. Plaintiff believed the rating to be unfair, but felt she would not achieve anything by grieving it to the obviously hostile Mr. Stolley or Ms. Ramlogan. Plaintiff let it go, but she was very concerned about what it portended. In retrospect, it is clear this rating was designed to be the first step in the orchestrated plan to document a seemingly downward progression in Plaintiff's performance, to make what would happen the following year appear to be plausible.

36. In early January 2013, Plaintiff and one of her deputies, Kimberley Shepherd, were flown to Washington, D.C. at Mr. Stolley's direction to accept their DHS Office of General Counsel Award of Excellence as part of the "Arizona Litigation" team. Plaintiff and Ms. Shepherd were both surprised, given the supposedly happy nature of their visit to HQ, that Deputy FLO Director Sarah Hartnett was very unfriendly towards them in a meeting with Plaintiff, DCC Shepherd, and Plaintiff's other two deputies attending by video teleconference.

37. Shortly after Plaintiff returned to Arizona following the awards ceremony, Deputy FLO Director Hartnett contacted Plaintiff by email and demanded to know whether Plaintiff had taken the "Arizona Litigation" team's plaque with her back to Arizona. When

Plaintiff said that yes, she had taken the plaque, as she had been instructed to do at the awards ceremony, Mr. Hartnett tersely demanded it be returned to Washington for hanging in the OPLA conference room. This interaction would portend how Plaintiff's receipt of the award would be treated in Plaintiff's performance appraisal for 2012 - 2013 – it was not even mentioned, despite Plaintiff's directing Ms. Hartnett's attention to it. The explanation from Ms. Hartnett for the omission of the award was that the award was to recognize work completed before the start of the rating period, October 1, 2012. However, this explanation defies logic. If this mean-spirited reasoning were applied to all end-of-rating-year national awards, they would never qualify for mention in a performance appraisal, either in the year when awarded, or in the year when "earned," as their existence could not have been known before the awards were announced. To fulfill OPLA leadership's scheme to misuse the performance appraisal system to paint a picture of Plaintiff as a "has-been" who could not adapt to change, and as a "difficult woman," it was necessary that Plaintiff's appraisal not reflect Plaintiff's positive contributions for the year, regardless of how significant they were.

38. Thanks, in part, to employing practices such as these over the past several years, the culture in OPLA has come to be what is often described ruefully by OPLA Chief Counsel, Deputy Chief Counsel, and HQ Chiefs in meetings and in private conversations with Plaintiff as "toxic." PLA Vincent, DPLA Ramlogan, and FLO Director Stolley, and the FLO Deputy Directors Hartnett and Downer, bear the greatest responsibility for this once-proud institution having lost its direction and its esprit-de-corps. Despite the posters furnished by OPLA Senior Leadership that are displayed in OPLA offices across the country, claiming that "OPLA" stands for the lofty principles of "Ownership," "Professionalism," "Leadership," and

"Accountability," the reality within the organization has been that rank and file employees are unhappy and their managers, by and large, are now dispirited, disempowered and disrespected, mostly due to their mistreatment by OPLA Senior Leadership. Nevertheless, Mr. Vincent and his intimate team take no responsibility for the dramatic collapse of morale, instead blaming the middle managers, such as the Chief Counsel, and issue draconian edicts designed to further disenfranchise the managers, and threaten to "fire" the long-time Chief Counsel being scape-goated.

39. The results of the Federal Government's "Employee Viewpoint Survey" (FEVS) come out every year around November or December. For at least the past several years, the Department of Homeland Security has ranked at the bottom of all departments in "employee satisfaction." That trend still continues. See http://www.govexec.com/pay-benefits/2014/10/five-agencies-where-moral-falling-fastest/97787/?oref=govexec_today_pm_nl. Within DHS, ICE enjoys the distinction of being ranked among the lowest of the DHS agencies. Within ICE, OPLA has ranked at the bottom or has been, at best, tied for the bottom, with Enforcement and Removal Operations (ERO), for the past several years. OPLA employees generally have a favorable opinion of their supervisors, but lack trust in their senior leadership. The 2012 FEVS results were very bad for OPLA in general, and in particular for, some of the individual field offices.

40. This prompted Mr. Vincent, Ms. Ramlogan, Mr. Stolley and the two Deputy FLO Directors to summon a female Chief Counsel and her female deputy to Washington for a "dressing-down" by all of them in early February 2013. At this meeting Mr. Vincent screamed at the Chief Counsel and her deputy. When the Chief Counsel tried to defend

herself by pointing out that her staff had given favorable marks to herself and her deputies, and had reserved their most scathing criticism for "senior leadership," Mr. Downer's angry retort was, "That's obviously because you haven't messaged it properly to your staff! Remember, it's rainbows and unicorns, baby, rainbows and unicorns."

41. In late February 2013, Plaintiff was contacted by telephone by Deputy FLO Director Hartnett and instructed to look favorably for prosecutorial discretion on immigration removal cases involving the lowest level of felony convictions for identity theft under Arizona law, those classified as "Class 6 Undesignated" felony convictions. This was a very significant development, as generally, criminal aliens, particularly convicted felons, are, under the Director Morton PD memos, "priority" cases that should be aggressively pursued. However, Ms. Hartnett explained that as these were "low-level" offenders and a conviction could be converted from a felony to a misdemeanor after the defendant successfully completed probation (hence, the "undesignated" nomenclature), and since the typical alien defendant convicted under these provisions of Arizona criminal law had simply been using a fake I.D. to get and keep employment, Plaintiff and her attorneys should look carefully at the individual's equities and consider their cases for "administrative closure," a term used to mean they would be taken off the docket indefinitely.

42. The decision to administratively close a case for PD involving a person who has been convicted of a felony that is classified as a "crime involving moral turpitude" by the Ninth Circuit Court of Appeals has serious implications besides appearing to be inconsistent with the "Morton PD Memos." Administratively, closing a case means the individual, who would otherwise be subject to "mandatory detention" in ICE custody, would have to be

released from custody. Although immigration judges have authority to reconsider the custody conditions of aliens in ICE custody, they do not have authority to do so regarding aliens who are subject to mandatory detention. Otherwise, decisions to hold or release an individual in ICE custody are made by Enforcement and Removal Operations, whose local leader is called the Field Office Director (FOD). Therefore, whenever a case such as this would receive favorable review for PD by Plaintiff and her staff, the FOD and his staff would have to be notified so the individual could immediately be released from custody. Thus, the "Arizona Identity Theft Initiative," as it came to be known, necessarily was a coordinated determination between the FOD and Plaintiff.

43. Unfortunately, the Phoenix FOD, initially Katrina Kane, and later, Jon Gurule, in working for a different chain of command than Plaintiff, received very different instructions than Plaintiff did from her chain of command on how to proceed on these cases. Plaintiff would eventually be instructed by Ms. Hartnett and Mr. Stolley to exercise PD in Arizona identity theft cases involving crimes that were classified as "Class 6 Undesignated," "Class 6 Designated," through "Class 4" felonies (where the presumptive sentence under Arizona law is 2.5 years in prison). The FOD, through his chain of command, was never authorized to release anyone from custody with an Arizona identity theft conviction more serious than the lowest level felony, a Class 6 Undesignated felony.

44. Ms. Hartnett's guidance to Plaintiff was all given orally. Ms. Hartnett's guidance to Plaintiff was constantly shifting and unclear. Plaintiff was never given enough background information from Ms. Hartnett about the basis for the initiative to be able to reason her way to a comprehensive protocol. Nevertheless, recognizing how sensitive these

cases were, Plaintiff would frequently be compelled to seek clarification of Ms. Hartnett's instructions. Ms. Hartnett grew increasingly impatient, and took to accusing Plaintiff of engaging in what she called "push-back." This word, "push-back," became the FLO managers' constant denunciation against Plaintiff. Ms. Hartnett would use the term "push-back" in telephone calls; so would Mr. Stolley and Mr. Downer. Ms. Hartnett used the word "push-back" multiple times in Plaintiff's mid-year progress review dated May 8, 2013 and her end-of-year appraisal on November 15, 2013, and in the lengthier version of her 2012 – 2013 appraisal issued to Plaintiff on March 13, 2014.

45. In the telephone call Ms. Hartnett held with Plaintiff on May 15, 2013 to discuss Plaintiff's mid-year progress review, Ms. Hartnett told Plaintiff that "Jim [Stolley] and Riah [Ramlogan] have the perception that [they're] getting a lot of push-back from you, an incredible amount of push-back…Even the smallest things, you give push-back." Ms. Hartnett explained that "other Chiefs ask questions; you engage in 'push-back.'" Plaintiff was never able to glean exactly how her efforts to obtain clarification of vague oral instructions was qualitatively different from what others would do in asking questions, but it is instructive to note that terms such as "push-back" are often used disparagingly by people who have no use for strong women or women who question authority, however politely. Other derisive terms used in this context are "uppity female," and "bitch."

46. The Arizona Identity Theft Initiative turned into an enormous undertaking for Plaintiff and her staff and the FOD and his staff, involving hundreds of cases. Ms. Hartnett and Mr. Stolley would eventually require that Plaintiff provide a daily report to them and Mr. Downer, listing every such case she had reviewed that day for PD, with a detailed summary

of the case's procedural history, the respondent's demographic profile, the circumstances that had given rise to the respondent's arrest and conviction for identity theft, the arresting agency, whether or not the false identity belonged to a real person, and whether or not that person had suffered any permanent loss due to the identity theft. Every daily report Plaintiff sent forward to Ms. Hartnett, Mr. Stolley and Mr. Downer was reviewed by the three of them and they would respond to Plaintiff, saying whether they agreed or disagreed with her assessment. In all but one case that Plaintiff reported, they were in agreement.

47. Throughout the remainder of the 2012 – 2013 rating year, Plaintiff personally reviewed 480 identity theft cases for PD, based on recommendations made by the attorneys on her staff at the two detention centers, but often only after she also had requested and reviewed police reports, pre-sentence reports, and other information. Plaintiff told Ms. Hartnett that her staff attorneys at Eloy and Florence were very concerned about associating their names with the decision to administratively close cases involving criminal convictions up to and including Class 4 felonies, so Plaintiff had advised them that she would personally take the responsibility for making the decision.

48. On April 15, 2013, FLO Director Stolley called Plaintiff and angrily rebuked her for having included the FOD in an email she had sent that day to Director Stolley and Deputy Director Hartnett seeking clarification of the instructions. Mr. Stolley told Plaintiff during this call that Deputy Principal Legal Advisor Riah Ramlogan thought her email was "disingenuous." Ms. Hartnett would later, on May 15, 2013, describe Plaintiff's email as "incendiary."

49. On April 16, 2013, FLO Director Stolley tried to get the ICE Office of Public Affairs to confirm his suspicion that Plaintiff had been aware but had failed to tell him about the publication by the Phoenix New Times of a negative news article about alleged collusion between ICE and the Maricopa County Attorney's Office in pursuing Arizona ID theft cases. Mr. Stolley asked both the Western Region's Public Affairs Officer and the Arizona Public Affairs Officer in an email "whether our OCC [Office of Chief Counsel, *i.e.*, Plaintiff] would know that this was coming out." Mr. Stolley was told explicitly by both PAOs that neither of them nor Plaintiff was aware of the article. Nevertheless, in a pattern that would become all too familiar, Mr. Stolley chided Plaintiff in an email for failing to advise him: "This story was sent by Main Justice to DHS, and Peter [Vincent] was asked about it and had me write up an explanation. It would have been much better to have known about it in advance." Plaintiff then told Mr. Stolley what he already knew, that she had had no advance knowledge of the story, but Mr. Stolley never acknowledged her response.

50. Keeping on top of the many, many Arizona Identity Theft PD reviews was no easy task, but Plaintiff and her team and the FOD and his team worked collaboratively, as they always did on joint endeavors, and managed together to create a process that kept their decisions out of the press, something that easily could have occurred given the nature of the undertaking.

51. By the middle of June 2013, Mr. Stolley and Ms. Hartnett finally withdrew the requirement that Plaintiff provide them daily reports of the Arizona Identity theft cases she had reviewed each day for PD. They admitted to Plaintiff in an email that "D1 [meaning then-Director Morton] is very pleased. Great job." This favorable judgment by the Director of the

agency about the Plaintiff's handling of a very politically sensitive, delicate task would never be reflected in Plaintiff's performance appraisal for 2012 - 2013, and instead, all references to the Arizona ID theft initiative were manifestly negative.

52. The FLO managers looked to find fault with Plaintiff in any way they could, no matter how petty. When Plaintiff sent Ms. Hartnett and Mr. Stolley her performance appraisal inputs for the first half of the 2012 – 2013 rating year, on March 28, 2013, Ms. Hartnett immediately forwarded them to Mr. Downer, copying Mr. Stolley, nastily saying, "Didn't I say double spaced and 12 pt font?" Indeed, such a restriction on performance appraisal inputs would have been even more absurd than the one that actually had been placed on Plaintiff and her fellow Chief Counsel, that their inputs could not exceed two pages, to describe their accomplishments as attorney-managers engaged in sophisticated legal activities over an entire six-month period. Since the employee's inputs become part of the appraisal record itself, even placing a page limit on an employee is a violation of federal employment law. Such a limitation, used as it has been by OPLA Senior Leadership, is a prohibited personnel practice, as the restriction is calculated to inhibit disfavored employees like Plaintiff from being able to make a case in their official personnel records for their own contributions and value to the organization.

53. As unreasonable and unfair as the interactions Plaintiff was subjected to by FLO Director Stolley and Deputy FLO Director – West, Hartnett, the most blatantly abusive pattern and practice of harassment of Plaintiff was delivered by Matt Downer, starting when he was Deputy FLO Director – East, even as Plaintiff remained under Sarah Hartnett's supervision. But Mr. Downer did not always treat Plaintiff with hostility. On December 20,

2011, Mr. Downer, then a junior Chief Counsel of the smallest office in the country, OCC Honolulu (with a staff of three attorneys), had emailed Plaintiff and her deputies, saying, "Thanks so much AZ! You all on this chain have assisted me so much in all the different jobs I have had in ICE, I deeply appreciate it."

54. However, once he was tapped by PLA Vincent for the position of Deputy FLO Director in March 2012, managing half of the 26 Chief Counsel in the country, without having to compete for the job, Mr. Downer's attitude towards Plaintiff changed dramatically. Mr. Downer's new attitude was displayed very clearly on March 22, 2013.

55. On that date, Plaintiff and her three Deputies were actively engaged in a very high profile, urgent undertaking from HQ – to prepare detailed summaries of all of the cases involving criminal aliens who had been released from the Arizona AOR during the days immediately preceding the anticipated federal government Sequestration in late February 2013 – the "Criminal Alien File Review Project." The Arizona ERO Field Office had released 30 such individuals, and had the second-most such releases of any AOR, after Houston. Congress had demanded to know exactly who had been released and what their precise criminal history was. Many of these released criminal aliens had immediately moved to other cities and states around the country, and when they did, their Alien files (A-files) moved with them to the offices in charge of their new homes. Without the files, complete information regarding the criminal and immigration history of the individuals who had moved was very difficult to come by.

56. Ms. Hartnett, who was Plaintiff's supervisor at the time, instructed Plaintiff that she was to reach out to the Chief Counsel in the gaining location to request necessary

information from the A-files, and to have it scanned and emailed so Plaintiff and her deputies could review it in their office in Phoenix. Plaintiff asked Ms. Hartnett if the process could be modified to have the Chief Counsel in the gaining offices, who now had direct access to the A-files, prepare the case summaries for those particular cases. Plaintiff told Mr. Hartnett that she was concerned about the high potential for error in the process as conceived. Ms. Hartnett was very terse with Plaintiff and told her the decision had been made to do it the way she had instructed and there would be no more discussion.

57. Plaintiff and her Deputies immediately set to work preparing the summaries, contacting Chief Counsel in the various gaining offices around the country for the missing material, and diligently preparing the summaries. After the project was well under way, with Plaintiff and her Deputies, and now two Senior Attorneys also enlisted, Ms. Hartnett called Plaintiff on the telephone inquiring, "How is it going?" Plaintiff explained the summaries were taking an inordinately long time to complete as many of the files that were available were voluminous, with lots of criminal records, and the absence of the other files meant Plaintiff could never be certain that she had all of the necessary information from the scanned and emailed documents. Plaintiff told Ms. Hartnett that she and her team had had to resort to frequent back-and-forth telephonic and email contact with the gaining Chief Counsel offices, just to ensure everything in the file that was relevant had been identified and sent on to Phoenix.

58. Plaintiff told Ms. Hartnett this slowed the process to the point that it was taking up to several hours to prepare each summary and at the rate they were going, they were not going to meet the deadline of Monday morning, despite the team working long into the nights

and even if they worked all weekend. Plaintiff asked Ms. Hartnett one more time if she would consider having the gaining Chief Counsel enlisted to assist, especially given how sensitive the project was. Ms. Hartnett then became incensed, saying the decision had been made, and rudely hung up on Plaintiff.

59. Not an hour later, Mr. Downer fired off to Plaintiff the first of a series of harsh, accusatory emails that would all be remarkably similar in style, weaving in purported "facts" that had no basis in reality, and making clumsily-associated references to the accusations as negatively implicating the performance appraisal "competencies." The first several of these emails, like this one, were sent by Mr. Downer when he was not even Plaintiff's supervisor. In the March 22, 2013 email entitled "Project," Mr. Downer, copying Mr. Stolley and Ms. Hartnett, admonished Plaintiff: "You are exercising poor judgment and being inefficient when you continue to revisit with both Mike and Sarah whether the releasing office or the office with the A-file handles the case after I explicitly told you the releasing office was handling the review. This is incredibly disappointing." He continued, "You are an experienced chief and I expect more of you. No other chief is providing this amount of pushback on this project and other chiefs have greater challenges than PHO is facing. We need you to step up and start exhibiting some independent decision making, tackle this project and minimize the multiple lengthy phone calls."

60. Mr. Downer's email then changed the subject, deriding Plaintiff about her handling of an Arizona Identity Theft case, completely mischaracterizing what had transpired. What had really happened was Plaintiff had asked Mr. Downer and Mr. Stolley a question by email about whether a Class 4 felony conviction would be eligible for

consideration for PD under the Arizona Identity Theft Initiative, since, up until this time, only Class 6 felonies had been included. Mr. Downer, however, described the transaction in his email of March 22, 2013 like this: "This also happened with G-, A XXXXXXXXX, where I instructed you to admin close the case. Then OCR represented to the Representative we would admin close and you wanted to revisit this on Friday night. I understand that you don't agree with many decisions, but you are part of a larger organization where it is imperative you carry out the instructions you receive. I get overruled, daily, and I roll with it. Please adapt to a more team player mode."

61. What Plaintiff didn't know at the time was that the G- case had been the subject of email traffic at HQ that reflected Mr. Downer had initially, on March 14, 2013, agreed with the decision by one of Plaintiff's attorneys at the Eloy detention center to deny PD. However, Mr. Downer was later persuaded to change his mind when he mistakenly concluded that G-'s Class 4 felony conviction (for which the presumptive sentence under Arizona law is 2.5 years) was less serious than a Class 6 felony, the lowest level felony under Arizona law. Mr. Downer explained his flawed reasoning to Mr. Stolley on March 15, 2013, "I said ok to deny PD, but I didn't realize it was a class 4 felony. I recommend reversing and admin closing or should we push forward because of the recent crime?" Mr. Stolley also failed to recognize that Mr. Downer had the Arizona criminal law structure backwards. Mr. Stolley responded to Mr. Downer by ridiculing Plaintiff and her office, saying, "Admin close. Why, as late as this week, would the ACC in Eloy decline PD? Why would Pat Vroom clearly approve declining to exercise PD in this case, even after getting [a Congressional] inquiry?"

62. Plaintiff was stunned by Mr. Downer's March 22, 2013 email, by its tone and content, but she did not dare attempt to defend herself. Plaintiff simply wrote back, "Thank you for your email. I will respond next week. Right now I'm focused on the project." Mr. Downer contemptuously replied, "I do not want a response. That's the point."

63. While Mr. Downer was telling Plaintiff that she was the only Chief Counsel who was not cooperating on the Criminal Release File Review Project, he was doing the same to Houston Chief Counsel Sabrina Gray, who also did not report to him, but, like Plaintiff, to Ms. Hartnett. Ms. Gray was seven months pregnant with her first child at the time. Like Plaintiff, Ms. Gray was tasked with completing the Criminal Alien File Review Project in an overly ambitious time frame. Houston had the most releases of all the AORs, 42. Ms. Gray had to cancel a long-planned trip with her husband to visit family, staying in the office one night until 4:00 a.m., and juggling appointments with her obstetrician due to health concerns associated with her pregnancy. Nevertheless, Mr. Downer criticized Ms. Gray for being too slow and too thorough in managing the project. When Ms. Gray attempted to defend herself, Mr. Downer gave lip service to her need to "take care of [herself] and the baby," but he made it clear the expectation was for her work product to be both perfect and timely, and stated, "Welcome to my world."

64. How Mr. Downer came to believe that he could treat experienced, previously well-respected OPLA managers like Plaintiff and Ms. Gray with such obvious contempt can perhaps be partly explained by a speech PLA Vincent would give some months later to a room full of OPLA attorneys and support staff who were attending a "Train-the-Trainer" class in Dallas, Texas the week of September 12, 2013. OPLA was, at the time, rolling out a

new electronic case management system called "PLAnet," an acronym for "Principal Legal Advisor's Net." These OPLA employees were being trained to teach other OPLA attorneys and support staff how to use the new system. Mr. Vincent gave the "leadership" remarks to the trainers. Mr. Vincent told the group he was very proud of the introduction of PLAnet, and that it represented change. Mr. Vincent described various other changes he had put into effect since he had become Principal Legal Advisor, including the comprehensive reorganization of the OPLA structure at HQ. Then Mr. Vincent turned his attention to OPLA leadership, proudly articulating his agenda: "I've fired Chief Counsel who have been sitting in their jobs for 20 years, doing nothing, and I will fire more!" Mr. Vincent's claim that he had "fired" Chief Counsel was odd, unless one counts the Los Angeles Chief Counsel, the Houston Chief Counsel, and the San Diego Chief Counsel, Mr. Soblick, who had all retired, albeit under duress, as those he had "fired." One had to wonder who the other Chief Counsel were that he already had plans to "fire."

65. Two members of Plaintiff's staff attended this training, and they both sat through Mr. Vincent's speech. They told Plaintiff when they returned to Phoenix they were not only shocked by Mr. Vincent's statements, but also by his tone. They told Plaintiff they had discussed between themselves how bizarre it was in the taxi cab ride to the airport afterwards.

66. Mr. Vincent also has a habit of disapprovingly referring to Chief Counsel Offices as "fiefdoms." Indeed, Mr. Vincent used that reference as recently as the week of September 15, 2014 in Los Angeles, California, to another room full of OPLA attorneys, this

time at the Experienced Attorney – 9th Circuit Training that some of Plaintiff's staff attorneys attended.

D. The Hostile Work Environment Continues in the Fall 2013

67. On September 16, 2013, Plaintiff was again subjected to abusive treatment by Mr. Downer by email. He was still not her supervisor. On that date, Plaintiff wrote to her supervisor, Ms. Hartnett, requesting a few days extra to turn in her performance appraisal inputs beyond the date Mr. Downer had just announced on a Chief Counsel Conference Call, September 30, 2013, the last day of the rating cycle. Plaintiff was about to leave for a long-planned two-week vacation to Europe and asked if she could have until a week after her return on October 4, 2013 to get them in – October 11. This requested time frame would have been completely normal for submitting performance appraisal inputs. This year, for example, the deadline was October 14, 2014. Ms. Hartnett responded within moments, copying Mr. Downer and Mr. Stolley, advising Plaintiff that her request was denied. Plaintiff immediately wrote back, saying, "Okay, thanks, Sarah. I'll do what I can." A few moments later, Ms. Hartnett inquired what it was that Plaintiff was working on the next two days that "Make it unable to finish?" (sic) In response, Plaintiff simply said she wanted to leave her deputies with a clean plate, and described some of the particulars. Ms. Hartnett came back, saying, "Please delegate what you can to ensure you get me what you want me to consider before you leave."

68. The next thing that transpired was very disquieting. Mr. Downer wrote, copying Mr. Stolley, but conspicuously "Dropping Sarah." Mr. Downer then launched into a hyperbolic email lecture: "For the seven years I have been with this agency, the performance

period has ended on Sept. 30. The timing of self-assessments should not be a surprise to an experienced manager such as yourself. Your request for an extension indicates to me a lack of vision and poor time management skills on your part. This is a lack of the core competency of leadership. Because of your lack of planning, you sought to saddle your supervisor with the burden of a compressed schedule to complete your performance review. I find that a lack of teamwork and cooperation, another core competency. I stated the obvious on Thursday about self-assessments and it appears you are just getting around to requesting this extension today, also apparent poor planning, and to me, this is an attempt to force Sarah's hand. I find Sarah having to tell you to delegate the projects below a lack of leadership from you. We have been talking docket efficiencies for a very long time now. If you decided to wait until now to come up with a plan, that is your responsibility to manage your time. I am concerned that this is a reflection of how you run your office."

69. Mr. Downer continued, "To succeed at the core competencies, in the future, please better plan these long term projects and don't uptask based on your poor planning." Plaintiff was about to leave for a vacation to Europe in two days, had already agreed to get the performance appraisal inputs to Ms. Hartnett before she left, and had not asked for help in managing her other commitments as Chief Counsel. Mr. Downer's words and accusations and the strained connections he was making between an innocuous request that would have been treated as a routine matter in the past and the "core competencies" in her performance appraisal were alarming and disturbing to Plaintiff.

70. The fact that Mr. Downer would "drop" her supervisor, but continue to include FLO Director Stolley, was confusing and led Plaintiff to conclude that she should not go back

to Ms. Hartnett about the matter as Mr. Stolley clearly condoned Mr. Downer's conduct. Plaintiff decided she had better do nothing to challenge Mr. Downer's accusations against her. She feared that if she did so, she risked having Mr. Stolley rescind her leave approval and then she would be faced with losing the $10,000 she had invested in the trip, and more importantly, ruining the vacation plans of the three other people who were to accompany her. Plaintiff wrote a benign message back to Mr. Downer and Mr. Stolley, offering thanks for the observations and saying that she would prepare the inputs in a timely fashion.

71. Plaintiff did get her performance appraisal inputs to Ms. Hartnett before she left on vacation, on September 18, 2013, but noted she had gone over the recently-imposed two-page limit by two lines. Ms. Hartnett, Plaintiff's supervisor, responded immediately, saying, "Great. Thank you." Nevertheless, Mr. Downer, who Ms. Hartnett had copied on her response, then stepped in, and angrily rebuked Plaintiff, "We aren't reading the last two lines. Come on."

72. During Plaintiff's European vacation, from September 19, 2013 through October 4, 2013, her deputy, Arnold Eslava-Grunwaldt, served as Acting Chief Counsel in her stead. FLO Director Stolley and the two Deputy Directors, Hartnett and Downer, took this opportunity to mercilessly hound Mr. Eslava-Grunwaldt about the local mileage claims the three attorneys in the Tucson office had been making for their trips between the office and the immigration court, and about the Tucson attorneys' judgment with respect to their review of cases for prosecutorial discretion. Mr. Stolley had concluded that the Tucson attorneys were enjoying a "milk train on mileage" of "thousands of unearned dollars for ACCs [Assistant Chief Counsel]." Although the local mileage issue first arose a few days before

Plaintiff was to leave for her vacation out of the country, and Mr. Stolley never requested or had knowledge of the actual total expenditure associated with this local travel, he insisted that the matter be addressed by Mr. Eslava-Grunwaldt during Plaintiff's absence. Mr. Stolley made demands that caused all of the Tucson attorneys to feel disrespected and become demoralized, and led them eventually to file a Union Grievance.

73. Plaintiff was able to resolve the Grievance upon her return, and working with the Union, found mutually acceptable ways of saving mileage costs without compromising the Tucson attorneys' ability to effectively litigate their cases in court. A significant concern of the attorneys had been that if they could not go to the office to retrieve their A-files before court, they would not have all of the information they would need to properly litigate the cases. Union President Fanny Behar-Ostrow wrote to Plaintiff on January 16, 2014, saying, "I really appreciate the positive relationship that we have forged and your willingness to work with us to find a workable solution to the issues that the Tucson OCC attorneys are facing."

74. The other issue of mismanagement that FLO Director Stolley thought he had identified during the heated back-and-forth with Mr. Eslava-Grunwaldt about the Tucson mileage claims was the judgment calls the Tucson attorneys were making about the exercise of prosecutorial discretion. Mr. Stolley had one case come to his attention, the W- case, because a Tucson ACC had used it to explain why she needed to go to the office before court to retrieve the A-files for the cases on the docket that day. This particular case had a relief application filed by the respondent that amounted to some 600 pages of material, and the ACC had described how she could not competently litigate the case without the A-file because she was not able to pull it up on line while in court in the GEMS case management

system (the predecessor to PLAnet), because of connectivity issues and the document's size. Mr. Stolley concluded on September 23, 2013 that "if the ACCs there are unable to see this case for what it is, I shudder to think what they're doing on all the rest."

75. The attorney handling the case attempted to explain her litigating strategy regarding the case, involving an alien respondent who had registered to vote, not once, but twice, both times falsely claiming to be a U.S. citizen. Mr. Stolley, however, concluded in an email to Mr. Eslava-Grunwaldt and the other Phoenix deputies on September 24, 2013: "PHO: She is so wrong on so many levels that I don't have a response right now. Sarah will speak with Arnold tomorrow. It is abundantly clear that, notwithstanding two years of discussing PD, priorities, and efficiencies with the field, Tucson needs comprehensive correction." Having discovered one case that he thought had not been properly assessed for PD, Director Stolley then ordered Mr. Eslava-Grunwaldt to conduct a comprehensive re-review of every single case on the Tucson docket, all 1831 cases.

76. On October 1, 2013, Ms. Hartnett and Mr. Downer switched their regions of oversight – Ms. Hartnett was now Deputy FLO Director – East, and Mr. Downer was now Deputy FLO Director – West. This meant Mr. Downer was now officially Plaintiff's supervisor. When Plaintiff returned home after her vacation on October 4, 2013 she learned that she had been furloughed due to the federal government shutdown. Because of administrative requirements, Plaintiff would not be allowed to return to work until a week later.

77. As soon as Plaintiff was able to return to the office she discovered the Tucson mileage issues had exploded into a serious controversy, and Deputy Chief Counsel Eslava-

Grunwaldt had been ordered to review all of the pending Tucson cases. Plaintiff herself then began being hounded by Mr. Downer about the W- case. Mr. Downer demanded to know what Plaintiff was going to do to resolve it. When Plaintiff proposed that she offer to stipulate to a grant of relief for the alien in the form of Cancellation of Removal, since the respondent had already been found to be removable for her false claims to U.S. citizenship, Mr. Downer responded by email on October 28, 2013, tersely saying, "Think again." Realizing she had not arrived at the "correct" answer as to how she should apply "prosecutorial discretion," Plaintiff then suggested the case be dismissed without prejudice, to which Mr. Downer replied, "Agreed."

78. Nevertheless, several hours later, Mr. Downer again wrote to Plaintiff about the W- case. He said, "Re reading this – dismiss with prejudice." This instruction was legally unjustifiable and arguably unethical. No reasonable government attorney would unnecessarily prejudice his or her prosecuting client's interests by requesting that a court dismiss a matter with prejudice when it could be, and normally would be, dismissed without prejudice. The governing regulation dictates that such dismissals are without prejudice. The significance of this irresponsible instruction which was clearly motivated by Mr. Downer's pique, rather than any reasoned professional judgment, is no small matter.

79. If the respondent in the W- case were later to be implicated in criminal activities, and had the case been dismissed with prejudice, the Department of Homeland Security would have been forever precluded from bringing the removal case against W- again in immigration court on the same, legally sound, charges.

80. When Ms. Hartnett issued Plaintiff's appraisal to her on November 15, 2013, the W- case was listed to establish Plaintiff's "staff ha[d] not embraced prosecutorial discretion," and it was mentioned three times for the same reason in the lengthier appraisal narrative Ms. Hartnett issued to Plaintiff on March 13, 2014. Indeed, in the lengthier version of the appraisal, Ms. Hartnett went so far as to claim that the case was "legally weak." There is no basis for the assertion the case was legally weak.

81. On October 29, 2013, Plaintiff was preparing for a very important video teleconference with PLA Vincent, DPLA Ramlogan, FLO Director Stolley, and Deputy FLO Directors Hartnett and Downer, along with all of her deputies and the Chief Counsel and deputies from the San Antonio OCC and the San Francisco OCC. All of the field managers from the three offices were to be on display, demonstrating the depth and breadth of their knowledge of their respective AORs for the senior leadership in OPLA. Plaintiff had been preparing for days, mastering the relevant metrics and readying herself to perform under the spotlight.

82. Early that morning, before the call, Plaintiff received another harsh, bullying email from Mr. Downer. This time, Mr. Downer reproached her for having sent him by email some information about her office's staffing rather than uploading it to Sharepoint in something called the "FLOSS Report." Plaintiff had explained in her email there was a problem with accessibility to the FLOSS Report, so she had not been able to make the changes there, and that her office had previously provided the information to a Management Program Analyst in Dallas named Holly Taylor. Plaintiff had explicitly noted she was not blaming Ms. Taylor for the fact that the report had not been updated with the information.

Mr. Downer's email mischaracterized Plaintiff's email, accusing her of finding fault with Ms. Taylor, and then launched into a completely unfounded accusation about Plaintiff's management of her office, and again parroted language from the performance appraisal competencies.

83. Mr. Downer intoned, "Holly was single-handedly tackling furlough issues. And besides that, the OCC should be updating the report on SP. I hold you responsible for this. You should care more about your office's numbers than me or holly. (sic) Having said that, I will get the right numbers before leadership. I have to say that I expect when your ACCs or support staff also make mistakes, you and your management team clearly and respectfully sets expectations and helps find solutions. I have heard for years that this is not how missteps are handled in Arizona. Please ensure that my information is outdated." Mr. Downer copied Plaintiff's three deputies and Ms. Taylor with his scolding of Plaintiff.

84. Mr. Downer was aware at the time he wrote to Plaintiff that the FLOSS Report was unavailable on Sharepoint. Mr. Downer had, in fact, just advised another Chief Counsel that he was aware of the problem. Mr. Downer also knew there was no basis to allege that Plaintiff had not properly treated her staff. Mr. Downer's message to Plaintiff was in bad faith, but that did not deter him from forwarding it to Mr. Stolley and Ms. Hartnett a minute later, feigning regret that he had had to admonish Plaintiff. He lamented to his compatriots, "I really do not enjoy this." Plaintiff would eventually refute all of Mr. Downer's accusations and demonstrate his bad faith in an email response that she made, copying Deputy Principal Legal Advisor Ramlogan and Peter Mina, Chief Labor and Employment Lawyer for ICE, after she filed her EEO complaint on November 18, 2013. Plaintiff did not dare challenge

Mr. Downer at this point, though, and did her best to regain her composure and prepare for the video teleconference.

85. The video teleconference went very well and Plaintiff and the other two Chief Counsels received many accolades afterwards from PLA Vincent, and from FLO Director Stolley, both directly, by email, but also at the HQ Chiefs Meeting. When PLA Vincent told all of the HQ Chiefs the three field Chiefs had performed well on the video teleconference, DPLA Ramlogan immediately commented to the group, "Yes, but that's only because Matt [Downer] prepared them so well. He should get all the credit."

86. One thing about the video teleconference that gave Plaintiff concern was Mr. Stolley's use of profanity during the call. This was a practice that was very common for Mr. Stolley, in business-related phone calls with Plaintiff and other employees, and in the weekly "Chief Counsel Conference Calls" that he hosted. On the video teleconference on October 29, 2013, as Mr. Stolley and DPLA Ramlogan and his two Deputy FLO Directors entered the conference room in HQ, Mr. Stolley loudly said to one of the other female Chief Counsel who was present with her deputies, and for all of the rest of the attendees to hear, "Pay no attention to that attorney! He's an asshole! He's a dick." It has been very clear to Plaintiff from her frequent interactions with Mr. Stolley that he would not have countenanced a response in kind from Plaintiff or any other subordinate.

87. Plaintiff received additional unfair accusatory emails from Mr. Downer. On October 31, 2013, Mr. Downer wrote to chide Plaintiff because HQ had been contacted about some Arizona cases by an Arizona Congressman. Mr. Downer complained, "These elevations past the OCC are only consistently happening in one other OCC sub office." Plaintiff

investigated and learned that ICE then-Director Sandweg had met the Congressman and they realized they had gone to law school together. Director Sandweg had then instructed the Congressman to contact him directly with any cases of concern. Plaintiff explained all of this to Mr. Downer in an email, but he never acknowledged her message.

88. On November 5, 2013, Mr. Downer emailed Plaintiff about a Deferred Action for Childhood Arrivals (DACA) applicant, P-D-, who had been found ineligible by U.S. Citizenship and Immigration Services (USCIS), another DHS agency, because of an Arizona ID theft conviction. Mr. Downer did not tell Plaintiff the case had been discussed at the highest levels of government. In fact, the case had been discussed in a conference call on August 16, 2013 among the DHS Principal Deputy General Counsel, the USCIS Chief Counsel, his Deputy, ICE Principal Legal Advisor Peter Vincent, his Deputy, Ms. Ramlogan, Mr. Stolley, and others. These high-ranking DHS, USCIS, and ICE attorneys had convened the call to grapple with what they all agreed was the very difficult question of whether or not a conviction for Arizona identity theft would render P-D- and others ineligible for DACA. When Mr. Downer emailed Plaintiff on November 5, 2013, he demanded to know why she had not been able to persuade her Field Office Director to cancel the Notice to Appear (NTA - immigration court charging document) in the P-D- case.

89. Plaintiff told Mr. Downer on email the FOD had support from his ERO chain of command for not cancelling the NTA, at which point Mr. Downer became angry and asked her accusingly in an email, “And what’s your recommended course of action for this case? And generally to rehab your broken relationship with ERO generally?” (sic) Plaintiff told Mr. Downer she had a wonderful relationship with ERO and given the fact that the FOD had

HQ ERO's support for his decision, she believed the matter could best be handled at the HQ level between OPLA and ERO, especially since it has arisen as a HQ issue. Mr. Downer replied, "No way. Keep it local Pat. Figure it out."

90. Immediately thereafter, Mr. Downer called Plaintiff on the telephone and shouted at her: "You are watering down the Chief Counsel brand! You need to be more 'muscle-y!' Just threaten the FOD that you won't prosecute his cases if he doesn't cancel the NTA. If that doesn't work, then beg!"

E. The 2012-2013 Performance Appraisal

91. On November 15, 2013, Ms. Hartnett called Plaintiff on the telephone. While Ms. Hartnett was no longer Plaintiff's supervisor, she was in the process of completing the performance appraisals for the West Chiefs, for which she was the "Rating Official," and the West Deputies, for which she was the "Reviewing Official," for the 2012 – 2013 rating year. Ms. Hartnett told Plaintiff that she was unwilling to sign off on the appraisals Plaintiff had written for her three deputies, wherein Plaintiff had painstakingly documented their many achievements for the year, because they were "too high." Ms. Hartnett refused to discuss the particulars. By the end of the call, Ms. Hartnett was shouting at the Plaintiff. She said sarcastically to Plaintiff, "So, you want me to go line by line with you over these appraisals?" Plaintiff told her that she simply wanted to have a principled discussed about where Ms. Hartnett found her justifications insufficient for the ratings she had assigned the deputies. Plaintiff pointed out the ratings were consistent with the ratings Ms. Hartnett had signed off on the year before for Plaintiff's deputies, without any challenge. Shortly thereafter, Ms. Hartnett sent Plaintiff an email, apologizing for the tone of the call, including a list of 21

other Deputy Chief Counsel ratings, and attaching Plaintiff's own appraisal, written by Ms. Hartnett as rater and Mr. Stolley as reviewer, saying tersely, "This may give you food for thought."

92. Plaintiff's rating for 2012 – 2013 was **3.53** on a **5.0** scale, on the very edge of the bottom range of the category, "Exceeds Expectations." Five of seven Competencies and one of three Goals were rated at the "3" level. The appraisal reflected a downward departure from even the low rating of the year before in every single one of the three Goals and every one of the seven Competencies, except one. There was a downward departure of two whole grades from the preceding year in "Customer Service" and "Technical Proficiency," from "5" to "3." Plaintiff received from Ms. Hartnett and Mr. Stolley a "3" in "Communication," "Customer Service," "Technical Proficiency," "Assigning, Monitoring and Evaluating Work," and "Leadership."

93. By stark contrast, in Plaintiff's appraisal for 2011, Mr. Stolley and Ms. Ramlogan had given Plaintiff a "5" in every single Goal and every single Competency except one, for which she received a "4". To justify these startling ratings, Ms. Hartnett and Mr. Stolley wrote a mere one paragraph. They made no effort to address each Goal and Competency. Significant achievements for the year were listed by Ms. Hartnett and Mr. Stolley in a sentence or two. The majority of the brief narrative was devoted to listing Plaintiff's alleged short-comings.

94. In fact, Plaintiff's office was way out in front of the rest of the country in its implementation of PLA Vincent's biggest initiative for the year, the roll-out of the "Full Service Legal Model," including both support to Homeland Security Investigations, and the

Labor and Employment Law component. This very significant achievement was only acknowledged in passing. Other significant achievements were not listed at all, like the Plaintiff's receipt of the OGC Award of Excellence. In making their determination to drop Plaintiff two grades in "Customer Service," Ms. Hartnett and Mr. Stolley failed to exercise due diligence as supervisors. They never reached out to Plaintiff's clients, the Special Agent in Charge and the Field Office Director, to ask them for their thoughts about Plaintiff's support during the year. In the appraisal narrative, Ms. Hartnett and Mr. Stolley did not even try to explain why they dropped Plaintiff two grades in "Technical Proficiency."

95. In Plaintiff's appraisal, Ms. Hartnett and Mr. Stolley ridiculed Plaintiff's description of the Arizona Identify Theft Initiative as "extremely challenging" and "overwhelming," saying that it was, instead, "really a simple exercise in prosecutorial discretion." Former ICE Director Morton's Prosecutorial Discretion Guidance explicitly stated that aliens with felony convictions were a "priority" for enforcement. No other Chief Counsel was tasked with exercising prosecutorial discretion in cases involving respondents subject to mandatory detention due to their convictions for felony crimes involving moral turpitude. A "simple" exercise in prosecutorial discretion would have led to the conclusion that virtually all of the aliens convicted of Arizona identity theft crimes were ineligible for favorable consideration under the Morton Guidance. The parameters of the Arizona Identity Theft Initiative were never reduced to writing by anyone in OPLA leadership, ICE leadership, DHS leadership, or anyone else in a position of authority over Plaintiff. The instructions to Plaintiff and her staff regarding the Arizona Identity Theft Initiative were all given orally.

Each time Plaintiff tried to get clarification of the guidance regarding the Arizona Identity Theft Initiative, she was accused of engaging in "push-back."

F. Disparate Treatment Due to Gender and Age

96. Plaintiff was targeted for abusive treatment by OPLA leadership, namely Mr. Vincent, Ms. Ramlogan, Mr. Stolley, Ms. Hartnett and Mr. Downer, because she was a "long-serving Chief Counsel," as Plaintiff's 2012 – 2013 appraisal narrative called her.

97. Plaintiff was also targeted for abusive treatment by OPLA leadership because she is a woman. Since December of 2011, when Plaintiff's abuse began, a distinct difference in treatment has been shown by OPLA senior leadership towards male Chief Counsel (except the senior ones, who were targeted for harassment for that reason alone) and female Chief Counsel. Males have been shown favored treatment in the way they are described by FLO Director Stolley on Chief Counsel Calls and in other ways, tangible and intangible. The achievements of male Chief Counsel are disproportionately applauded by Mr. Stolley and the other FLO managers, and Ms. Ramlogan and Mr. Vincent.

98. For example, Plaintiff was given harsh criticism in her May 8, 2013 progress review and her November 18, 2013 performance appraisal by Ms. Hartnett and Mr. Stolley for having engaged in various "inefficient practices until instructed otherwise, such as lengthy case summaries that your attorneys did in Tucson…" However, in 2014, a male Assistant Chief Counsel in the St. Paul, Minnesota Office of Chief Counsel was selected by Mr. Vincent, Ms. Ramlogan, and Mr. Stolley for a Principal Legal Advisor Award for doing exactly the same thing, creating a compendium of case summaries.

99. Female Chief Counsel, including Plaintiff, have been shown disfavored treatment, and have been treated to private and public scorn and derision by all five of the OPLA leadership. Ms. Ramlogan, who has a reputation for being routinely harsh and dismissive in her dealings with subordinates, has reserved her most withering scorn in meetings and on conference calls for female Chief Counsel. One notorious example occurred during the third week of March 2014, when she screamed at and otherwise humiliated and ridiculed a female Chief Counsel in a conference call with several other OPLA managers and the Chief Counsel's own deputies.

100. Mr. Vincent has also subjected female managers to harsh public humiliation. In early January 2013, during a "Hot Litigation" briefing he presides over from HQ with participants in the room and around the country appearing by telephone, Mr. Vincent was abusive to a female Deputy Chief Counsel, who was serving as Acting Chief Counsel at the time. This female Deputy was slated to participate on the Hot Litigation call to discuss one particular case. However, once the female Deputy was introduced, Mr. Vincent immediately demanded she answer questions about another case, one she hadn't been prepared to discuss, and that, because of its complexity, had its own HQ point of contact. When the female Deputy Chief Counsel admitted she didn't know the answer to the very arcane question Mr. Vincent had posed to her, he scornfully stated for all to hear, "This is the biggest case ever in OPLA! How dare you not know anything about it?"

101. Mr. Vincent mistakenly thought he was addressing the actual female Chief Counsel, not her surrogate, because he called her the incumbent's name. A HQ manager at the meeting told Plaintiff, "The Hot Lit has become an Inquisition."

102. Mr. Vincent has a long history of failing to respect the boundaries of females with whom he works, and more recently, over whom he has authority. As early as May 2006, at an OPLA National Security Law Division training conference, in San Diego, California, Mr. Vincent made unwelcome advances towards a female Deputy Chief Counsel. Mr. Vincent was, at that time, an Assistant Chief Counsel in the San Francisco Office of the Chief Counsel. Failing to recognize that his advances were unwelcome, Mr. Vincent persisted through the week of the conference to pursue the Deputy Chief Counsel, including seating himself next to her during a training break-out session, whispering in her ear, and pairing her first name with his last name. The Deputy Chief Counsel was uncomfortable with Mr. Vincent's continued advances and made efforts to avoid him during the remainder of the conference, especially after she learned Mr. Vincent had a girlfriend at the time, and the girlfriend was to be joining him for the weekend, after the conference concluded. The Deputy Chief Counsel shared information about this experience with now-ICE Deputy Director Dan Ragsdale the following week.

103. When Mr. Vincent was named Principal Legal Advisor in 2009, the Deputy Chief Counsel reminded Mr. Ragsdale about Mr. Vincent's unwelcome advances toward her in 2006 and told him she was very uncomfortable that Mr. Vincent was now in charge of OPLA, because she would now be his subordinate. Mr. Ragsdale told the Deputy Chief Counsel he had not seen any indication of similar conduct on Mr. Vincent's part since his arrival at HQ.

104. In November 2011, a young female ICE employee started to receive unwelcome advances from Mr. Vincent on email. Mr. Vincent was married by this time. The

female employee received one particular email from Mr. Vincent that said, "I can't stop thinking about you." This email was sent from Mr. Vincent's government email account to the young female employee's government email account. The female employee was very uncomfortable with Mr. Vincent's attentions and not sure how to stop Mr. Vincent from pursuing her, so she reached out to a third party, who, in turn, contacted Plaintiff for advice. Plaintiff helped the third party craft a response to Mr. Vincent's email that would be sufficiently ego-deflating that he would henceforth leave the young female employee alone. The response they created was, "Please leave me alone, Peter. You are old enough to be my father." The young female employee sent the proposed response to Mr. Vincent and he did, thereafter, leave her alone. In November 2013, Plaintiff learned that Mr. Vincent was under investigation for "inappropriate relationships."

105. The OPLA Senior Leadership has also disfavored women who are or could become mothers of young children. In 2009, DPLA Riah Ramlogan was in serious discussions with a single female attorney-manager about that attorney working remotely for Ms. Ramlogan from another city. Ms. Ramlogan eventually told the attorney, however, she had decided not to offer her such an option because if she selected her for the position, she would eventually get married, have children, and want to work part-time.

106. A long-time, retirement-eligible female Chief Counsel has been placed by Mr. Stolley, Mr. Downer and Ms. Hartnett in the humiliating position of having the attorney on her staff who provides advice to the Special Agent in Charge stripped from her supervision and placed under the supervision of a male Chief Counsel in another AOR. Now, the Special Agent in Charge goes directly to the male Chief Counsel for legal advice rather than to her.

This long-time, retirement-eligible female Chief Counsel has been made to feel like she has been demoted to Assistant Chief Counsel.

107. Two female Chief Counsel were given unduly scathing Letters of Counseling by Mr. Downer in 2013 for their alleged missteps in their handling of national security cases.

G. Plaintiff Files an EEO Complaint on November 18, 2013 and The Hostile Work Environment Continues

108. After Plaintiff received her final 2012 – 2013 appraisal from Ms. Hartnett by email, with the message, "This may give you food for thought." Plaintiff tried to make sense of the situation she found herself in. Having received a "career-destroying" appraisal, Plaintiff felt it was crucial that she defend her deputies from a similar fate.

109. On November 18, 2013, Plaintiff wrote back to Ms. Hartnett for some explanation of what Ms. Hartnett had meant to communicate to her about the deputies' appraisals. Ms. Hartnett forwarded the message to Mr. Stolley and Mr. Downer. Mr. Stolley then reproached Plaintiff, "Do not uptask Sarah. I believe you have had enough input from Sarah about ratings…"

110. On that same date, November 18, 2013, Plaintiff filed her EEO complaint against Mr. Stolley, Ms. Hartnett, and Mr. Downer. Plaintiff would later add Ms. Ramlogan and Mr. Vincent.

111. On November 19, 2013, Plaintiff sent an email to PLA Vincent, DPLA Ramlogan, FLO Director Stolley, and Deputy FLO Directors Hartnett and Downer, advising them she had filed an EEO complaint against the FLO management team. That same day, DPLA Ramlogan called Plaintiff. Plaintiff and Ms. Ramlogan ended up talking on the

telephone for an hour. Ms. Ramlogan told Plaintiff she was "flabbergasted and appalled" by what Plaintiff described had been happening to her at the hands of the FLO managers, and by what Plaintiff told her had been happening to other female Chief Counsel, as well. Ms. Ramlogan reproached Plaintiff for not coming to her sooner.

112. Plaintiff explained, "But Jim, Matt and Sarah have told me that you and Peter were in agreement with what they were doing." Ms. Ramlogan assured Plaintiff she had not known anything about the abusive treatment to which Plaintiff had been subjected, and she would not have condoned it if she had. Ms. Ramlogan told Plaintiff, "I can't ignore this; I can't push this under the rug." Plaintiff told Ms. Ramlogan that one aspect of Mr. Stolley's abuse of Plaintiff and others was his frequent use of profanity, including on the weekly Chief Counsel Conference Calls he hosts. Ms. Ramlogan said she was unaware that Mr. Stolley used profanity in these contexts. Plaintiff reminded Ms. Ramlogan that she had been present when Mr. Stolley had just done this at the video teleconference on October 29, 2013. Ms. Ramlogan then promised she would put an "immediate stop" to this practice.

113. Plaintiff offered to send Ms. Ramlogan an example of Mr. Downer's abusive emails. Ms. Ramlogan said she would show the abusive email to Mr. Vincent. Plaintiff sent Ms. Ramlogan the "Dropping Sarah" email, along with her comments demonstrating how disingenuous the content of the email was. At the end of the call, Plaintiff and Ms. Ramlogan discussed convening a meeting with Mr. Vincent and Ms. Ramlogan, Plaintiff, and any other Chief Counsel who wanted to participate to air their concerns. Plaintiff insisted Mr. Stolley not be included. The called ended with Ms. Ramlogan promising to call again the next day, after she had had a chance to talk with Mr. Vincent. Ms. Ramlogan had said to Plaintiff

during the call, "If you are the Pat Vroom I know, you're going to want to help me fix this." Plaintiff was elated and thought that finally, something would be done to stop the abuse.

114. Ms. Ramlogan did call Plaintiff on November 20, 2013, as promised. Again, Plaintiff and Ms. Ramlogan talked for an hour. Ms. Ramlogan told Plaintiff that she and Mr. Vincent had found Mr. Downer's email "a little disturbing." Ms. Ramlogan said it would be hard to persuade Mr. Vincent to exclude Mr. Stolley from the meeting. Plaintiff told Ms. Ramlogan that it was non-negotiable, that she would not participate in a meeting if Mr. Stolley were present. Ms. Ramlogan seemed to Plaintiff to have a different perspective on the issues than she had the day before, especially when she said, "Jim [Stolley] says that he doesn't have these problems with 21 other Chief Counsel." Ms. Ramlogan also described the situation as a "he said-she said." At the end of the call, Plaintiff agreed to a meeting, without Mr. Stolley, but with Ms. Ramlogan and Mr. Vincent, and any other Chief Counsel Plaintiff could persuade to participate.

115. The meeting was to be two weeks later, in Dallas, rather than Washington, because Ms. Ramlogan didn't want to "stir the rumor mill" by holding it at HQ. Plaintiff spent a sleepless night, thinking about the change in Ms. Ramlogan's tone from the first call to the second. Plaintiff reluctantly concluded that Ms. Ramlogan and Mr. Vincent were not acting in good faith, and that a meeting with them would just be an opportunity for them to put the lid on Plaintiff's complaints without rectifying the situation. Plaintiff also believed she would not be able to persuade any other Chief Counsel to participate in the meeting without any protections in place.

116. On November 21, 2013, Plaintiff again contacted Ms. Ramlogan by email, copying Mr. Mina, the Chief Labor and Employment Lawyer for ICE, and explained why she had reluctantly decided not to participate in the meeting in Dallas as it was currently conceived. Plaintiff told Ms. Ramlogan, however, that she believed Mr. Vincent should immediately appoint an independent fact-finder to conduct an investigation of Plaintiff's allegations against the FLO managers, and that participants should be provided confidentiality so they would not face reprisal. Mr. Vincent never appointed an independent fact-finder.

117. On November 22, 2013, Ms. Hartnett sent Plaintiff her deputies' signed performance appraisals, exactly as Plaintiff had rated them.

118. On Saturday, November 23, 2013, Plaintiff received another groundless, abusive email from Mr. Downer. Again, Mr. Downer drew strained connections between petty matters and Plaintiff's performance appraisal competencies. Mr. Downer's message began, "I want to be clear in my expectations of a chief counsel so that you can be successful. It came to my attention that Ania calls you Ms. Vroom, as referenced in the email below. When I called Ania yesterday to discuss the substance of the email, I told her that just like she calls me Matt, to call you Pat. Ania says she doesn't feel comfortable calling you Pat. She seemed very troubled and said she didn't want to talk about it. She did say she was the only one required to call you Ms. Vroom."

119. Mr. Downer then drew wildly irrational and unfounded conclusions from his observation that Ania, who had worked with Plaintiff for over 20 years, and whose manner of addressing her managers was a reflection of her British upbringing, addressed Plaintiff by her

surname in the office: "This raises a concern about the type of environment you are fostering in your office. I am sure there is a lengthy and complicated backstory. But, the bottom line is that either you don't treat her as a valued member of the team or she doesn't feel valued. Either way, I hold you accountable. Being addressed so formally is also wildly out of step with other Chiefs and HQ. Peter, Riah, Jim and I go on a first name basis with the team and we all have much more responsibility than you."

120. As he had done so many times in the past, Mr. Downer then tied his strained logic to the performance appraisal competencies: "This implicates the core competencies of communication, teamwork and leadership. Please have your team refer to you by your first name." Again, as in the past, Mr. Downer then warned Plaintiff that if she did not cease the misconduct he had accused her of, he would take action against her: "Although implicit, I instruct you to treat all of your team in a pleasant demeanor and a professional way, including Ania. If that is not done, I will, as I do with all the other chiefs, hold you accountable." Mr. Downer had no basis in fact to accuse Plaintiff of mistreating her employees.

121. Then Mr. Downer turned to Plaintiff's email communications with Ms. Hartnett about her deputies' appraisals. He stated, "Also concerning is your email to Jim, Sarah and me directed to Sarah about your DCC ratings. This was a rude and disrespectful email where you assigned Sarah the task of going line by line on these reviews." Mr. Downer knew Plaintiff had written only to Ms. Hartnett. Mr. Downer knew Plaintiff's email was not rude or disrespectful. Mr. Downer knew Plaintiff's email did not request that Ms. Hartnett go "line by line" over the deputies' appraisals. Mr. Downer then lectured Plaintiff: "To demand this kind of attention indicates to me a self-centered arrogance and a failure to have a broad view

of the program and realization that you are one of 26 chiefs. Sarah is an experienced litigator and manager, so she can handle rude language. However, if you are comfortable addressing your leadership this way, this gives me great concern about the environment you promote in your office. Again, ensure your communication with others is in a professional demeanor. Please have an OPLA-wide vision." Mr. Downer knew Plaintiff's email was completely professional in tone and content. Mr. Downer knew these admonishments were not justified by Plaintiff's email, either its content or its tone.

122. Mr. Downer then addressed Plaintiff's telephone-answering skills: "Additionally, I have noticed since you have reported to me that you do not identify yourself when you answer the phone. As I call from a blocked number at headquarters, you don't know who is calling. When you answer the phone, either identify yourself or the organization. This is a basic concept of professionalism and of the core competency of communication. This also waters down the brand of Chief Counsel. I know ensuring that Chief Counsel are respected has been a very important topic to you over the years in the form of SES status. As you know, we can't get there now with SES slots, so we need to earn respect in other ways. I instruct you to answer the phone in a professional manner by identifying yourself or the organization when you do not know who is calling. Every other chief gets this right. I am surprised you do not." Mr. Downer finished his lecture with the following: "Taking these steps will help rehabilitate your standing with your team, your colleagues, the client and headquarters and move you toward achieving excellence in this rating period."

123. Plaintiff responded to Mr. Downer's email on November 25, 2013, refuting all of his allegations. She copied Ms. Ramlogan and Chief Labor and Employment Lawyer Mina on her response. Plaintiff filed a retaliation complaint on December 2, 2013 as a result of this incident.

H. The 2012-2013 Appraisal Narrative Becomes Even More Negative after Plaintiff Filed Her EEO Complaint

124. On December 17, 2013, Ms. Hartnett agreed she would provide Plaintiff with a detailed written justification for her rating for the 2012 – 2013 year.

125. On January 16, 2014, PLA Vincent announced he had selected Matt Downer as his Chief of Staff, saying, "Once again, I have asked Matt to serve, at great personal sacrifice, as OPLA's Chief of Staff, and I know that he will be incredibly effective in his role, as he has been throughout his years with OPLA." Mr. Vincent selected Mr. Downer for Chief of Staff without having announced the position, and without Mr. Downer having had to compete for the position.

126. On February 14, 2014, Ms. Hartnett finally provided Plaintiff with an expanded narrative to accompany the 2012 – 2013 performance appraisal. The new narrative was six pages long. The new narrative was even more negative than the one-paragraph narrative issued on November 15, 2013. Ms. Hartnett and Mr. Stolley failed to exercise due diligence in their preparation of the new narrative.

127. For example, the new narrative criticized Plaintiff because Plaintiff had "needlessly insert[ed] herself in [her clients'] operations" when several of her staff attorneys requested to "be allowed to work on a Saturday so that they could be at the operational site

with the clients" in the service of 18 search and arrest warrants in the Danny's Family Car Wash worksite enforcement criminal investigation on August 18, 2013. Had Ms. Hartnett and Mr. Stolley contacted the Phoenix SAC, they would have learned he had requested Plaintiff's full participation in the Danny's Family Car Wash operation, and he was unhappy when Plaintiff had to tell him that her supervisors had denied her request to participate on site.

128. When Plaintiff explained to the Phoenix SAC on August 9, 2013 that her supervisors had denied her request to participate on site in support of the Danny's Family Car Wash operation, he wrote to her, saying, "I'm very disappointed to hear about this decision. For the past few years I thought we were trying to move in the direction of having OCC attorneys serve as our 'in-house prosecutors' and I believe this decision sets us back on this path. I also believe this decision is contrary to how the recent WSE [work site enforcement] operation in LA was conducted. [The case agent] can correct me if I'm wrong, but I was told that OCC Attorneys were on site to make charging and PD decisions regarding aliens who were detained during that operation. The last thing we want to do is put someone into proceedings and then have OCC change that decision days or weeks later. The decision in this case seems to go against what was done in LA."

129. On August 19, 2013, Mr. Stolley had sent Plaintiff a congratulatory email after the operation, saying, "We hear it was a very smooth operation." On August 19, 2013, Ms. Hartnett had also sent Plaintiff a congratulatory email after the operation, saying, "Great job, Team Phoenix!!" Ms. Hartnett and Mr. Stolley did not acknowledge in the narrative discussion about the Danny's Family Car Wash operation that Plaintiff, along with the SAC

and the FOD, had received a congratulatory email regarding the success of the operation and the collaboration among the three Arizona ICE leaders from the ICE Deputy Director, Dan Ragsdale.

130. Ms. Hartnett and Mr. Stolley took many other positive accomplishments of the Plaintiff and distorted them so they could be used as the basis for negative comments and criticism. Ms. Hartnett and Mr. Stolley again failed to make reference to the OGC Award of Excellence, although Plaintiff had again asked them to reference it.

131. On March 6, 2014, Plaintiff asked a question on the Chief Counsel Conference Call about the processing of juvenile cases, prompted by an instruction Ms. Hartnett had given Plaintiff's Juvenile Coordinator at an ERO Conference the week before. Ms. Hartnett furiously denied making the statement. Mr. Stolley mocked the Plaintiff, saying, "We have no interest in putting little kids in proceedings!" After the conference call a male Chief Counsel called Plaintiff to say how he had talked with another male Chief Counsel and they had both thought Plaintiff's question had been totally legitimate and they could not believe how it had been handled by Ms. Hartnett and Mr. Stolley. A female Chief told Plaintiff a few days later that she had told her deputies afterwards, "If I do anything like that to anyone at a meeting, please call me out on it." She went on to say to Plaintiff, "I thought it was handled horribly." Two other female Chief Counsel told Plaintiff the same thing.

132. On March 13, 2014, Ms. Hartnett and Mr. Stolley formally re-issued Plaintiff's performance appraisal with the expanded narrative, reaffirming the rating calculations from November 15, 2013.

133. On March 19, 2014, Plaintiff met with ICE Deputy Director Dan Ragsdale (her former Deputy Chief Counsel) in her office for an hour. Plaintiff told Mr. Ragsdale about the mistreatment and abuse she had been subjected to by Mr. Vincent, Ms. Ramlogan, Mr. Stolley, Mr. Downer, and Ms. Hartnett. Mr. Ragsdale told Plaintiff her case "cried out for mediation." Mr. Ragsdale promised he would get "all of the right people together" for the mediation, and there had been enough "scorched earth." Mr. Ragsdale urged Plaintiff to mediate with Ms. Ramlogan, but Plaintiff told Mr. Ragsdale that she did not believe anyone within OPLA could serve objectively as "management official" in the mediation because all of the senior people, from Mr. Vincent on down, were too close to the situation. Mr. Ragsdale and Ms. Ramlogan are very close friends, often carpooling to work together. Mr. Ragsdale and Ms. Ramlogan often go out together for "Happy Hour." Ms. Ramlogan has stayed at Mr. Ragsdale's mother's home when she has visited in Phoenix. Despite Plaintiff's clear rejection of Ms. Ramlogan, Mr. Ragsdale arranged for Ms. Ramlogan to serve as the management official. Plaintiff declined to mediate with Ms. Ramlogan. Eventually, Plaintiff was provided a management official outside of OPLA, but Ms. Ramlogan was in control of the agency's settlement negotiations, nevertheless.

I. Plaintiff Files Her Formal EEO Complaint on April 4, 2014

134. On April 4, 2014, Plaintiff filed her formal EEO Complaint. On April 28, 2014, Peter Vincent formally announced that Ms. Hartnett had been selected as Chief Counsel in Houston, to replace Ms. Gray. On May 20, 2014, Peter Vincent formally announced that Mr. Stolley had been selected as Chief Counsel of the St. Paul Office of the Chief Counsel, saying, "As the FLO Director, Jim made tremendous contributions not only to OPLA, but to

the entire agency … While it will be a loss for the Headquarters leadership, Jim has relinquished his SES position and is now able to fulfill his desire to return to the field."

135. On June 3, 2014, a 3-hour "Town Hall" for OPLA Chief Counsel was held in Dallas, with DHS General Counsel Stevan Bunnell in attendance. Mr. Bunnell listened during the Town Hall to impassioned comments from many Chief Counsel, including Plaintiff, about the toxic environment in OPLA. The next day, June 4, 2014, PLA Vincent gave an angry speech in Dallas to a meeting of the OPLA Chiefs, both field Chief Counsel and HQ Chiefs. Mr. Vincent said "Matt Downer is doing a brilliant job as my Chief of Staff, just like he did a brilliant job as Deputy Director of FLO, Sarah, too." Mr. Vincent went on to announce, "I demand you have hard conversations with your staff. We will not have mediocrity! I talked with Jim, Matt, and Sarah when they entered on duty and told them I wanted them to create a professional organization. I told them that they were not to accept mediocrity, and to hold people accountable. They succeeded. We expect that now. I have made it very clear to [the new Deputy FLO Directors] that we will continue to hold people accountable." Mr. Vincent then turned his attention to Mr. Stolley and said, "There is a pernicious rumor going around. Jim Stolley was NOT moved out of his position. He wanted to run an office. If it were up to me and Riah he would be at HQ forever. He did an incredible job."

136. Mr. Vincent then read an email that he said Mr. Stolley had received from a friend: "You have had the unenviable task of being the implementer of something that was very unpopular… You made it through, and for those who don't understand, that says more about them than it does about you." Mr. Vincent concluded with these words: "Jim's shoes will be incredibly hard to fill."

137. On June 6, 2014, DPLA Ramlogan gave a speech to the field and HQ Chiefs in Dallas. She said Mr. Stolley, Mr. Downer, and Ms. Hartnett had done an "amazing" job of running FLO and "bringing everyone in line."

138. On August 14, 2014, PLA Vincent formally announced that Mr. Stolley, despite having moved to Minnesota, would continue to have many of his FLO Director responsibilities during the "FLO Transition." The FLO Transition was undefined. Mr. Vincent's formal announcement explained that besides being Chief Counsel in St. Paul, Mr. Stolley would now be called "Special Advisor to the Deputy Principal Legal Advisor." Mr. Vincent announced Mr. Stolley would remain supervisor of the three SES Chief Counsel and would be in charge of training for the remainder of the year.

139. Contrary to the earlier announcement, Mr. Stolley has remained a member of the SES. The position of Director of Field Legal Operations has not been announced as an open position. In his new capacity overseeing OPLA training, Mr. Stolley gave several presentations at the OPLA Experienced Attorney Training – 9th Circuit in Los Angeles the week of September 15, 2014.

140. On September 17, 2014, Mr. Stolley told a group of experienced OPLA attorneys at the training that they should favorably exercise prosecutorial discretion in some cases involving low-level criminal aliens, including those who had "old" DUI convictions, if they had enough equities. When some of the experienced OPLA attorneys challenged Mr. Stolley about one particular case involving an alien with a criminal record, Mr. Stolley said "We don't give a shit about that. Let it go."

141. PLA Peter Vincent announced his resignation on October 21, 2014. He will officially leave OPLA effective November 15, 2014. Mr. Vincent announced that he does not have another job to go to.

142. On November 4, 2014, Plaintiff was shocked to find that her supervisors' evaluation of her performance had returned to the "Achieved Excellence" level. On this date, she received her 2013 - 2014 appraisal from Mr. Stolley, as rater, and Ms. Ramlogan, as reviewer. Plaintiff's overall rating was **4.528** on a 5.0 scale. Plaintiff's scores in numerous Goals and Competencies had shot up two whole grades from the year before, from "3" to "5." The only narrative in the appraisal from Mr. Stolley was the following: "I agree with your self-assessment, Pat." This remarkable development only occurred, however, after Plaintiff had retained legal counsel, who had advised Defendant's senior management of imminent litigation and the necessity to preserve all documents and electronic data associated with Plaintiff's employment.

FIRST CLAIM FOR RELIEF

(Retaliation Discrimination in Violation of Title VII and the ADEA)

143. Plaintiff realleges the allegations of Paragraph 1-142 as if fully set forth herein.

144. The acts, policies and practices of Defendants, as alleged herein above, violate Title VII and ADEA's retaliation discrimination provisions.

145. Defendant willfully and intentionally discriminated against Plaintiff, as alleged hereinabove, on the basis of reprisals for her complaints about, and opposition to, Defendant's discrimination against Plaintiff on the basis of her sex and age, and Defendant's

failure to enforce discrimination and harassment policies by creating a hostile work environment.

146. Defendant has also maintained a pattern and practice of retaliation discrimination and, by the use of facially neutral employment practices and on other occasions, by the use of excessively subjective standards for selection of those to be promoted, demoted, discharged or disciplined, caused adverse and discriminatory impact upon older employees, including Plaintiff.

147. Plaintiff is damaged by Defendant's violations of Title VII and the ADEA and has sustained mental and emotional distress, damage to her reputation and such other damages as proven at trial.

SECOND CLAIM FOR RELIEF

(Age Discrimination in Violation of the ADEA)

148. Plaintiff realleges the allegations of Paragraphs 1-147 as of fully set forth herein.

149. The acts, policies and practices of Defendant as alleged herein above, violate the ADEA's age discrimination provisions.

150. In subjecting Plaintiff to different and discriminatory treatment in the terms and conditions of her employment different from that of younger employees, Defendant willfully and intentionally discriminated against Plaintiff on the basis of age.

151. Defendant has also maintained a pattern and practice of age discrimination and, by the use of facially neutral employment practices and on other occasions, by the use of excessively subjective standards for selection of those to be promoted, demoted, discharged

or disciplined, caused adverse and discriminatory impact upon older employees, including Plaintiff.

152. Plaintiff has been damaged by Defendant's violation of the ADEA as hereinabove alleged or as proven at trial.

THIRD CLAIM FOR RELIEF

(Sex Discrimination in Violation of Title VII)

153. Plaintiff realleges the allegations of Paragraph 1-152 as if fully set forth herein.

154. The acts, policies and practices of Defendants, as alleged herein above, violate Title VII of the Civil Rights Act of 1964, as amended and created a hostile work environment for Plaintiff.

155. Defendant willfully and intentionally discriminated against Plaintiff, as alleged hereinabove, on the basis of her sex, created a hostile work environment for Plaintiff and failed to enforce discrimination and harassment policies.

156. Defendant has also maintained a pattern and practice of sex discrimination and, by the use of facially neutral employment practices and on other occasions, by the use of excessively subjective standards for selection of those to be promoted, demoted, discharged or disciplined, caused adverse and discriminatory impact upon female employees, including Plaintiff.

157. Plaintiff is damaged by Defendant's violations of Title VII including having suffered mental and emotional distress and damage to her reputation and such other damages as proven at trial.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

1. This court declare the actions complained of herein to be in violation of Title VII of the Civil Rights Act, as amended and the Age Discrimination in Employment Act;

2. Defendant be ordered to take appropriate affirmative acts to insure that the actions complained of herein are not engaged in again by defendant or any of its agents;

3. Defendant, including the officers, director, agents, employees and successors, be permanently enjoined from discriminating or retaliating against any person;

4. Actual damages be awarded to plaintiff and against defendant;

5. Compensatory damages be awarded to plaintiff and against defendant;

6. Plaintiff be awarded her attorneys' fees pursuant to 42 U.S.C. §1988 and the Age Discrimination in Employment Act;

7. Plaintiff be awarded her costs; and

8. Plaintiff be awarded all other relief that this Court deems just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a jury trial.

DATED this 6th day of November, 2014.

SCHLEIER LAW OFFICES, P.C.

/s/ Tod F. Schleier
Tod F. Schleier
Attorney for Plaintiff