



**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in the United States District Court for the District of Hawaii pursuant to 42 U.S.C. § 2000e-5(f)(3) and 28 U.S.C. §1391, because all or a substantial part of the events or omissions giving rise to this cause of action took place in this judicial district.

**PARTIES**

4. Sherry Valmoja (“Valmoja”) is a female former employee of the State of Hawaii and the Hawaii Department of Transportation, Airports Division from on or about April 1, 2009, until her termination on or about June 15, 2012. During her employment with the defendants, Ms. Valmoja worked as a law enforcement canine handler.

5. Defendant State of Hawaii (“State of Hawaii” or “State”) is a person within the meaning of 42 U.S.C. § 2000e(a) and an employer within the meaning of 42 U.S.C. § 2000e(b).

6. Defendant State of Hawaii Department of Transportation Airports Division (“HDOT-Airports”) is a person within the meaning of 42 U.S.C. § 2000e(a) and an employer within the meaning of 42 U.S.C. § 2000e(b).

7. Defendant HDOT-Airports is a governmental agency of Defendant State of Hawaii with a mission to develop, manage, and maintain a safe and efficient global air transportation organization.

8. Defendant HDOT-Airports has as its primary mission the responsibility for planning, designing, constructing, operating, and maintaining State facilities for all modes of air, water and land transportation. In order to achieve its objectives, HDOT-Airports coordinates its duties with other State, County, and Federal programs.

9. On or about December 10, 2009, Ms. Valmoja filed a timely charge (EEOC Charge No. 486-2010-00066) against HDOT-Airports with the Equal Employment Opportunity Commission ("EEOC"). In her EEOC charge, Ms. Valmoja alleged that she had been subjected to harassment based upon her sex (female) and retaliation. Pursuant to Section 706 of Title VII, 42 U.S.C. § 2000e-5, the EEOC investigated the charge of discrimination filed by Ms. Valmoja and found reasonable cause to believe HDOT-Airports discriminated against Ms. Valmoja by subjecting her to harassment based upon her sex and retaliation, in violation of Title VII. The EEOC attempted unsuccessfully to conciliate the charge and subsequently referred the charge to the United States Department of Justice.

10. On or about May 25, 2012, Ms. Valmoja filed another timely charge (EEOC Charge No. 486-2012-00096) against HDOT-Airports with the EEOC. In her EEOC charge, Ms. Valmoja alleged that she had been subjected to harassment based upon her sex (female) and retaliation. Pursuant to Section 706 of Title VII, 42 U.S.C. § 2000e-5, the EEOC investigated the charge of discrimination filed by Ms. Valmoja and found reasonable cause to believe HDOT-Airports discriminated against Ms. Valmoja by, inter alia, subjecting her to harassment because of her sex and discharging her in retaliation for engaging in protected activity, in violation of Title VII. The EEOC attempted unsuccessfully to conciliate the charge and subsequently referred the charge to the United States Department of Justice.

11. All conditions precedent to the filing of suit have been performed or have occurred.

**FACTS COMMON TO ALL COUNTS**

12. On or about March 31, 2009, Ms. Valmoja filed an EEOC charge (EEOC Charge No. 486-2009-00216) against her private employer, Akal Security, Inc. (“Akal Security”), which contracted with the Honolulu International Airport (“HNL” or “Airport”), which is owned and operated by HDOT-Airports, to provide canine handlers for explosives detection dogs. Ms. Valmoja alleged that she was sexually harassed by her co-worker, Mark Morris (“Morris”), including being grabbed and hugged, as well as being referred to as “sexy” and his “brown

baby.” Morris also made other unwelcome comments and sexual innuendos; and stayed past his shift to see Ms. Valmoja, followed her, and tried to start conversations with her.

13. In or about 2008 or early 2009, the State of Hawaii Procurement Office directed HDOT-Airports, on orders from TSA, to cease using a contractor for its National Explosives Detection Canine Team, known as the “K-9 Program,” and to put the handlers “under the supervision of the State.” Thereafter, the employment of Ms. Valmoja, Morris, and all other canine handlers from Akal Security was transferred to HDOT-Airports through one-year, renewable personal service contracts (“PSC”). HDOT-Airports appointed canine handler Ronald Ome (“Ome”) as “K-9 Unit Supervisor.”

14. For all canine handlers, the State of Hawaii issued paychecks, controlled their schedules, and provided tools and equipment to perform the duties of the position. The State of Hawaii withheld state and federal taxes from Ms. Valmoja’s paychecks.

15. The State of Hawaii, on February 19, 2009, issued a determination that Ms. Valmoja is an employee of the State of Hawaii for Internal Revenue Service (tax) purposes. The determination articulated that the K-9 teams are under the State’s “direct sole control.”

16. On or about December 10, 2009, Ms. Valmoja filed an EEOC charge against HDOT-Airports (EEOC Charge No. 486-2010-00066) after a series of incidents occurred with Morris following the transfer of the canine handlers' employment to the State.

17. For example, on or about May 20, 2009, K-9 Program Trainer Kenneth Gaymon ("Gaymon") informed Morris that Ms. Valmoja had filed a claim against Akal Security alleging that Morris had engaged in sexually harassing behavior toward Ms. Valmoja. On or about May 20, 2009, Gaymon asked Ms. Valmoja to report to the Hertz Rental Car parking lot at the Airport, where Ms. Valmoja was confronted by Morris and harassed about her sexual harassment complaint ("the May 20 incident"). Ms. Valmoja reported the incident to supervisor Ome. Ome prepared and submitted a written report to HDOT-Airports management about the incident.

18. After consulting with the State Department of Labor Civil Rights Commission regarding the May 20 incident, Ome administered a written report to Morris instructing him to have no contact with Ms. Valmoja or to retaliate against her. Ome notified HDOT-Airports Human Resources about the incident. Ome forwarded Ms. Valmoja's previous EEOC complaint of sexual harassment at Akal Security to HDOT-Airports management.

19. Despite the May 20 incident, HDOT-Airports created a schedule that gave Ms. Valmoja and Morris the same days off and required Ms. Valmoja to relieve Morris at the end of Morris's shifts.

20. In the months following the May 20 incident, Morris approached Ms. Valmoja numerous times at work break areas at which Ms. Valmoja had arrived first, causing Ms. Valmoja to pack up her things and leave the area. Morris also honked his car horn at Ms. Valmoja as he drove by her in his car on HDOT-Airports property.

21. Following the filing of the above-referenced EEOC charges, Morris continued to follow Ms. Valmoja and sometimes attempted to speak to her on HDOT-Airports property.

22. For instance, in or around January 2010, Morris emailed Ms. Valmoja asking to take photos of her with his personal camera.

23. In or around February 2010, Morris made an illegal u-turn upon seeing Ms. Valmoja on HDOT-Airports property, slowed down, looked at her in a harassing manner, and drove his vehicle towards her.

24. Morris also attempted to obtain personal information about Ms. Valmoja from another co-worker. Morris asked handler Tara Corse explicit and intimate questions regarding Ms. Valmoja's personal relationships. Corse

informed Ms. Valmoja of the personal questions. Morris's actions caused Ms. Valmoja to be afraid of Morris and what he might do to her.

25. On or about March 19, 2010, Ms. Valmoja filed for a Temporary Restraining Order ("TRO") against Morris in state court due to Morris's continued harassing behavior and Ms. Valmoja's belief that HDOT-Airports was failing to take appropriate action. On or about April 6, 2010, a mediation agreement was reached in which Morris and Ms. Valmoja agreed to not have any contact with each other except for critical K-9 Programs mission obligations. In these situations, Morris and Ms. Valmoja were not to come within ten feet of one another.

26. On or about July 15, 2010, Ms. Valmoja submitted a written complaint to Ome alleging that Morris "continuously touched and moved [her] personal belongings in the office." An investigator for HDOT-Airports conducted an investigation of this complaint and determined that Morris had moved Ms. Valmoja's belongings and that these actions constituted "contacts" with Ms. Valmoja.

27. HDOT-Airports was aware of the TRO petition and the resulting mediation agreement. In a concurrence with the investigator's findings in his report, HDOT-Airports Operations Officer James Pratt ("Pratt") stated that he believed that Morris is likely to continue to violate the mediation agreement as



long as Ms. Valmoja and Morris both remain employed as canine handlers at the Airport. Pratt recommended that Morris's PSC be terminated. In a further concurrence, HDOT-Airports Administrative Services Officer Sydney Hayakawa ("Hayakawa") stated "Mr. Morris has been placed on notice via the Mediation Agreement and continues to 'test' the patience of Ms. Valmoja. I agree with the termination of his PSC." However, Morris was not terminated at that time.

28. In or about October 2010, Morris was banned from entering the HDOT-Airports Operations Office because several female secretaries complained that Morris made inappropriate comments and used inappropriate language which caused the secretaries to be afraid of Morris and made the workplace uncomfortable for the secretaries. HDOT-Airports posted a guard outside the office to ensure that Morris could not enter.

29. On or about October 22, 2010, HDOT-Airports notified Morris that his contract was being terminated in 30 days. However, on or about November 30, 2010, HDOT-Airports notified Morris that his termination was rescinded and that he would instead be given an oral warning, requiring no contact with Ms. Valmoja, with a ten-day suspension without pay, effective January 22 through January 31, 2011.

30. On or about January 9, 2011, while Ms. Valmoja was working at the United Airlines Cargo Facility at the airport, Morris entered the facility driving a

state vehicle, even though he was not scheduled to report to work that day. Morris brought his vehicle to a stop at the entrance of the facility, made eye contact with Ms. Valmoja, and then drove his vehicle toward Ms. Valmoja to within ten feet of where she was standing, causing Ms. Valmoja to flee from the area for her safety. Ms. Valmoja contacted the Sheriff's Department and a representative from the Sheriff's Department arrived and caused Morris to leave.

31. Ome reported the incident which occurred on or about January 9, 2011 to HDOT-Airports management, along with at least three other written reports about Morris's actions towards Ms. Valmoja, but management took no action. Hayakawa reported to the EEOC that he was aware of at least three written complaints given to HDOT-Airports management concerning Morris's conduct towards Ms. Valmoja which violated the terms of the TRO mediation agreement.

32. Morris's scheduled suspension in lieu of termination was moved from January to February 2011. Morris served his suspension from on or about February 18 through February 27, 2011. Morris was terminated on or about March 31, 2011.

33. On or about August 11, 2010, Ms. Valmoja further engaged in protected activity by filing another EEOC charge (EEOC Charge No. 486-2010-00353) against HDOT-Airports which was resolved on or about July 13, 2011.

34. In or about July 2011, Ms. Valmoja informed HDOT-Airports Business Services Supervisor Chris Murphy (“Murphy”) of her on-going sexual harassment and retaliation complaints against Morris and advised Murphy that she felt she was struggling in the workplace, as HDOT-Airports had not taken any action.

35. Between July 2011 and May 2012, Ms. Valmoja had two charges of discrimination pending with the EEOC, Charge Nos. 486-2010-00066 and 486-2012-00096.

36. During the pendency of EEOC Charge Nos. 486-2010-00066 and 486-2012-00096, Ms. Valmoja was subjected to disparate treatment by her employer that affected the terms and conditions and privileges of her employment.

37. First, as a part of her duties as canine handler, between July 2011 and August 2011, Ms. Valmoja started boarding acclimation sessions for her dog at a boarding facility, which Murphy approved. However, Murphy denied Ms. Valmoja’s and Ome’s requests for Ms. Valmoja to perform explosives training duties as assigned by Ome, while her dog was at the facility. Ms. Valmoja was required by Murphy to assist with filing in Murphy’s office in order to be paid.

38. However, a male handler, Nathan Viduya (“Viduya”), was allowed to report to work as usual, without having to perform administrative filing duties for Murphy, for 10-14 days when his dog received stitches and was out of service. In

addition, Murphy required that Ms. Valmoja submit a detailed report of work that she did on the days that her dog was at the boarding facility. Viduya was not required to submit a detailed report of his work and he was not questioned about his activities on a daily basis when his dog was out of service.

39. Next, on or about October 13, 2011, Ms. Valmoja was involved in a motor vehicle accident while on duty, which caused her to be off duty and to make claims for worker's compensation. The State of Hawaii paid Ms. Valmoja's wages and medical expenses during the time period she was off duty due to her work-related injury.

40. Ms. Valmoja was cleared by her physician to care for her dog while she was in an off duty status and receiving worker's compensation. However, on or about November 23, 2011, Murphy directed Ome to remove Ms. Valmoja's dog and place the dog in a kennel, despite Ome's recommendation that the dog remain in Ms. Valmoja's care.

41. On or about November 30, 2011, Ms. Valmoja contacted Ome to question Murphy's decision to remove her dog from her care. During that conversation, Ms. Valmoja indicated to Ome that there had been recent activity on her EEOC charges. At that time, Ms. Valmoja indicated to Ome that the removal of her dog was related to her recent EEOC activity.

42. On or about December 5, 2011, Ome contacted HDOT Civil Rights Officer Rey Domingo (“Domingo”) regarding to whom to channel Ms. Valmoja’s complaint.

43. In or around December 2011, Ome filed a complaint on Ms. Valmoja’s behalf against Murphy alleging retaliation involving HDOT-Airports’s attempt to take Ms. Valmoja’s dog away while she was out of the office on worker’s compensation.

44. After Ome filed the complaint on Ms. Valmoja’s behalf, the Hawaii State Attorney General’s Office began an investigation of Ome for 13 separate charges involving alleged violations of the workplace violence policy and the standards of conduct.

45. During an interview of Ome allegedly regarding the 13 charges against him, the State questioned Ome about his knowledge of Ms. Valmoja’s complaint against Murphy, but did not question Ome about the 13 charges alleged against Ome. Ome never heard from the Attorney General’s Office again after the interview and nothing ever came of the allegations against Ome.

46. On or about January 11, 2012, Ms. Valmoja requested a status of her complaint from Ome. On or about January 13, 2012, Domingo responded that he had informed Ome to refer the matter to Deane Kadokawa, Murphy’s supervisor.

47. In or about January 2012, Ms. Valmoja contacted Domingo to determine the status of her complaint, as Ms. Valmoja felt it was something else that she felt was being ignored. During the conversation, Domingo informed Ms. Valmoja that this was not an EEO matter and that she needed to go to Deputy Director Ford Fumigachi. During the EEOC investigation, Ms. Valmoja reported that Domingo raised his voice to Ms. Valmoja during this conversation and asked Ms. Valmoja how her complaint was retaliation. Domingo told Ms. Valmoja to “be careful” in a threatening voice and Ms. Valmoja felt intimidated.

48. Between January 2012 and May 2012, Ms. Valmoja made numerous complaints and requests to Ome and HDOT-Airports for the status of Ms. Valmoja’s complaints regarding Morris’s and Murphy’s harassing and retaliatory behavior, but HDOT-Airports failed to adequately address Ms. Valmoja’s complaints.

49. Between January 2012 and May 2012, Ome made numerous complaints and requests to HDOT-Airports management regarding the status of Ms. Valmoja’s complaints regarding Morris’s and Murphy’s harassing and retaliatory behavior, but HDOT-Airports failed to adequately address Ms. Valmoja’s complaints.

50. On May 15, 2012, HDOT-Airports terminated Ms. Valmoja’s employment by letter, effective 30 days after her receipt of the letter.

51. Despite having an established history of allowing canine handlers leaving HDOT-Airports employment to take their service dogs with them, HDOT-Airports attempted to remove Ms. Valmoja's dog upon her termination, rather than allowing the dog to retire with her, in harassment and retaliation for Ms. Valmoja engaging in protected activity.

52. Comments were made by HDOT-Airports management to Ms. Valmoja in reference to Ms. Valmoja's dog being put down. These comments were made in harassment and retaliation for Ms. Valmoja engaging in protected activity and caused Ms. Valmoja to suffer anxiety and mental anguish.

53. HDOT-Airports subjected Ms. Valmoja to harassment based on her sex and retaliation during her employment with HDOT-Airports that adversely affected the terms, conditions and privileges of her employment; and failed or refused to take appropriate action to prevent and promptly correct the effects of the discriminatory treatment.

54. The Hawaii Department of Transportation had a Sexual Harassment Policy dated in 2008. However, HDOT-Airports did not provide any Sexual Harassment Policy or sexual harassment training to any of the canine handlers until at least May 3, 2010, if at all. Ome stated that HDOT-Airports had no Equal Employment Opportunity ("EEO") policy prior to in or about January 2011, when Ome created the first EEO policy for the K-9 Program. In addition, Ome was

directed by HDOT-Airports to handle and investigate all EEO problems within the unit, but HDOT-Airports never provided EEO training to Ome and Ome did not have an EEO background.

55. As a direct and proximate cause of the harassment and retaliation that HDOT-Airports failed to remedy, Ms. Valmoja has suffered damages, including but not limited to emotional distress and loss of enjoyment of life.

56. Ms. Valmoja has also suffered monetary loss.

### COUNT I

#### MS. VALMOJA WAS SUBJECTED TO A HOSTILE WORK ENVIRONMENT ON THE BASIS OF HER SEX

57. Plaintiff realleges and incorporates herein by reference paragraphs 12 through 54.

58. Ms. Valmoja made it know that this harassment by her supervisors, as set forth in paragraphs 12 and 16 - 52, was unwelcome. The harassing conduct set forth in paragraphs 12 and 16-52 adversely affected the terms and conditions of Ms. Valmoja's employment. Ms. Valmoja found, and a reasonable person would have found, the conduct set forth in paragraphs 12 and 16-52 offensive.

59. The sexual harassment policy of the Hawaii Department of Transportation, including the dissemination, training and implementation of it, was ineffectual.



60. Ms. Valmoja made complaints about the harassment she faced to supervisors, including but not limited to Ome, Murphy, and Domingo.

61. The investigation of Ms. Valmoja's complaints and the response by Defendant State of Hawaii and Defendant HDOT-Airports to them was inadequate.

62. Defendant State of Hawaii and Defendant HDOT-Airports discriminated against Ms. Valmoja in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a) because:

- a. Ms. Valmoja was subjected to unwelcomed harassment based on her sex (female) while employed at HDOT-Airports, which created an intimidating, hostile or offensive work environment and which adversely affected the terms, conditions and privileges of Ms. Valmoja's employment;
- b. Defendants failed or refused to take reasonable or appropriate steps to prevent or correct promptly the sexual harassment even after she made several complaints to supervisors; and/or
- c. Defendants negligently failed after actual or constructive knowledge of the sexual harassment to take prompt and adequate action to stop it.

**COUNT II**

**MS. VALMOJA WAS SUBJECTED TO RETALIATION BECAUSE SHE ENGAGED IN PROTECTED ACTIVITY**

63. Plaintiff realleges and incorporates herein by reference paragraphs 12 through 54.

64. Ms. Valmoja's subjection to offensive comments and conduct, including the continued harassing conduct of Morris, Murphy, Domingo and others as alleged above, including, but not limited to, paragraphs 35-38, 40, 43-45, 47, and 50-52, by Defendant State of Hawaii and Defendant HDOT-Airports would not have occurred in the absence of her participation in the filing of EEOC charges.

65. Ms. Valmoja's termination from her employment by Defendant State of Hawaii and Defendant HDOT-Airports would not have occurred in the absence of her participation in the filing of EEOC charges.

66. Defendant State of Hawaii and Defendant HDOT-Airports's failure to adequately address Ms. Valmoja's oral and written complaints would not have occurred in the absence of her opposition to discrimination.

67. Defendant State of Hawaii and Defendant HDOT-Airports discriminated against Ms. Valmoja in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a) because:

- a. Ms. Valmoja was subjected to retaliation, including but not limited to retaliatory termination, because she engaged in protected activity; and
- b. The environment and adverse effects to the terms, conditions and privileges of Ms. Valmoja's employment might well have dissuaded a reasonable employee from making sexual harassment complaints if the employee had known that he or she would face such consequences for filing the complaints.

**PRAYER FOR RELIEF**

WHEREFORE, the United States prays that judgment be entered in its favor and against Defendants and that the Court grant all permissible relief, including, but not limited to, the following:

- A. Enjoin Defendant State of Hawaii and Defendant HDOT-Airports from causing, creating, or condoning a sexually hostile work environment, a retaliatory hostile work environment, or any type of retaliation;
- B. Order Defendant State of Hawaii and Defendant HDOT-Airports: (1) to take proper steps to investigate complaints of hostile work environment based on sex and/or retaliation and retaliation; (2) to discipline employees found responsible for hostile work environment

based on sex and/or retaliation or retaliation; (3) to adopt or supplement and distribute its anti-sexual harassment policy to all employees; (4) to prevent complainants or employees who report hostile work environment based on sex and/or retaliation or retaliation from being further discriminated against; and (5) to provide mandatory sexual harassment and retaliation training for all supervisors and employees;

- C. Award back pay, front pay, and all other appropriate equitable relief to Ms. Valmoja in an amount to be determined at trial to make her whole for the monetary loss she has suffered and continues to suffer because of the discriminatory conduct alleged in this Complaint including prejudgment interest;
- D. Award compensatory damages to Ms. Valmoja to fully compensate her for the injuries, pain and suffering caused by Defendants' discriminatory conduct, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(a); and
- E. Award such additional relief as justice may require, together with Plaintiff's costs and disbursements in this action.

**JURY DEMAND**

The United States hereby demands a trial by jury of all issues so triable, pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

Dated: May 5, 2014

Respectfully submitted,

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