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19
 20 **UNITED STATES DISTRICT COURT**
 21 **EASTERN DISTRICT OF WASHINGTON**

23 UNITED STATES OF AMERICA,
 24 Plaintiff,

25 vs.

26 ASOTIN COUNTY,
 27 Defendant
 28

Case No.:

COMPLAINT

1 **I. PRELIMINARY STATEMENT**

2 Plaintiff United States of America (“United States”) alleges:

3
4 1. This action is brought on behalf of the United States to enforce the
5 provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §
6 2000 et seq. (“Title VII”). As set forth below, the United States alleges that
7
8 Defendant, Asotin County (“Defendant” or “the County”), engaged in sex
9
10 discrimination in violation of Title VII when the County subjected Jennifer Grant
11 (“Ms. Grant”) to a hostile work environment based on her sex.

12 **II. JURISDICTION AND VENUE**

13
14 2. This Court has jurisdiction over this action under 42 U.S.C. §§ 2000e-5(f),
15 28 U.S.C. §§ 1331, 1343(a), and 1345.

16
17 3. On June 27, 2019, Ms. Grant filed a timely charge against the County
18 alleging sex discrimination with the Equal Employment Opportunity Commission
19 (“EEOC”).

20
21 4. On May 4, 2020, the EEOC notified the County that it found reasonable
22 cause to believe that the County violated Title VII by subjecting Ms. Grant to a
23 hostile work environment based on her sex.

24
25 5. On September 28, 2020, the EEOC notified the County that efforts to
26 conciliate Ms. Grant’s charge were unsuccessful, and the matter was referred to the
27 Department of Justice.
28

1 6. All conditions precedent to the filing of suit have been performed or
2 occurred.

3
4 7. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) since the
5 events or omissions giving rise to this action occurred in this judicial district.

6
7 **III. THE PARTIES**

8 8. Plaintiff United States is expressly authorized to bring this action by
9 Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

10
11 9. Asotin County is a municipal corporation and political subdivision of the
12 state of Washington, existing and organized under the Washington Constitution
13 and the laws of the state of Washington.

14
15 10. Asotin County is a person within the meaning of Section 701(a) of Title
16 VII, 42 U.S.C. § 2000e(a).

17
18 11. Asotin County is an employer within the meaning of Sections 701(b), (g),
19 and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g), and (h).

20
21 **IV. STATEMENT OF FACTS**

22 **A. Grant's Employment with Asotin County**

23 12. Jennifer Grant was hired to work for the County in May 2017. Ms. Grant
24 was selected by the Asotin County Clerk, McKenzie Kelly, later known as
25 McKenzie Campbell ("Clerk Campbell"), to work as a deputy clerk for the Asotin
26 County Clerk's Office (hereinafter "Clerk's Office").
27
28

1 13. As a deputy clerk, Ms. Grant reported to and was directly supervised by
2 Clerk Campbell. Although Ms. Grant was directly supervised by Clerk Campbell,
3 Ms. Grant worked closely and frequently with Superior Court Judge Scott Gallina.
4

5 14. As part of Ms. Grant's duties, Ms. Grant often had to be in or around Judge
6 Gallina's chambers or with him during court proceedings. When Ms. Grant was
7 assigned to a court proceeding over which Judge Gallina presided, he directed Ms.
8 Grant's work for his court.
9
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11 **B. Harassment to Which Grant was Subjected**

12 15. Within weeks of Ms. Grant starting work in the Clerk's Office in May
13 2017, Judge Gallina began to direct sexually-charged comments to Ms. Grant
14 about her clothing and breasts. His sexually-inappropriate behavior quickly
15 escalated to include unwanted touching.
16
17

18 16. Approximately a month after Ms. Grant began work at the Clerk's Office,
19 Judge Gallina asked Ms. Grant if she had any tattoos. When she confirmed that
20 she had one on her wrist and another on her back, Judge Gallina approached her
21 and began to unzip her dress. While her dress was unzipped, he touched her back
22 and her chest.
23
24

25 17. Several times during her first months working for the County, Judge
26 Gallina groped Ms. Grant while the two were in his chambers. He initiated hugs
27 with Ms. Grant and rubbed her shoulders. While hugging Ms. Grant or rubbing her
28

1 shoulders, he would touch Ms. Grant's breasts and buttocks. On at least one
2 occasion during her first several months working for the County, while massaging
3 or rubbing Ms. Grant, Judge Gallina pulled her breast(s) from her shirt.
4

5 18. In early 2018, several months after she began working at the County, Ms.
6 Grant was in Judge Gallina's chambers standing alongside him at his desk. While
7 she was standing at his side, Judge Gallina reached under Ms. Grant's dress and
8 rubbed his hand between her legs.
9

10 19. On other occasions, Judge Gallina bent Ms. Grant over his desk, and began
11 to grind his body against hers. On one such occasion, Ms. Grant felt an erection
12 pressing against her body as he forced her over his desk.
13
14

15 20. All of Judge Gallina's sexually harassing behavior toward Ms. Grant was
16 unwelcomed. Ms. Grant told him several times that his behavior made her
17 uncomfortable and that she wanted him to stop.
18

19 21. In July 2018, Ms. Grant was assigned to court duty for a criminal trial over
20 which Judge Gallina was presiding. While the jury was deliberating, Ms. Grant
21 was sitting in a chair in Judge Gallina's chambers. Judge Gallina locked the
22 chambers door, came up from behind her, put his arm around her neck, and pulled
23 back her chair. While holding her neck, Judge Gallina pulled Ms. Grant's breast
24 out, proceeded to put his hand beneath her underwear, and penetrated her with his
25 finger.
26
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1 22. The next day, Ms. Grant spoke to Judge Gallina about his behavior. Ms.
2 Grant told him that he made her uncomfortable and pleaded that he never touch her
3 again. Judge Gallina responded that he could not help himself and that he loved
4 beautiful women.
5

6 23. Following the July 2018 event, Judge Gallina continued to subject Ms.
7 Grant to unwelcomed touching and sexually-charged comments throughout the
8 remaining summer 2018.
9

10 24. He continued to direct sexually-charged comments at her until March 2019,
11 when the County's insurance provider commenced an investigation into sexual
12 harassment allegations made against the judge by another County employee,
13 Tammy Tenny.
14

15
16 **C. Grant's Reports of Harassment and the County's Failure to Act**
17

18 25. In or around early February 2018, Ms. Grant told her co-worker, Nicole
19 Farris, that Grant was no longer comfortable going into Judge Gallina's office.
20 Ms. Grant asked Farris not to say anything to Clerk Campbell, but Farris reported
21 the conversation anyway. After Clerk Campbell learned from Farris that Ms.
22 Grant did not feel comfortable working with Judge Gallina, Clerk Campbell raised
23 the issue with Ms. Grant. Ms. Grant disclosed to Clerk Campbell that Judge
24 Gallina was subjecting Ms. Grant to unwelcomed harassment.
25
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1 26. Clerk Campbell was informed by Ms. Grant that the judge subjected Ms.
2 Grant to unwelcomed touching and sex-based comments. During the discussion,
3 Clerk Campbell was made aware that Judge Gallina “rubbed” underneath Ms.
4 Grant’s dress and on Ms. Grant’s thigh.
5

6 27. Clerk Campbell did not initiate an investigation of Ms. Grant’s allegations
7 of harassment.
8

9 28. Clerk Campbell did not inform any other County official about the
10 harassment Ms. Grant reported, nor did Clerk Campbell seek assistance from any
11 County official with addressing Ms. Grant’s harassment allegations.
12

13 29. Instead of investigating Ms. Grant’s allegations, Clerk Campbell instructed
14 Ms. Grant to modify her own behavior and work routine to minimize interaction
15 with Judge Gallina.
16

17 30. County officials, including Clerk Campbell, failed to inform Judge Gallina
18 of Ms. Grant’s allegations. County officials, including Clerk Campbell, also never
19 asked Judge Gallina to minimize contact with Ms. Grant, or to stop subjecting her
20 to sexual harassment.
21

22 31. Clerk Campbell’s response was not effective at ending the harassment. Ms.
23 Grant’s job duties still required that she have contact with Judge Gallina, and he
24 continued to subject Ms. Grant to unwelcomed comments and touching.
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1 32. In or around September 2018, Ms. Grant talked to Clerk Campbell again
2 about Judge Gallina's behavior. This time, Ms. Grant explained to Clerk Campbell
3 that Judge Gallina had crossed the line, and that Ms. Grant could not work with
4 Judge Gallina any longer.
5

6 33. Clerk Campbell did not inform the County's Human Resources Director
7 about the continuing harassment, did not direct Ms. Grant to human resources, and
8 did not initiate an investigation of Ms. Grant's complaint. Instead, Clerk Campbell
9 took one week to think about the issue, and ultimately told Ms. Grant that Clerk
10 Campbell intended to submit a complaint to the Judicial Ethics Commission.
11

12 34. Rather than investigate the continuing harassment that Ms. Grant reported,
13 Clerk Campbell re-issued her instruction that Ms. Grant avoid or minimize contact
14 with Judge Gallina.
15

16 35. As before, the restrictions and responsibilities associated with Clerk
17 Campbell's instruction fell on Ms. Grant. Judge Gallina was not informed of Clerk
18 Campbell's instructions to Ms. Grant, not asked to distance himself from Ms.
19 Grant, not told that there were any allegations of harassment against him, and not
20 asked to stop sexually harassing Ms. Grant.
21

22 36. No other action was taken by Clerk Campbell to stop the harassment to
23 which Ms. Grant was being subjected. Ms. Grant continued to be subjected to
24 sexual harassment by Judge Gallina until March 2019, when the County's
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1 insurance provider, Clear Risk Solutions (“CRS”), started investigating sexual
2 harssement allegations against the judge submitted by another County employee.
3

4 37. Based on information collected during CRS’s investigation in March 2019
5 and subsequently turned over to law enforcement, Judge Gallina was arrested in
6 April 2019 and charged with multiple criminal offenses.
7

8 **D. The County Knew of Gallina’s Inappropriate Behavior Before 2017**

9 38. Even before Ms. Grant began working for the County, Clerk Campbell was
10 aware from her own experience that Judge Gallina directed inappropriate sexually-
11 charged comments at County employees and engaged in unwelcomed touching.
12
13

14 39. On or about April 8, 2019, Clerk Campbell voluntarily provided a recorded
15 interview to the Washington State Patrol about Ms. Grant’s allegations against
16 Judge Gallina. During the interview, Clerk Campbell reported, “throughout the
17 years I have been the recipient of many inappropriate comments um, back rubs that
18 kinda stuff,” from Judge Gallina.
19
20

21 40. Clerk Campbell also reported to the Washington State Patrol, “shortly after
22 [Gallina] started, I remember the first time that it happened he was up on the bench
23 and I came in to give him file or do something like and, I lean[ed] over and I talked
24 to him and then I stood up and he asked me to lean over again so he can look down
25 my shirt.”
26
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28

1 41. Clerk Campbell reported to the Washington State Patrol that Judge Gallina
2 made comments to her about her breasts and clothing from 2015, up until a few
3 weeks before her April 2019 interview with the Washington State Patrol.
4

5 According to Clerk Campbell, inappropriate comments from Judge Gallina
6 occurred on a “weekly basis” ever since he was appointed judge in May 2014.
7

8 42. In response to a question from the Washington State Patrol about her
9 knowledge in February 2018 of the harassment to which Ms. Grant was subjected,
10 Clerk Campbell reported, “everybody knew the Judge was kinda of a perv[ert] and
11 he’d make comments and stuff like that.”
12

13
14 **V. CAUSE OF ACTION**

15 TITLE VII, 42 U.S.C. § 2000E-2(a)
16 HOSTILE WORK ENVIRONMENT
17 (NON-SUPERVISOR or THIRD PARTY HARASSMENT)

18 43. The United States re-alleges and incorporates herein the allegations set
19 forth in paragraphs 12-42 above.
20

21 44. The County subjected Ms. Grant to a hostile work environment based on
22 her sex, in violation of Title VII, 42 U.S.C. § 2000e-2(a).
23

24 45. The harassment to which Ms. Grant was subjected included both verbal and
25 physical sexual harassment, and was unwelcomed.

26 46. The harassment was severe or pervasive, materially altered Ms. Grant’s
27 working conditions, created an objectively hostile or abusive work environment
28

1 that a reasonable person would find hostile or abusive, created a work environment
2 that Ms. Grant perceived to be sexually hostile or abusive, and affected the terms,
3 conditions, and privileges of Ms. Grant's employment.
4

5 47. The County negligently failed after actual or constructive knowledge of the
6 harassment to take prompt and adequate action to stop it.
7

8 **VI. PRAYER FOR RELIEF**

9 WHEREFORE, the United States prays that the Court grant the following
10 relief:
11

12 (a) Enjoin Defendant from causing, creating, or condoning a sexually hostile
13 work environment;
14

15 (b) Order Defendant to develop and implement appropriate and effective
16 measures designed to prevent and correct harassment, including, but not limited to,
17 policies that: (1) expressly prohibit harassment from any and all persons, including
18 elected officials and members of the public; and (2) specify that annual anti-
19 harassment training is mandatory for all County employees and managers;
20

21 (c) Order Defendant to develop appropriate and effective measures to receive
22 complaints of discrimination and harassment, as well as a process for investigating
23 such complaints;
24

25 (d) Award compensatory damages to Ms. Grant to fully compensate her for her
26 injuries, pain and suffering caused by Defendant's discriminatory conduct,
27
28

1 pursuant to and within the statutory limitations of Section 102 of the Civil Rights
2 Act of 1991, 42 U.S.C. § 1981a;

3
4 (e) Award any additional equitable relief necessary to make Ms. Grant whole;
5 and

6
7 (f) Award such additional relief as justice may require, together with the United
8 States' costs and disbursements in this action.

9
10 **VII. JURY DEMAND**

11 The United States hereby demands a trial by jury of all issues so triable
12 pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the
13 Civil Rights Act of 1991, 42 U.S.C. § 1981a.
14

15
16 Dated: September 29, 2021

Respectfully submitted,

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