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12 **IN THE UNITED STATES DISTRICT COURT**

13 **FOR THE DISTRICT OF ARIZONA**

14 KIMBERLY CELAYA,

15 Plaintiff,

16 v.

17 CITY OF GOODYEAR, a municipal
18 corporation,

19 Defendant.

No.

COMPLAINT

20 Plaintiff Kimberly Celaya (“Plaintiff”), for her complaint against defendant City of
21 Goodyear, a municipal corporation (“Defendant” or “Goodyear”), alleges as follows:

22 **PARTIES, JURISDICTION AND VENUE**

23 1. Plaintiff is now a resident of the City of Yuma, Yuma County, Arizona.

24 2. Defendant Goodyear is a municipal corporation organized under the laws of
25 the State of Arizona, and is located in Maricopa County, Arizona.

26 3. Defendant has caused events to occur in Maricopa County, Arizona, out of
27 which Plaintiff’s claims arise.

28 4. This Court has jurisdiction over the federal claims, Title VII of the Civil
Rights Act of 1964 (“Title VII”), 42 U.S.C. § 2000(e), *et seq.*; and 42 U.S.C. § 1981.

5. This Court has jurisdiction over the state law claims and the parties under
U.S.C. § 1367.

1 6. Venue is proper in this Court as the events giving rise to Plaintiff's claims
2 occurred in Maricopa County, Defendants' principal place of business is in Maricopa
3 County, and Plaintiff was a resident of Maricopa County at the time Plaintiff's claims
4 arose.

5 **BACKGROUND ALLEGATIONS COMMON TO ALL COUNTS**

6 **Plaintiff's Employment History**

7 7. Plaintiff was a career certified police officer and started her career as a
8 patrol officer in 1997.

9 8. Plaintiff began her employment in Arizona as an officer with the City of
10 Yuma Police Department ("Yuma") in 1999.

11 9. Plaintiff was promoted several times during her employment with Yuma
12 until she reached the rank of sergeant.

13 10. Plaintiff worked at Yuma in various capacities until she transferred to the
14 City of Goodyear Police Department ("Goodyear PD") in 2012.

15 11. Jerry Geier ("Geier") was the Yuma Chief of Police, and Plaintiff worked
16 for Geier in Yuma when she was a sergeant.

17 12. Geier left Yuma to become the police chief of Goodyear PD beginning
18 January 2012.

19 13. Geier subsequently asked Plaintiff to work for Goodyear PD as a police
20 lieutenant.

21 14. Plaintiff accepted the position and started with Goodyear PD as a lieutenant
22 in June 2012.

23 15. Plaintiff was Goodyear PD's first female lieutenant in the department's
24 history and its highest ranking female officer.

25 16. When Plaintiff started at Goodyear PD, she was only one of four female
26 police officers in the department.

27 17. Throughout her tenure at Goodyear PD, Plaintiff continued to receive
28 positive performance evaluations.

1 18. While working in Yuma, Plaintiff began a romantic relationship with Alvin
2 Beard (“Beard”), an African-American male.

3 19. Plaintiff dated Beard for approximately one year prior to joining Goodyear
4 PD.

5 20. In September 2012, Beard moved to Goodyear to be closer to Plaintiff, and
6 met Geier for the first time approximately one month later.

7 21. Geier would often inquire about, and comment on, Plaintiff’s relationship
8 with Beard.

9 22. Plaintiff would answer Geier’s personal inquiries about Beard because he
10 was her commanding officer.

11 23. At times, Geier would tell Plaintiff that she should, “get rid of this guy
12 [Beard]” and that Beard “is dragging you [Plaintiff] down.”

13 **Plaintiff’s Off-Duty Incident**

14 24. Plaintiff continued to work at Goodyear PD without incident until
15 November 24, 2013.

16 25. In the early morning hours of November 24, 2013, Beard committed an
17 assault on Plaintiff, who was off-duty at the time.

18 26. On Saturday, November 23, 2013, at approximately 5:30 p.m., Plaintiff and
19 Beard went to Majerle’s Restaurant (“Majerle’s”) in downtown Goodyear to watch the
20 Ultimate Fighting Championships (“UFC”) matches.

21 27. Beard’s roommates, Keila Mincey (“Mincey”) and Wayne Bearden
22 (“Bearden”), met up with Plaintiff and Beard at Majerle’s where they all had drinks and
23 appetizers.

24 28. The four watched the UFC fights at Majerle’s until approximately 10 p.m.,
25 and then proceeded to the Draft House in Chandler, Arizona, to meet up with friends of
26 Plaintiff who were visiting from another state.

27 29. Beard drove the group to the Draft House in Plaintiff’s vehicle, a 2011
28 Nissan Armada.

1 30. The group consumed additional alcoholic beverages at the Draft House, and
2 danced and socialized with Plaintiff's friends until approximately 1 a.m. on November 24,
3 2013.

4 31. The four then left Chandler, with Beard driving, and proceeded to Roman's
5 Oasis ("Roman's") in Goodyear, where they each had a drink.

6 32. While at Roman's, an intoxicated male patron approached Plaintiff and
7 grabbed her hand. Upon seeing this, Beard physically removed the intoxicated male
8 patron's hand from Plaintiff's hand.

9 33. A security video from Roman's shows the interaction between Beard,
10 Plaintiff, the intoxicated male patron, and several other patrons.

11 34. Plaintiff asserts that Beard was visibly upset and slammed his drink down on
12 the bar. Beard also pounded his fist on the bar next to Plaintiff's right elbow and then
13 walked out of Roman's to the parking lot and Plaintiff's Armada.

14 35. Plaintiff, Bearden, and Mincey also left Roman's and got into the vehicle.
15 Beard was the driver, Bearden was the front seat passenger, Mincey sat directly behind
16 Bearden, and Plaintiff sat directly behind Beard.

17 36. Beard was driving Plaintiff's vehicle the entire evening.

18 37. At some point during the drive home, Beard slammed on the brakes, turned
19 around and struck Plaintiff in the face, injuring her left eye and cheek.

20 38. Plaintiff began to kick Beard in order to protect herself only after Beard
21 struck Plaintiff.

22 39. Plaintiff was shocked, embarrassed and upset after being struck. At this
23 time, Plaintiff exited the vehicle and began walking home.

24 40. After Plaintiff reached her home, she took her other vehicle to seek medical
25 attention for her injuries.

26 41. Plaintiff then left the hospital and drove to the Goodyear PD training
27 facility.

28 42. Via text message, Plaintiff requested to speak to Geier so that she could

1 report the incident directly to him.

2 43. Geier responded to Plaintiff's text message and told her he was out of town.

3 44. Plaintiff then sent a text message to Deputy Chief of Police Jeff Rogers
4 ("Rogers") and scheduled a meeting with Rogers.

5 45. While en route to meet with Rogers, Geier called Plaintiff, and after hearing
6 about the incident with Beard, told Plaintiff to go ahead and meet with Rogers.

7 46. During that telephone call, Geier said to Plaintiff, "You took him [Beard]
8 back before, what makes me think you won't take him [Beard] back again?"

9 47. Plaintiff then met with Rogers at a Starbucks and related the details of the
10 incident with Beard.

11 48. Upon information and belief, Rogers stated to Plaintiff that she should have
12 that "mother fucker" arrested.

13 49. Plaintiff explained to Rogers the several reasons why she did not want to
14 have Beard arrested, including the public scrutiny that she would endure as a victim of an
15 assault.

16 50. Rogers contacted the Maricopa County Sheriff's Office ("MCSO") and
17 reported the incident.

18 51. The MCSO's report identifies Plaintiff as the victim and Beard as the
19 suspect, and also states that Plaintiff was the only person to bring this incident to the
20 attention of law enforcement.

21 **Goodyear's Subsequent Investigation of Plaintiff**

22 52. On November 25, 2013, Plaintiff was placed on administrative leave,
23 pending the outcome of Goodyear's investigation of the November 24, 2013 incident.

24 53. The officers chosen to investigate the incident were Sergeant Joe Pacello
25 ("Pacello") and Sergeant Justin Hughes ("Hughes").

26 54. Pacello and Hughes were both Plaintiff's subordinates.

27 55. Pacello previously had been investigated for committing an off-duty assault
28 on a MCSO officer while admittedly intoxicated, but still retained his job.

1 56. Upon information and belief, Hughes was in line to potentially fill Plaintiff's
2 position as a lieutenant with Goodyear if she was terminated.

3 57. Upon information and belief, Pacello and Hughes interviewed Beard,
4 Mincey and Bearden.

5 58. Upon information and belief, prior to the interviews, Pacello and Hughes
6 told Beard, Mincey and Bearden that Plaintiff would not lose her job or get into any
7 trouble in order to obtain their statements.

8 59. Upon information and belief, Beard, Mincey and Bearden claimed during
9 the interviews that Plaintiff was the initial aggressor, by kicking Beard in the back of the
10 head from the rear seat, which prompted Beard to strike Plaintiff.

11 60. Pacello and Hughes never looked at Plaintiff's vehicle to determine the
12 truthfulness of the statements and determine if it was physically possible for Plaintiff to
13 have kicked Beard.

14 61. Pacello and Hughes never photographed Plaintiff's physical injuries.

15 62. Pacello and Hughes never asked Plaintiff for her text messages.

16 63. Pacello and Hughes did not conduct interviews of relevant witnesses.

17 64. Pacello and Hughes only took Plaintiff's statement.

18 65. Plaintiff willingly cooperated with the investigation and even offered to be
19 polygraphed about her statement.

20 66. Plaintiff was never polygraphed.

21 67. Plaintiff denied that she kicked Beard first in every interview and statement
22 she gave.

23 68. Plaintiff denies that she was ever dishonest in her statements about the
24 November 24, 2013 incident.

25 **Plaintiff's Termination**

26 69. On November 30, 2013, in an email to Councilwoman Wally Campbell
27 concerning Plaintiff, Geier voluntarily offered the following, "I have put Kim [Plaintiff]
28 on administrative leave due to a discipline issue. It's pretty serious. Unfortunate but she

1 made her own choices. Talk to you soon.”

2 70. Prior to terminating Plaintiff, Geier responded to an email from Hughes on
3 December 16, 2013. Hughes’ email listed an overview of aggravating and mitigating facts
4 concerning whether Plaintiff should be terminated. In his response, Geier simply states,
5 “These are fine. Any more aggravating we can think of?”

6 71. Geier sent Plaintiff a letter recommending her termination.

7 72. In response to Geier’s termination letter, Plaintiff met with Geier on January
8 3, 2014 and presented her rebuttal (“Rebuttal”).

9 73. Plaintiff’s Rebuttal addressed the internal affairs investigation summary
10 point-by-point.

11 74. Although male officers under internal affairs investigations had, in the past,
12 been offered a demotion or an opportunity to resign, at the conclusion of this meeting,
13 Geier did not offer Plaintiff the same courtesy.

14 75. Geier formally terminated Plaintiff on January 17, 2014 for alleged
15 dishonesty and violation of Goodyear policy.

16 76. Despite having never met Mincey or Bearden, in the audio of the
17 termination meeting, Geier admonished Plaintiff and chastised her for “hanging around
18 the wrong people.”

19 77. Plaintiff chose not to appeal her termination when a reinstatement would
20 require her to return to Goodyear PD. Plaintiff decided to seek employment with another
21 municipality as a sworn, ranked officer.

22 78. Upon information and belief, Goodyear contacted television station KTVK
23 so that Geier could do an on-camera interview about Plaintiff’s termination.

24 79. Geier’s on camera interview was picked up by major news and media
25 outlets.

26 80. Upon information and belief, it was not a common practice at Goodyear PD
27 to participate in on-camera interviews regarding personnel matters.

28 81. Plaintiff filed a dual charge of discrimination under federal civil rights

1 statutes (“Title VII”) with the Equal Employment Opportunity Commission (“EEOC”)
2 and the Arizona Civil Rights Division (“ACRD”), charge number 540-2014-01142, on
3 January 31, 2014.

4 82. Plaintiff filed a notice of claim pursuant to A.R.S. § 12-821.01 on June 16,
5 2014.

6 83. The ACRD issued Plaintiff a right to sue letter under the Arizona Civil
7 Rights Act (“ACRA”) on January 8, 2015.

8 84. Plaintiff filed suit against Goodyear in Maricopa County Superior Court on
9 January 16, 2015, case number CV 2015-000420 (“Superior Court Case”) in order to
10 preserve her state causes of action against Goodyear while the EEOC investigated
11 Plaintiff’s charge.

12 85. The Superior Court Case contained the state causes of action against
13 Goodyear for discrimination under the Arizona Civil Rights Act as well as intentional
14 infliction of emotional distress.

15 86. The EEOC investigated Plaintiff’s charge and found evidence that Goodyear
16 discriminated against Plaintiff in violation of Title VII and issued a “for cause finding of
17 discrimination” on March 30, 2015. A copy of the EEOC “for cause” letter is attached
18 hereto as **Exhibit “A”** and incorporated herein by this reference.

19 87. Because the EEOC found evidence that Goodyear unlawfully discriminated
20 against Plaintiff, the EEOC sent the Department of Justice (“DOJ”) Plaintiff’s file to
21 review and investigate in or about May of 2015. The DOJ has jurisdiction for violations
22 of Title VII when a municipality is involved.

23 88. Plaintiff could not assert claims under Title VII until the DOJ completed its
24 review and subsequent investigation.

25 89. Plaintiff’s Superior Court Case remained active but could not progress
26 without including the remaining charges under Title VII.

27 90. Counsel for Goodyear and Plaintiff stipulated to dismiss the Superior Court
28 Case, without prejudice, and entered into a tolling agreement so that Plaintiff’s claims in

1 the Superior Court Case would be preserved.

2 91. The tolling agreement enabled Plaintiff to reassert her claims under both
3 Title VII and the state law claims from the Superior Court Case upon the completion of
4 the DOJ review and investigation.

5 92. Plaintiff's Superior Court Case was dismissed without prejudice on August
6 3, 2016 by the stipulated agreement of the parties.

7 93. The DOJ determined that Goodyear's conduct warranted further
8 investigation after reviewing Plaintiff's file.

9 94. The DOJ interviewed Plaintiff on August 8, 2017 about Goodyear's
10 discriminatory conduct against Plaintiff.

11 95. The DOJ investigated Goodyear as a result of Plaintiff's claims.

12 96. The DOJ issued Plaintiff her 90 day right to sue letter for any federal causes
13 of action arising from EEOC charge 240-2014-01142. Plaintiff received her right to sue
14 letter from the DOJ on November 21, 2017. A copy of the DOJ "right to sue" letter is
15 attached hereto as **Exhibit "B"** and incorporated herein by this reference.

16 **Goodyear's Gender Discrimination**

17 97. Goodyear PD has a history of treating male officers more favorably than it
18 treated Plaintiff with respect to internal affairs investigations of on- and off-duty officer
19 involved incidents, in which male officers were not terminated, including, but not limited
20 to:

- 21 a. Pacello who committed assault on a Maricopa County Sheriff's Deputy
22 while off-duty;
- 23 b. A male officer that was allowed to keep his job after lying in his
24 investigation about sleeping while on duty;
- 25 c. A male officer who was involved in a domestic violence incident with
26 his spouse, where the officer caused criminal damage to a Goodyear PD
27 vehicle during the altercation, was merely required to pay for the vehicle
28 damage.

1 98. Goodyear PD has a history of treating male officers more favorably than it
2 treated Plaintiff by offering disciplined male officers the opportunity to resign in lieu of
3 termination, including, but not limited to:

- 4 a. A male officer who was imprisoned for molesting his stepdaughter was
5 allowed to resign, with a postdated resignation letter, from his prison
6 cell, in order to satisfy his twenty-year retirement requirement;
- 7 b. A male officer who video-taped women in a tanning salon and was
8 charged with multiple felonies was allowed to resign;
- 9 c. A male officer who was accused by Goodyear PD of lying to a Goodyear
10 citizen, who was involved in a Goodyear PD criminal report, was
11 allowed to resign in lieu of termination.

12 99. Upon information and belief, Geier did not terminate other male officers
13 who were dishonest or who violated Goodyear policy.

14 100. Geier never offered Plaintiff the opportunity to take a demotion or resign.

15 101. Upon information and belief, Goodyear PD did not hold an on-camera
16 interview for other male officers that resigned or were terminated for more egregious
17 violations than the violations for which Plaintiff was accused.

18 **Goodyear's Discriminatory Conduct Based on Race**

19 102. Goodyear historically has had less than a handful of African-American
20 officers.

21 103. Three African-American officers were promoted to sergeant. Two of the
22 three officers were subsequently either demoted or forced out of the department.

23 104. Upon information and belief, one African-American officer was promoted to
24 sergeant and was convinced to "voluntarily demote" and ultimately either retire or take a
25 desk job.

26 105. Upon information and belief, this officer heard Goodyear PD officers
27 referring to African Americans as "Canadians."

28 106. Upon information and belief, this officer was told that Goodyear PD officers

1 referred to African-Americans as “Canadians” because they could no longer refer to them
2 as “niggers.”

3 107. Upon information and belief, this officer has first-hand knowledge that
4 Goodyear PD officers referred to Beard as a “thug” after officers saw Beard at an event
5 with Plaintiff.

6 108. Upon information and belief, this officer stated that there were derogatory
7 rumors and race-based comments made about Beard by other Goodyear PD officers.

8 109. In addition to Geier’s racially motivated statements as set forth above, other
9 Goodyear PD officers demonstrated racially motivated comments and remarks which
10 added to the racially charged and hostile work environment.

11 110. On February 17, 2005, Rogers was off-duty at a Native New Yorker
12 restaurant located at 530 N. Estrella Parkway, Goodyear, Arizona.

13 111. From the restaurant, Rogers made a “prank” 9-1-1 call to the Goodyear
14 emergency number and reported a possible burglary.

15 112. Rogers purportedly told the 9-1-1 operator that the suspects were black and
16 that they will recognize them “by the whites of their teeth.”

17 113. Goodyear dispatched several officers to respond to the reported “crime” in
18 progress, but soon realized it was a hoax.

19 114. Rogers received discipline of eighty (80) hours of unpaid administrative
20 leave for conduct unbecoming and providing false and misleading information, but was
21 not terminated.

22 115. Rogers not only kept his job, but also was promoted up the ranks to become
23 Goodyear’s second highest ranking officer, Deputy Chief of Police.

24 116. As outlined above, Rogers was directly involved in the decision to terminate
25 Plaintiff.

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1 **COUNT ONE**

2 **Gender Discrimination in Violation of the ACRA**
3 **Under A.R.S. § 41-1401, et seq. and Title VII, 42 U.S.C. § 2000(e), et seq.**

4 117. Plaintiff incorporates and adopts the preceding paragraphs as if fully set
5 forth herein.

6 118. Plaintiff dual filed a claim of gender discrimination on January 31, 2014
7 with the EEOC and ACRD.

8 119. Goodyear employs more than fifteen (15) employees and it is a covered
9 employer as defined by the Arizona Civil Rights Act (“ACRA”) and Title VII.

10 120. Plaintiff is female, was an employee of Goodyear, and is a protected class
11 under the ACRA and Title VII.

12 121. Plaintiff was issued a right-to-sue letter by the ACRD and the EEOC.

13 122. Plaintiff exhausted her administrative remedies under the ACRA and Title
14 VII.

15 123. Plaintiff was discriminated against because of her gender in violation of 42
16 U.S.C. § 2000(e) *et seq.* and A.R.S. § 41-1401, *et seq.*

17 124. The discrimination against Plaintiff includes Goodyear terminating her
18 employment for a reason that is pretextual.

19 125. The indicia of sex discrimination includes the fact that Goodyear treated
20 similarly situated male employees more favorably.

21 126. As a direct and proximate result of Goodyear’s willful, intentional, and
22 unlawful discrimination, and termination of Plaintiff’s employment, she has suffered, and
23 continues to suffer, emotional distress, anxiety, stress, humiliation, embarrassment,
24 inconvenience, mental anguish, loss of enjoyment of her life, lost salary and bonuses, loss
25 of employment benefits, and other compensation in an amount to be proven at trial.

26 **COUNT TWO**

27 **Race Discrimination in Violation of Title VII, 42 U.S.C. § 1981 and the ACRA**

28 127. Plaintiff incorporates and adopts the preceding paragraphs as if fully set

1 forth herein.

2 128. The ACRA, 42 U.S.C. § 1981 and Title VII, prohibit employers from
3 discriminating, harassing and retaliating against any individual on the basis of race or
4 association with other races.

5 129. Plaintiff's significant other was African-American.

6 130. Upon information and belief, Plaintiff was terminated, in part, because she
7 was involved in a relationship with an African-American man.

8 131. Goodyear's actions in terminating Plaintiff are in violation of 42 U.S.C. §
9 1981, Title VII and the ACRA.

10 132. Plaintiff is entitled to any and all damages available under Title VII, 42
11 U.S.C. § 1981 and the ACRA.

12 133. As a direct and proximate result of the wrongful acts of Goodyear, Plaintiff
13 has suffered and continues to suffer emotional pain, suffering, inconvenience, mental
14 anguish, loss of enjoyment of life and other non-pecuniary losses, in an amount to be
15 proven at trial.

16 134. The acts taken toward Plaintiff were carried out by Goodyear and/or their
17 officers, directors, and/or managing agents acting in a despicable, oppressive, fraudulent,
18 malicious, deliberate, egregious, and inexcusable manner and in reckless disregard for the
19 rights and safety of Plaintiff, thereby justifying an award of damages in a sum appropriate
20 to be proved at trial.

21 **COUNT THREE**

22 **Intentional Infliction of Emotional Distress**

23 135. Plaintiff incorporates and adopts the preceding paragraphs as if fully set
24 forth herein.

25 136. Goodyear's conduct toward Plaintiff was extreme and outrageous.

26 137. Goodyear's conduct toward Plaintiff was intentional or reckless.

27 138. Goodyear's actions intended to cause emotional distress or recklessly
28 disregarded the near certainty that distress would result from their conduct.

1 139. Goodyear's conduct toward Plaintiff did cause Plaintiff to suffer severe
2 emotional distress.

3 140. Goodyear's conduct toward Plaintiff was the direct and proximate cause of
4 Plaintiff's emotional distress.

5 141. The acts taken toward Plaintiff were carried out by Goodyear and/or their
6 officers, directors, and/or managing agents acting in a despicable, oppressive, fraudulent,
7 malicious, deliberate, egregious, and inexcusable manner and in reckless disregard for the
8 rights and safety of Plaintiff, thereby justifying an award of compensatory and punitive
9 damages in a sum appropriate to punish and make an example of Goodyear.

10 WHEREFORE, Plaintiff prays for judgment as follows:

11 A. For compensatory damages in favor of Plaintiff and against Goodyear, in an
12 amount to be proven at trial, as a result of Goodyear's tortious conduct, together with
13 prejudgment and post-judgment interest, as applicable, until paid in full;

14 B. For equitable relief where just and proper;

15 C. For an award of punitive damages in favor of Plaintiff and against Goodyear
16 as a result of Goodyear's aggravated, outrageous, and malicious conduct according to
17 proof;

18 D. For loss of back pay, front pay, and lost benefits according to proof;

19 E. For an award of attorneys' fees, expert fees, and costs of court under A.R.S.
20 § 41-1401, *et seq.*, 42 U.S.C. § 2000(e), *et seq.*, and 42 U.S.C. § 1981.

21 F. For prejudgment interest, according to proof; and

22 G. For such other and further relief as this Court deems just and proper.

23 **DEMAND FOR JURY TRIAL**

24 Plaintiff hereby requests that upon trial of this action, all issues be submitted to
25 and determined by a jury except those issues expressly reserved by law for
26 determination by the Court.

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DATED: February 16, 2018.

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