

May 28, 2020

Via Regular Mail to Deschutes County and Regular Mail and Email to David Doyle

David Doyle
Deschutes County
1300 NW Wall Street
Bend, OR 97703

Re: SUPPLEMENTAL NOTICE OF CLAIM: ORS 30.275
Claimant: Jasmyn Troncoso
Entity: Deschutes County

Mr. Doyle,

As you know, I represent Jasmyn Troncoso in her employment with the Deschutes County District Attorney's Office. I provided you and Deschutes County with a Notice of Tort Claim on May 11, 2020. Because that Notice of Tort Claim was provided to you and the County prior to Ms. Troncoso's last day of employment with the County on May 15, 2020, this is an amended notice that a claim for damages will be asserted by Ms. Troncoso against the Deschutes County District Attorney's Office damages arising out her constructive discharge from employment on May 15, 2020. This claims are for a combination of race and sex discrimination under state and federal law, including claims under ORS 659A.030, Title VII of the Civil Rights Act of 1964, 42 USC § 1981, as well as claims for violation of the Fourteenth Amendment of the United States Constitution by way of 42 USC § 1983. This notice also includes additional facts now known to me. As such, this letter is an amended brief description of the time, place and circumstances giving rise to the claim, so far as known to the claimant.

As previously disclosed to you in Ms. Troncoso's May 11, 2020 Notice of Tort Claim. Ms. Troncoso was a victim of both sex and race discrimination throughout her employment with the County and on a continuing and ongoing basis. Ms. Troncoso was at the time, and still is, the only County DA who is a person of color, and the only Spanish-speaking attorney in the office. While struggling with the DA office's "sink or swim" attitude toward training and onboarding, she was simultaneously subjected to sex and race-based harassment. Ms. Troncoso, who is petite, was accused of being anorexic, which she is not. Slight male employees were not subject to such comments. She was also told that she was only hired because DA Hummel found her attractive and wanted to have sex with her. Ms. Troncoso was accused, mostly by staff, of being "dumb," "ditz," "stupid," "inexperienced" and a "drama queen"; all false stereotypes about women. She

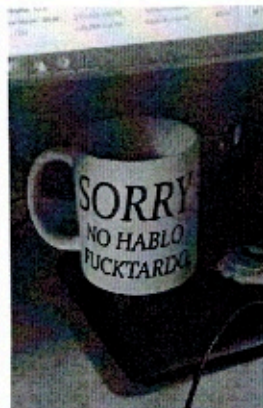
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was falsely accused of having an affair with a male victim advocate, which she did not, of being a homewrecker who created problems with a trial assistant's marriage with her husband, which she did not, and of sleeping with a male defense attorney. All of these statements are false. Men in the office were not subject to false and stereotypical sex stereotypes or accused of being, falsely, a "slut." Men in the office were not accused of being dumb, ditzy homewreckers who are just there because the boss allegedly wants to have sex with them. All of the above issues were reported up the chain of command to a combination of Steve Gunnels, Mary Anderson and Stacy Neil. While they appeared sympathetic to her concerns, they failed to take reasonable steps to stop the conduct thereby causing the harassment to continue to spiral. These comments took place on, at least, a weekly basis from the time her employment started until the present.

In early March, it became clearer to her that the adverse treatment was also motivated by her race. For example, in early March, the trial assistants were instructed to learn one sentence, in Spanish — "Let me transfer you to someone who speaks Spanish." Ms. Troncoso and her assistant, the sole Spanish-speaking employees, had concerns being the sole Spanish resources in the office, but were open to being a resource in this regard so long as it would not negatively impact their other obligations. Staff, however, refused to learn the sentence out of a feeling that it was beneath them to learn Spanish and so as not to be aligned with Ms. Troncoso, who they disliked because of her sex and race. Ms. Troncoso reported her concerns to the staff's supervisor, Ms. Palacio, including that she found their refusal to learn one sentence of Spanish offensive. Yet, the comments continued. The second week of March, staff member Vonda Lacovetta overheard Ms. Troncoso speaking Spanish on the phone and lashed out, saying words to the effect of, "This is America. Speak fucking English." For a Mexican-American professional, the comment "This is America. Speak fucking English" is not a far cry from using the "N-word" to reference an African-American employee.. While not the same, both phrases represent the worst parts of us as a society and are weaponized language that have no place at the County. After that, Ms. Troncoso spoke with her assistant who overheard the comment and confirmed that this was not the first time she had heard Ms. Lacovetta, and others, make similar statements about Ms. Troncoso, her Mexican heritage, and other people of color on many other occasions.

This sort of conduct was part and parcel of the culture of the DA's office which, for a Mexican America, was toxic. Another example of the toxic work environment that Ms. Troncoso was subjected to on a daily basis is best shown by the offensive coffee mug that staff member, Alicia Johnson, kept at her desk.

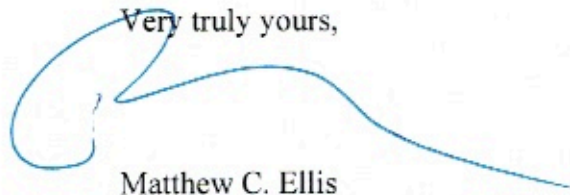


When asked about the mug, Ms. Johnson stated that she would never get rid of it and that it was her favorite mug. The fact that she was permitted to display such an offensive mug, openly, for an extended period of time is highly relevant to the pervasive culture of discrimination within the office. Against this backdrop, the fact that Ms. Troncoso didn't fit in is unsurprising.

Ms. Troncoso reported the racist comments to Mr. Gunnels and Ms. Neil, again. They recognized that these comments were severe and offensive but didn't take steps to stop or remedy the problem. Faced with a lack of immediate response to remedy the problems outlined above that were because of her sex and race, and which culminated with the "This is America. Speak fucking English" statement and the presence of the mug, she put in her notice the following Monday. As a result, Ms. Troncoso's resignation was a constructive discharge—because of the toxic sex and race-based hostile work environment present in the office. That resignation/discharge was final on her last day of employment, May 15, 2020, and Ms. Troncoso intends to bring claims for damages arising out of that wrongful constructive discharge.

Thank you.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Matthew C. Ellis", with a long, sweeping horizontal stroke extending to the right.

Matthew C. Ellis