

CAUSE NO. \_\_\_\_\_

AMY E. LYNCH,  
Plaintiff

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IN THE DISTRICT COURT

v.

\_\_\_\_\_ JUDICIAL DISTRICT

CITY OF AUSTIN a/k/a  
AUSTIN POLICE DEPARTMENT,  
Defendant.

TRAVIS COUNTY, TEXAS

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PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

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TO THE HONORABLE DISTRICT COURT JUDGE:

NOW COMES Plaintiff, Amy E. Lynch, and files this, her Plaintiff's Original Petition and Request for Disclosure, and respectfully shows the following:

I  
DISCOVERY CONTROL LEVEL

1. Plaintiff contends that this case should be governed by Discovery Control Level 2.

II  
PARTIES

2. Amy E. Lynch is an individual who was employed by the Austin Police Department.

3. The City of Austin a/k/a Austin Police Department is a municipality located in the State of Texas. The City of Austin may be served with process by serving its mayor, Lee Leffingwell, at 301 West 2nd Street, 2nd Floor Austin, Texas 78701.

III  
JURISDICTION AND VENUE

4. This Court has jurisdiction over Defendant because the Defendant is a Texas municipality.

5. Venue is appropriate because the facts of this case arose in Travis County, Texas and the Defendant is a municipal entity located within Travis County, Texas.

IV  
FACTS

6. Ms. Lynch first began working for the Austin Police Department in 1997.

7. During the course of her employment, Ms. Lynch has always been a loyal and diligent employee.

8. Ms. Lynch has always given her best efforts to the Police Department and to the City of Austin.

9. During Ms. Lynch's tenure, she has received good performance reviews and been promoted to detective.

10. Unfortunately, on January 2010, Ms. Lynch was diagnosed with narcolepsy.

11. Narcolepsy is a serious neurological disorder. Ms. Lynch underwent significant medical testing before her doctors arrived at this diagnosis. This included a series of sleep tests that confirmed the disability.

12. In December, 2010, Ms. Lynch was transferred to the Firearms Unit to continuing working as a detective.

13. A number of employees begin their workday in the Firearms Unit at 10:00 a.m.

14. Indeed, Ms. Lynch was originally allowed to work at 10:00 a.m.

15. This accommodation to Ms. Lynch that was reasonable.

16. However, the Austin Police Department withdrew this reasonable accommodation and began making Ms. Lynch begin work at 9:00 a.m on January 12, 2011.

17. Later, for no reason other than harassment and retaliation, Ms. Lynch was forced to be at work at 8:00 a.m. at the Firearms Unit.

18. This harassment and retaliation was emotionally devastating and Ms. Lynch took FMLA leave in March 2011 deal with the overwhelming stress and anxiety caused by the Austin Police Department.

19. During this FMLA leave, the City of Austin told Ms. Lynch that she would not be allowed to return to the Firearms unit and upon her return she would be assigned to a completely different job from Ms. Lynch's current job as detective.

20. Ms. Lynch was told that she could apply for open positions while she was on leave.

21. Ms. Lynch during her last 11 months of employment had been closely working with Ms. Woodfin who was about to retire from position of Narcotics Conspiracy/DEA Taskforce Investigator. Ms. Lynch submitted her application on 3/15/2011 for this position and never heard any thing regarding her application.

22. Ms. Lynch attempted to return to work with reasonable accommodations, but was denied.

23. During Ms. Lynch's leave she was required to complete two separate medial evaluations.

24. The medical evaluations were overbroad and not related to Ms. Lynch's underlying disability.

25. Both medical evaluations indicated that Ms. Lynch could perform the essential functions of her job with reasonable accommodations.

26. Despite Ms. Lynch's cooperation in complying with every request by Defendant, she still has not been returned to work.

27. All conditions precedent to the bringing of this lawsuit have been satisfied and fulfilled.

#### V

#### FIRST CAUSE OF ACTION: FAILURE TO ACCOMMODATE

28. This cause of action arises under the Texas Labor Code.

29. Plaintiff has a disability.

30. Plaintiff requested reasonable accommodations for her disability of a modified start time and or a flexible schedule.

31. Defendant failed to engage in the reasonable accommodation process.

32. Defendant refused to accommodate Plaintiff's disability.

33. Plaintiff can perform the essential functions of the job with or without reasonable accommodation.

34. Because of the actions of the Defendant, Plaintiff suffered damages within the jurisdictional limits of this Court.

#### VI.

#### SECOND CAUSE OF ACTION: DISABILITY DISCRIMINATION

35. This cause of action arises under the Texas Labor Code.

36. Plaintiff has a disability.
37. Plaintiff was nonetheless qualified to do her job
38. Plaintiff suffered an adverse employment action in (1) being removed from the Firearms Unit and (2) not being placed a detective position because of her disability.
39. Plaintiff was replaced by or treated less favorably than non-disabled employees.
40. Because of the actions of the Defendant, Plaintiff suffered damages within the jurisdictional limits of this Court.

VII  
THIRD CAUSE OF ACTION: RETALIATION

41. This cause of action arises under the Texas Labor Code.
42. Plaintiff engaged in protected activity by requesting an accommodation and filing an EEOC/ TWC-CRD Charge of Discrimination.
43. Defendant retaliated against Plaintiff by:
  - a. Subjecting her to a hostile work environment;
  - b. Removing her accommodation;
  - c. Unwarranted criticism of her work;
  - d. Removing her from the Firearms Unit;
  - e. Not considering her for open detective positions;
  - f. Not returning her to a detective position;
  - g. Failing to return her to work despite doctors releases;
  - h. Forcing her to complete unnecessary medical paperwork and evaluations;
  - i. Failing to communicate with her regarding returning to work;
44. Because of the actions of the Defendant, Plaintiff suffered damages within the jurisdictional limits of this Court.

VIII  
TRIAL BY JURY

45. Plaintiff asserts her right to trial by jury and tenders the appropriate fee.

IX.  
REQUEST FOR DISCLOSURE

46. Defendant is requested to disclose, within 50 days of its receipt of this request, the information and materials listed in Rule 194.2.

X  
DAMAGES

47. Plaintiff seeks all damages allowed under the anti-discrimination and retaliation causes of action contained in the Texas Labor Code, including:

(a) Plaintiff seeks her economic damages, including all lost back pay, front pay and benefits.

(b) Plaintiff seeks lost economic opportunity.

(c) Plaintiff seeks compensatory damages for humiliation, distress, inconvenience, anguish, and humiliation.

(d) Plaintiff seeks injunctive relief of reinstatement.

(e) Plaintiff seeks reasonable attorney fees and costs.

(f) Plaintiff seeks pre and post judgment interest at the maximum rate allowed by law.

WHEREFORE, premises considered, Plaintiff respectfully prays that Defendant be cited to appear and, that upon a trial on the merits, that all relief requested be awarded to Plaintiff, and for such other and further relief to which Plaintiff is justly entitled.

Respectfully submitted,  
ROB WILEY, P.C.

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