

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

_____x

HELEN EBBERT, PAMELA EDWARDS,
ISABELLA MINNECI, WENDY MURO,
FRANCES KAMERER, LORI CONKLIN
and all others similarly situated

Plaintiffs,

-against-

NASSAU COUNTY, NASSAU COUNTY
POLICE DEPARTMENT, NASSAU COUNTY
CIVIL SERVICE COMMISSION;
THOMAS R. SUOZZI, in his official capacity,

Defendants.
_____x

AMENDED
COMPLAINT
CLASS ACTION

CV-05 5445(FB)(AKT)

JURY TRIAL REQUESTED

NATURE OF ACTION

1. This is an action to secure injunctive and monetary relief from discrimination because of sex in employment and rates of pay. More specifically, plaintiffs allege that defendants have intentionally discriminated against them and members of the class that they represent by paying them wages substantially lower than the wages paid to men for the performance of substantially equal work in violation of the Equal Pay Act, 29 U.S.C. §§ 206(d) *et seq.*; the New York State Equal Pay Act, N.Y. Labor Law §§ 194 *et seq.*; and 42 U.S.C. § 1983.

JURISDICTION

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1343(3) and 1343(4) conferring original jurisdiction upon this Court of any civil action to recover damages or secure equitable or other relief under any Act of Congress providing for the protection of civil rights; the Equal Pay Act of 1963, 29 U.S.C. § 206(d) *et seq.*; and 42 U.S.C. § 1983. The Court's supplemental jurisdiction is invoked pursuant to 28 U.S.C. § 1367 on the ground that the acts challenged herein are also in violation of the laws of the State of New York, Labor Law §§ 194 *et seq.*

PLAINTIFFS

3. Plaintiff Helen Ebbert is a resident of Nassau County and has been employed by Nassau County as a Police Communication Operator since December 1, 1989. At all times relevant she has been an employee as defined by the Equal Pay Act ("EPA") and the New York State Labor Law.

4. Plaintiff Pamela R. Edwards is a resident of Nassau County and has been employed as a Police Communication Operator since November, 1998. At all times relevant she has been an employee as defined by the Equal Pay Act ("EPA") and the New York State Labor Law.

5. Plaintiff Isabella Minneci is a resident of Nassau County and has been employed as a Police Communication Operator since September 1991. At

all times relevant she has been an employee as defined by the Equal Pay Act ("EPA") and the New York State Labor Law.

6. Plaintiff Wendy Muro is a resident of Nassau County and has been employed as a Police Communications Officer since December 1994. At all times relevant she has been an employee as defined by the Equal Pay Act ("EPA") and the New York State Labor Law.

7. Plaintiff Frances Kamerer is a resident of Nassau County and was hired as a Police Communication Officer in April 1996 and promoted to a Police Communication Operator Supervisor in January 2004. At all times relevant she has been an employee as defined by the Equal Pay Act ("EPA") and the New York State Labor Law.

8. Plaintiff Lori Conklin is a resident of Nassau County and was hired as a Police Communications Officer in February 1986 and promoted to a Supervising Police Communication Officer in December 2000. At all times relevant she has been an employee as defined by the Equal Pay Act ("EPA") and the New York State Labor Law.

DEFENDANTS

9. Defendant County of Nassau is a municipal corporation duly incorporated under the laws of the State of New York.

10. Defendant Nassau County Police Department is the Agency of the County of Nassau to which Police Communications Officers (“PCOs”) and Police Communication Operator Supervisors (“PCOSs”) are assigned.

11. Defendant Civil Service Commission is an agency of the County of Nassau and is responsible for the classification of county positions and establishment of compensation for county employees.

12. Defendant Thomas R. Suozzi is the Nassau County Executive.

COLLECTIVE ACTION

13. With respect to their Equal Pay Act claim, plaintiffs bring this action pursuant to 29 U.S.C. §§ 206(d) *et seq.* on behalf of themselves and all other women similarly situated. The members of the class are all other women employed by the Nassau County Police Department as PCOs and/or PCOSs on or any time after three years prior to the commencement of this action.

CLASS ACTION

14. With respect to claims raised pursuant to 42 U.S.C. § 1983 and New York Labor Law §§ 194 *et seq.*, plaintiffs bring this action pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure on behalf of all women similarly situated. The class is comprised of all women employed by the Nassau County Police Department as PCOs and/or PCOSs on or any time after six years prior to the commencement of this action.

15. The requirements of Rule 23 are met:
- (a) The members of the class are those PCOs who respond to 911 calls and dispatch accordingly and the PCOs who train and supervise PCOs in those functions.
 - (b) The members of the class, which is approximately 170, are too numerous to be joined.
 - (c) Plaintiffs, all of whom are presently employed as PCOs and PCOSs, raise claims typical of the claims of the classes that they seek to represent.
 - (d) Material questions of law and fact are common to the members of the class and a common relief is sought for all members of the class.
 - (e) Plaintiffs will fairly and adequately represent and protect the interests of the classes. Plaintiffs' lawyers are experienced in the

litigation of civil rights matters and will vigorously prosecute this action on behalf of the class.

- (f) Defendants have acted on grounds generally applicable to the class and appropriate injunctive and declaratory relief would apply to and benefit the class as a whole.

16. Plaintiffs Ebbert, Edwards, Minnici and Muro work for defendant, Nassau County, specifically for the Nassau County Police Department, as PCOs. Their duties include receiving telephone calls placed on the Nassau County 911 emergency system, deciding on the appropriate response to each call, and dispatching appropriate aid.

17. Plaintiffs Kamerer and Conklin work for defendant Nassau County, specifically for the Nassau County Police Department as PCOSs. PCOS duties include supervising the work of the PCOs and evaluating their performance.

18. There are approximately 172 PCOs and PCOSs of which over 90% are female.

19. Defendant Nassau County employs Fire Communication Technicians ("FCTs") and Fire Communication Technician Supervisors ("FCTSs"). FCTs are employed in the Nassau County Fire Department and are responsible for

receiving telephone calls placed on the Nassau County fire emergency system, deciding on the appropriate response to each call, and dispatching appropriate aid. FCTSs supervise the work of the FCTs and evaluate performance.

20. There are approximately 32 FCTs and FCTSs. One hundred percent of the FCTSs and FCTs are male. No woman has ever been employed as an FCT or FCTS.

21. PCOs, FCTs and their supervisors work in the same job location under substantially similar conditions and perform jobs substantially similar in terms of skill effort and responsibility. Some examples are:

- a. PCOs, PCOSs, FCTs and FCTSs work twelve-hour shifts.
- b. PCOs and FCTs use a Computer Aided Dispatch ("CAD") system to process incoming calls.
- c. In addition to the CAD systems, both PCOs and FCTs also use a radio/telephone dispatch system. PCOs use the radio/telephone dispatch system in accordance with the regulations established by the FCC and procedures established by the Nassau County Police department. FCTs use a radio/telephone dispatch system in accordance with the regulations established by the FCC and procedures established by the Fire Marshal.
- d. Both PCOs and FCTs handle calls in substantially the same way. Both PCOs and FCTs receive calls from people requesting help on various topics.

Both PCOs and FCTs ask the same questions, such as questions regarding the nature and location of the emergency. Both must use independent judgment to decide on the type and priority of the call they are receiving. Both must decide what equipment is needed to deal with the specific emergency and both dispatch the equipment.

e. Both PCOs and FCTs may be called upon to dispatch ambulances.

f. PCOSs and FCTs perform supervisory jobs requiring equivalent skill effort and responsibility.

g. Many of the calls handled by PCOs and FCTs are shared between the two.

22. On information and belief, the pay scales for PCOs, FCTs, PCOSs and FCTs are determined by Nassau County's civil service grade ranking system.

23. On information and belief, within each grade there are steps which correlate seniority and compensation.

24. Prior to October 2001, PCOs were ranked at a salary grade 7 and PCOSs at salary grade 10 under the Nassau County Civil Service system.

25. In October 2001, PCOs were elevated to salary grade 9 and PCOSs to salary grade 11.

26. When PCOs and PCOSs were upgraded, they were not upgraded to their respective seniority step or in other words they were not given "vertical upgrades." Individuals thus lost seniority credit and concomitant pay increases that they would have received had they retained their seniority level with the grade increase.

27. Specifically:

Plaintiff Ebbert went from grade 7, seniority step 11 to grade 9 seniority step 8;

Plaintiff Edwards went from grade 7, seniority step 4 to grade 9 seniority step 1;

Plaintiff Minneci went from grade 7, seniority step 11 to grade 9 seniority step 8;

Plaintiff Muro went from grade 7, seniority step 8 to grade 9 seniority step 3;

Plaintiff Kameron went from grade 7, seniority step 6 to grade 9 seniority step 1. In January 2004 she was promoted to supervisor and went to grade 11 seniority step 1;

Plaintiff Conklin went from grade 10 seniority step 6 to grade 11 seniority step 5. Previously, when she was promoted in December 2000 she went from Grade 7 step 11 to Grade 10 step 6.

28. At all times relevant, FCTs and FCTSs were ranked at salary grades 10 and 12 respectively.

29. On May 11, 2005, the Nassau County Legislature approved elevating the PCOs and PCOSs to grades 10 and 12 respectively, thereby equalizing them in grade with the FCTs and FCTSs.

30. The PCOs and PCOSs continue to be paid less than FCTs and FCTSs of equal seniority as a consequence of the fact that they were not given vertical upgrades in 2001.

31. At all times relevant to this complaint, on information and belief defendants paid PCOs and PCOSs between \$1,500 and \$10,000 less than FCTs and FCTSs of equal seniority for performing jobs of equivalent skill, effort, and responsibility.

FIRST CAUSE OF ACTION

32. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 30 as though set forth in their entirety above.

33. The acts, practices and policies of defendants Nassau County, Nassau County Police Department, and Nassau County Civil Service Commission,

as set forth above, constitute ongoing discrimination against the individual plaintiffs and plaintiff class in violation of the Equal Pay Act, 29 U.S.C. §§ 206(d) *et seq.*

SECOND CAUSE OF ACTION

34. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 32 as though set forth in their entirety above.

35. The acts, practices and policies of defendants Nassau County, Nassau County Police Department, and Nassau County Civil Service Commission, as set forth above, constitute ongoing discrimination against the individual plaintiffs and plaintiff class in violation of the New York State Equal Pay Act, N.Y. Labor Law §§ 194 *et seq.*

THIRD CAUSE OF ACTION

36. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 34 as though set forth in their entirety above.

37. The acts, practices and policies of defendant Thomas R. Suozzi constitute ongoing intentional discrimination against the individual plaintiffs and plaintiff class in violation of 42 U.S.C. § 1983.

DEMAND FOR RELIEF

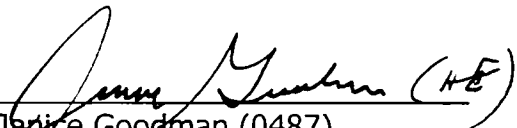
WHEREFORE, plaintiffs respectfully request that this Court grants the following relief:

- A. Designate this action as a collective action;
- B. Designate this action as a class action;
- C. Find that defendants discriminated against plaintiffs in violation of the Equal Pay Act, 29 U.S.C. §§ 206(d) *et seq.*;
- D. Find that defendants discriminated against plaintiffs in violation of New York State Equal Pay Act, N.Y. Labor Law §§ 194 *et seq.*;
- E. Find that defendant Thomas R. Suozzi, in his official capacity, discriminated against plaintiffs in violation of 42 U.S.C. § 1983;
- F. Enter a permanent injunction enjoining defendants from violating the Equal Pay Act, the New York State Equal Pay Act, and 42 U.S.C. § 1983 by paying women at rates lower than they pay men;
- G. Award plaintiffs back pay together with all other benefits to which plaintiffs are entitled, with prejudgment interest;
- H. Elevate plaintiffs to the seniority step equal to male FCTs and FCTSs of equal seniority;

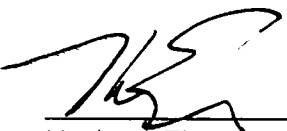
- I. Award plaintiffs liquidated damages due to defendants' willful and intentional conduct directed at plaintiffs in violation of rights protected by N.Y. Labor Law §§ 194 *et seq.*;
- J. Award compensative and punitive damages, in an amount to be determined at trial, due to defendants' willful and intentional acts directed at plaintiffs in violation of 42 U.S.C. § 1983;
- K. Award Plaintiff's reasonable attorneys' fees, expenses and costs of this proceeding;
- L. Such other and further relief as this Court deems just and proper.

Dated: May 29, 2007
New York, New York

Respectfully submitted,



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