

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ANDREA RATFIELD,

Plaintiff,

v.

DELTA AIR LINES, INC.,

Defendant.

Case No.: TBD

FIRST AMENDED COMPLAINT

JURY TRIAL DEMANDED

Plaintiff ANDREA RATFIELD (“Plaintiff Ratfield”), by and through her attorneys VALLI KANE & VAGNINI LLP and ELLWANGER LAW LLLP, brings this action for damages and other legal and equitable relief against Defendant DELTA AIR LINES, INC. (“Delta”), for violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* (“Title VII”); the Minnesota Human Rights Act (“MHRA”), Minn. Stat. §§ 363A.01 *et seq.* (“MHRA”); and any other cause(s) of action that can be inferred from the facts set forth herein.

INTRODUCTION

1. On January 1, 1914, the first commercial flight was conducted in the United States by the St. Petersburg-Tampa Airboat Line. More than a century later, the United States airline industry has evolved into a 250-billion-dollar industry with state-of-the-art aircraft and approximately 5,500 flights occurring every day. Despite the prodigious evolution of this industry, the treatment of women in the workplace is largely unchanged since 1914 as it remains a male-

dominated industry.¹ In fact, despite representing almost 51% of the United States' population, only about 5% of current commercial airline pilots are women.

2. Delta is one of the most successful commercial airlines in the world. Prior to the COVID-19 Pandemic, its annual revenue was close to 50 billion dollars and over 150 million passengers across the globe fly with Delta every year. In recent years, Delta has publicly taken a stand against workplace inequality with its Chief Executive Officer Edward Bastian (“Mr. Bastian”) stating in a January 2020 *Harvard Business Review* Podcast that:

Business leaders, historically, have been taught to keep their heads down, to not take on social topics and focus on their job. But businesses have a larger voice and a larger impact. I think it’s a moral imperative that we pick up that mantle and have the courage and speak.

3. Mr. Bastian also issued an August 2020 memorandum to his employees stating:

As your leader, I take ownership of that performance and am committed to correcting our course as we become a more just, equal and anti-racist company.

4. While Mr. Bastian and Delta certainly vocalize the need for workplace equalities, when confronted with actual discriminatory and harassing behavior from their male pilots (who represent approximately 95% of its pilots), they lose that “courage” to “speak.”

5. Like other airlines,² Delta does not promote women and protect them from the heinous and unlawful predatory actions of its coveted male pilots.³ In fact, one male Delta pilot

¹ The first female commercial airline pilot was Helen Richey (Ms. Richey”) who was hired in 1934 for Central Airlines (now a part of United Airlines). However, there were no other female commercial airline pilots hired after Ms. Richey until 1973 when Captain Emily Warner (“Captain Warner”) was hired for Frontier Airlines. Three years later, Captain Warner went on to become the first female airline Captain in the history of the United States—62 years after the first commercial flight.

² See *Doe v. Jet Blue Airways Corporation*, 19-CV-1542 (E.D.N.Y. 2019), a lawsuit alleging that male pilots drugged and raped female flight attendants.

³ One likely reason why commercial airlines like Delta promote male pilots over females is because of the public’s backwards stereotypical sentiment towards females operating transportation vehicles such as automobiles and aircraft, which of course, is an unlawful business practice (*i.e.*, acquiescing to customer preference for a certain gender or

wrote to Delta in 2017 that “[i]t appears that Delta may be getting a reputation for having a culture where woman may be subjected to some form of harassment.”

6. For example, in a 2020 recorded voicemail message from a male Delta pilot to a female flight attendant inquiring about becoming a pilot, the pilot professed that the woman “would make a better flight attendant than a pilot” and that “women should not be in the cockpit unless they are giving a blowjob.”

7. This message exemplifies the treatment Plaintiff and other women were forced to endure working for Delta.

8. Plaintiff Ratfield, a pilot, suffered through years of sexual harassment ranging from lewd comments about her body to being sexually assaulted by a male pilot.

9. Inexplicably, Delta did take action against Plaintiff for reporting incidents of harassment or assault by “gaslighting” her and subjecting her to adverse employment actions.

10. Following Plaintiff Ratfield’s complaints, Delta falsely accused her of abusing alcohol, forcing her to undergo unnecessary and abusive treatment in order to keep her position. Instead, Delta demoted her to a First Officer.

JURISDICTION AND VENUE

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, which confers original jurisdiction upon this Court for actions arising under the laws of the United States, and pursuant to 28 U.S.C. §§ 1343(3) and 1343(4), which confer original jurisdiction upon this Court in a civil action to recover damages or to secure equitable relief (i) under any Act of Congress providing for the protection of civil rights; (ii) under the Declaratory Judgment Statute, 28 U.S.C. § 2201; (iii) 42 U.S.C. §§ 2000e *et seq.*; and (iv) under 42 U.S.C. §§ 12101.

race). For example, a 2013 2,367 person survey conducted by a British travel agency found that 51% of airline passengers would not trust a female pilot.

12. Venue is proper in this Court pursuant to 42 U.S.C. § 2000e-5(f)(3), in as much as this judicial district lies in a State in which certain of the unlawful employment practices occurred and where Plaintiff currently resides.

13. The Court's supplemental jurisdiction is invoked to 28 U.S.C. § 1367(a), which confers supplemental jurisdiction over all non-federal claims arising from a common nucleus of operative facts such that they form part of the same case or controversy under Article III of the United States Constitution.

THE PARTIES

14. During the relevant time period, Plaintiff Ratfield was an "employee" within the meaning of Title VII and the MHRA. She currently resides in Orono, Minnesota and her employment is based out of Minneapolis-Saint Paul.

15. Delta is a publicly owned corporation organized under the laws of the state of Delaware and has its principal place of business at 1030 Delta Boulevard, Atlanta, Georgia 30354.

16. Delta has at all relevant times been an "employer" covered by Title VII and the MHRA and conducts business within this judicial district.

17. At all relevant times, Delta has employed over 70,000 employees.

EXHAUSTION OF FEDERAL ADMINISTRATIVE REMEDIES

18. Plaintiff Ratfield, who has herein alleged claims pursuant to Title VII, has timely filed three (3) complaints of discrimination/retaliation with the EEOC.

19. Plaintiff Ratfield has received her Notice of Right to Sue letter from the EEOC regarding her first and second complaints of discrimination/retaliation for the alleged Title VII claims herein within ninety (90) days of the filing of the Original Complaint.

20. Plaintiff Ratfield has requested her Notice of Right to Sue letter from the EEOC regarding her third complaint of discrimination/retaliation for the alleged Title VII claims herein within ninety (90) days of the filing of the Original Complaint.

STATEMENT OF FACTS

I. Delta's Policy and Practice of Weaponizing Its Mental Health Safety Procedures

21. The mental health and sobriety of airline employees are of the utmost importance and there are procedures designed to protect the public and ensure that Pilots and other in-air employees are fit for duty.

22. Delta, however, uses these public protections with impunity to retaliate against those who complain of its unlawful practices. Delta uses these public protections to retaliate against its employees as it immediately removes them from employment and their failure to comply with Delta's strictures is a death knell to their careers. Accordingly, Delta gains blind compliance from those against whom it wishes to retaliate.

23. For example, in January 2016, First Officer Karlene Pettit ("First Officer Pettit") complained to Delta about pilot fatigue, falsification of training records, and inadequate training for its pilots. Delta then deemed First Officer Pettit mentally unfit for duty and forced her to undergo a psychiatric evaluation by a physician who Delta grossly paid approximately \$75,000 for an approximately \$5,000 evaluation. That physician, who has since surrendered his Illinois Medical License in lieu of prosecution, declared that First Officer Pettit was bipolar and, thus, unfit for duty.

24. First Officer Pettit then received several subsequent psychiatric evaluations, including one from the world-renowned Mayo Clinic that declared she was not bipolar and perfectly capable of operating an aircraft. In fact, Dr. Lawrence Steinkraus of the Mayo Clinic and

former Individual Mobilization Augmentee for the United States Air Force highlighted Delta's unlawful retaliatory practice by stating:

This has been a puzzle for our group—the evidence does not support presence of a psychiatric diagnosis but does support an organizational/corporate effort to remove this pilot from the rolls. This is was not an uncommon problem for me in the AF – wherein a line commander would decide they wanted to get rid of a crew member but did not want to do it administratively – so they would ask for a medical evaluation. Sometimes it made sense, for instance a pilot with PTSD, fear of flying, etc. At other times, the intent was less benign – a problem of “fit” and, years ago in the military, it was not unusual for female pilots and air crew to be the target for such an effort.⁴

25. Of course, Delta refused to accept these findings from First Officer Pettit's physicians.

26. First Officer Pettit then took legal action, and in December 2020, the United States Department of Labor Administrative Law Judge Scott Morris found that Delta unlawfully retaliated against First Officer Pettit for her complaints of Delta's aviation safety violations. Specifically, Judge Morris found that:

[I]t is improper for [Delta] to weaponize this [psychiatric evaluation] process for the purposes of obtaining blind compliance by its pilots due to fear that [Delta] can ruin their career by such cavalier use of this tool of last resort.

27. On March 29, 2022, the U.S. Department of Labor Administrative Review Board affirmed the ALJ's conclusion that Delta violated employee protection provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century and its implementing regulations.

28. Like First Officer Pettit, Plaintiff Ratfield was also a victim of Delta's policy and practice of using processes designed to protect the public to violate the law and mask its illegal

⁴ According to Delta, approximately 50% of its pilot workforce is comprised of former military personnel.

actions creating a chilling effect to discourage its female employees from engaging in protected activities as set forth fully below.

29. Plaintiff Ratfield is the co-founder and former President of the non-profit Female Aviators Sticking Together (“F.A.S.T.”) organization. F.A.S.T., which is now comprised of over 14,000 female pilots, provides much-needed flight training scholarships to females as well as encouragement and a support network for the marginalized female pilot community. She also assisted in the drafting of Delta’s first-ever maternity policy for pilots, Delta’s first-ever nursing/bonding policy for pilots, and the Delta Union’s Pilot Family Matters Committee, to address sexual harassment and other non-addressed issues at Delta.

30. In July 1999, Plaintiff Ratfield began her employment for Delta as a flight attendant.

31. In March 2003, Plaintiff Ratfield resigned from her employment as a flight attendant to become a pilot for Pinnacle Airlines.

32. In 2005, Plaintiff Ratfield received the Women in Aviation (“WIA”) Delta Air Lines Scholarship.

33. In February 2007, Delta hired Plaintiff Ratfield as a pilot making her, at the time, part of Delta’s 3% female pilot workforce.

34. Throughout her employment with Delta, Plaintiff Ratfield received exceptional reviews from her passengers.

35. For example, one passenger stated to Delta that “[t]he female captain on this flight was by far the best pilot I have ever had. She was clear and concise with her announcements. She was friendly and made a smooth landing in what was rainy nasty day weather wise.”

36. As for another example, a different passenger stated to Delta that “Staff was excellent on every leg of my journey. I witnessed one of the pilots assisting passengers with questions at the Des Moines terminal. [Plaintiff Ratfield] in Detroit was masterful at keeping the mood light while providing excellent customer service:) [sic].”

37. As for a further example, on February 5, 2020, a passenger stated to Delta, “I’m sure that Delta’s expectations for flying officers are rather high and demanding. But Captain Ratfield . . . [is] obviously a step or two beyond this.

38. In February 2007, during her initial pilot training, a doctored photograph of Plaintiff Ratfield at the WIA conference circulated that depicted Plaintiff Ratfield being dreamed of by Brian Bolt, a Male Delta Pilot New Hire Manager. Plaintiff Ratfield reported this doctored image to Delta, but no remedial action was taken.

39. In May 2007, a list of Delta’s pilots who had been awarded new aircraft was circulated. Plaintiff Ratfield’s name was circled with the word “actress” with the image of a tongue next to it.

40. On July 16, 2007, during international flight line training, Captain Richard Stark (“Airman Stark”), a Line Check Airman, repeatedly called Plaintiff Ratfield’s hotel room asking to have a drink with her. He also showed up at her door at approximately 2:00 am to request that she drink with him. Plaintiff Ratfield declined Airman Stark’s invitation. The following day, Airman Stark belittled and demeaned Plaintiff Ratfield in the flight deck and made a false report regarding her performance. Plaintiff Ratfield reported to Delta regarding Airman Stark’s unlawful retaliatory actions, but no remedial action was taken.

41. In or around 2008, during a layover in Sao Paulo, Brazil, Captain Paul Eberly (“Captain Eberly”) pointed out a shirt on a person that stated, “Two in the front, one in the rear,”

with fingers to suggest a sexual connotation. Thereafter, Captain Eberly made this finger gesture whenever he saw Plaintiff Ratfield and/or flew with her again. She reported Captain Eberly to the NYC Chief Pilot Office (“CPO”), but no remedial action was taken.

42. In March 2010, Captain Greg Mazyck informed Plaintiff Ratfield that she was being spoken about in a sexual manner amongst the NYC Pilots. Plaintiff Ratfield complained of this unlawful conduct to former Manager Brian Bolt, but no action was taken.

43. On February 25, 2011, due to Delta’s non-existent policies protecting nursing mothers, Plaintiff Ratfield was required to pump her breast milk while on crew rest in the flight deck next to Captain Gordon Goss (“Captain Goss”), a Line Check Airman. Upon completing her pumping, Captain Goss turned around and saw Plaintiff Ratfield’s exposed breasts. Following this incident, Captain Goss smirked whenever he saw Plaintiff Ratfield. Captain Goss later became one of Ratfield’s direct supervisors, and he also informed Delta’s Regional Director Captain Gregory Cardis (“Captain Cardis”) and Captain Ray Baltera (“Captain Baltera”), both of whom were Plaintiff Ratfield’s direct supervisors, that he saw Plaintiff Ratfield’s breasts.

44. Furthermore, during a 2016 Union meeting, Plaintiff Ratfield presented a resolution for a maternity, nursing, and bonding policy to the Minneapolis-Saint Paul (“MSP”) pilots to prevent the horrific workplace conditions for mothers of newborns. Captain Goss sat in the front row during this meeting and smirked the entire time.

45. On July 29, 2011, during a 2-day trip, a MSP Captain told Plaintiff Ratfield to buy a hat because she forgot hers at home. Instead, she asked for a temporary replacement hat from the MSP CPO, and when the MSP CPO did not have a hat, this MSP Captain again demanded that she purchase one. During her 2-day trip with the MSP Captain, he repeatedly called Plaintiff Ratfield a “princess” for seeking a temporary replacement hat during the flight. At the end of the

flight, he stated that he did not like the fact that she looked so “girly in her uniform” demeaned her by saying “it’s your hair, it’s your makeup, it’s everything about you,” and that she must just be a “princess.” Plaintiff Ratfield reported the incident to MSP CPO and, again, nothing was done.

46. On August 30, 2015, during a layover in Washington D.C., First Officer Aubrey Venable (“First Officer Venable”) said that Plaintiff Ratfield needed a “nipple to suck down [her] drink.” Plaintiff Ratfield requested that First Officer Venable cease making offensive comments and turned away from him. First Officer Venable then came up behind her, reached around her body, grabbed both her breasts, and exclaimed “I found your nipples!” Plaintiff Ratfield reported this incident to her Captain John Sollinger the following day, but no remedial action was taken.

47. In April 2016, Captain Cardis, other male pilots, and Captain Baltera discussed the fit of Plaintiff Ratfield’s uniform pants. Grotesquely, Captain Baltera used the offensive sexual term “camel toe” to describe the fit of Plaintiff Ratfield’s uniform pants.

48. On May 17, 2016, Plaintiff Ratfield was picked by Delta for a photo shoot to model its uniforms. Despite her uniform being approved by Delta’s Flying Ops Program Manager Michael Williams before the photoshoot, Delta elected not to use her photos because of the way the uniform displayed her female body.

49. In September 2016, Plaintiff Ratfield spoke with then Vice-President of Flight Operations Captain Jim Graham about the lack of female options and/or uniforms for their female pilots.

50. On October 2, 2016, Plaintiff Ratfield was reprimanded by Delta for wearing pink breast cancer epaulets. Although she informed Delta that multiple male pilots have worn similar pink epaulets without repercussions, a report of the incident was still placed in Plaintiff Ratfield’s file.

51. On January 6, 2017, former Vice President – Flight Operations & System Chief Pilot Captain O.C. Miller (“Captain Miller”) wrote all Delta Regional Directors about F.A.S.T.

52. On June 30, 2017, NYC CPO Manager Captain Jim Dwyer (“Captain Dwyer”) sent Plaintiff Ratfield an article regarding sexual harassment, acknowledging what she was being subjected to, stating, “See the third paragraph for what I perceive may be occurring in your professional life.” The third paragraph of the article stated as follows:

The more a woman conforms to traditional gender norms, the more likely she is to experience benevolent sexism. The more she threatens them, the more likely she is to experience hostile sexism. Take sexual harassment, a particularly violent form of hostile sexism . . . The women most vulnerable to sexual harassment are those “with relatively masculine personalities (*e.g.*, assertive, dominant, and independent)” and those who perform jobs traditionally done by men.

53. On June 7, 2017, Captain Dwyer wrote his direct supervisor and the rest of the NYC CPO to inform them of multiple cases of overt sexual harassment and about F.A.S.T.

54. Throughout 2016 and 2017, Plaintiff Ratfield continued to report the harassment she was receiving to Delta’s Manager First Officer Crystal Barrois (“First Officer Barrois”). Although First Officer Barrois “agreed” with Plaintiff Ratfield’s complaints and was “personally sick” of the sexually hostile work environment fostered by Delta, nothing was done to address Plaintiff Ratfield’s complaints other than the campaign of retaliation Delta engaged in as set forth below.

55. On September 26, 2017, Plaintiff Ratfield was repeatedly raped during a female aviation event in New York City. In October 2017, she reported the rapes to Captain Scott Monjeau (“Captain Monjeau”) and asked for his assistance dealing with the stress caused by the rapes, the constant sexual harassment, and repeated gender discrimination. Plaintiff Ratfield also advised Captain Monjeau that she was drinking to deal with the rapes and he encouraged her,

without explanation, to enter into the Human Intervention Motivation Study (“HIMS”) program and claimed she would get the help that she needed, that it would be a quick 5-weeks “Pilot Program” and that she would be “in-and-out.”

56. Notably, Plaintiff Ratfield would have never voluntarily entered the HIMS program had Captain Monjeau explained the details of it. Captain Monjeau claimed Plaintiff Ratfield would get the help needed for the rapes, however, he chose Delta’s-contract treatment facility, Talbott Recovery Center in Atlanta, GA, which had predominately male patients, as the place for her to go.

57. Approximately a week later, Plaintiff Ratfield contacted the Talbott treatment facility regarding the HIMS program, as an error was made in her start date. Thereafter, Captain Monjeau called Plaintiff Ratfield to scream at her for not “going through him” and to not call Talbott again because he was going to take care of everything, including the details of her treatment.

58. In October 2017, “Captain Miller” called Female Aviators Sticking Together (“F.A.S.T.”) a “group of angry venting female Pilots.” F.A.S.T. is an organization co-founded by Plaintiff Ratfield that provides much-needed flight training scholarships to females as well as encouragement and a support network for the marginalized female pilot community. F.A.S.T. is now comprised of over 14,000 female pilots.

59. On October 24, 2017, Plaintiff Ratfield checked into the Talbott treatment facility. No Manager and/or Union Representative of Delta met Plaintiff Ratfield, despite the fact it is standard to do so for pilots. The 72-hour assessment was also not completed. After checking in, Plaintiff Ratfield was informed that she could not participate in the five-week rehabilitation “Pilot Program” due to her gender and the sexually predatory nature of the men in the program. Instead,

she was required to enter the 8-week rehabilitation program. Notably, during the treatment, Plaintiff Ratfield's counselors instructed her not to report sexual harassment to Delta and to "just get through it." Additionally, during treatment, a male pilot nicknamed "Big Mike" was in a relationship with a female inpatient "Jamie", yet no disciplinary action was taken, and "Big Mike" was discharged successfully.

60. In mid-November 2017, before Delta's required "mid-phase" treatment meeting," Delta's Regional Director Captain Gregory Cardis ("Captain Cardis") falsely told the counselors and physicians that Plaintiff Ratfield has a "known history" of "violating chain-of-command." Notably, Delta does not maintain a "chain of command" because it implements an open door policy. These false claims resulted in Plaintiff Ratfield being required to receive up to a total of twelve (12) weeks of treatment at Talbott before she could even be considered to return to work by Delta.

61. In December 2017, Plaintiff Ratfield began receiving severe, crude, and unsolicited sexually offensive text messages, photographs, and a masturbating video from male patient(s), which she reported.

62. On December 14, 2017, despite being only weeks away from completing the program, and after already being in treatment for 7 ½ weeks, over 2 weeks longer than had been promised by Captain Monjeau, Plaintiff Ratfield was involuntarily transferred to MARR Addiction Treatment Center, a facility where former Delta's Senior Vice President Captain Jim Graham and Delta's current Senior Vice President of Flight Operations and System Chief Pilot Captain Patrick Burns ("Captain Burns") were/are Board Members, "to protect her" from certain male patients at Talbott. On the drive to MARR, Captain Monjeau admonished Plaintiff Ratfield screaming at her

to keep her “fucking nose clean.” Plaintiff Ratfield was then required to complete another 90 days of inpatient treatment.

63. On January 24, 2018, Plaintiff Ratfield received an email from Captain Dwyer stating that Plaintiff Ratfield’s current supervisor, Captain Baltera had reported to him that she had been transferred to MARR violating Delta’s “Rules of the Road” by breaking confidentiality.

64. On January 31, 2018, Plaintiff Ratfield reported to Captain Dwyer how scared she felt at MARR, and how she was “so scared that there are managers [*i.e.*, males] at Delta that don’t want [her] to return to work at Delta. Ever.” She also inquired why she is being “talked about as much as [she] has by the men at Delta?”

65. On March 13, 2018, Plaintiff Ratfield had a three (3) hour meeting at MARR with Captain Cardis, Captain Monjeau, and First Officer Warren Mowry (“First Officer Mowry” regarding the unlawful sexual harassment she was subjected to throughout her career with Delta. Again, no remedial action was taken.

66. On March 14, 2018, Plaintiff Ratfield was discharged from MARR.

67. On March 21, 2018, Plaintiff Ratfield asked Captain Monjeau and First Officer Mowry what the “specific reason” was for being “given Dr. [Alan] Kozarsky, as an AME” despite it being previously mentioned by them that it was either Dr. Faulkner or Dr. Harper, Jr. who would serve as her HIMS AME. The day prior, Dr. Kozarsky, an Ophthalmologist, told Plaintiff Ratfield that she was required to fly to Atlanta to visit him prior to her FAA Special Issuance Authorization and First Class Medical appointment in May 2018.

68. On July 11, 2018, Plaintiff Ratfield texted Delta’s Manager Captain Kathaleen Wildhaber stating the fear she has of Captain Cardis retaliating against her by jeopardizing her

employment with Delta every time she has to see him for her required monthly Chief Pilot appointments.

69. On August 22, 2018, Captain Cardis admonished Plaintiff Ratfield for two hours regarding her complaints during the March 13, 2018, meeting. Captain Cardis also threatened Plaintiff Ratfield's employment and stated that he would leave his opinion in her file because he wanted future Chief Pilots and Delta's management to know how he felt about her.

70. In the summer of 2019, Manager ATL CPO Captain Harry Miller ("Captain H. Miller") asked Plaintiff Ratfield out on a date for "burgers and a beer" while at work, despite Captain Miller knowing that Plaintiff Ratfield could not drink as he was in a required Delta pilots meeting with her while at Talbott.

71. On November 15, 2019, Plaintiff Ratfield met with MSP Assistant Chief Pilot First Officer Andy Luce ("First Officer Luce") for her required monthly Chief Pilot appointment in which he stated, "Great meeting with Andrea today... No problems noted."

72. On November 17, 2019, Plaintiff Ratfield delayed a flight (Seattle-Phoenix) due to maintenance issues and incorrect maintenance logbook write-ups/MEL. This was her last flight flown before the false-positive test result.

73. On November 19, 2019, Plaintiff Ratfield received her FAA Special Issuance Authorization and First Class Medical Certificate from Dr. Kozarksy with a positive review stating that "she is sober" and that there were "no concerns at this time." Plaintiff Ratfield also provided a urine sample during her required 6-month examination, scheduled almost 1-month prior, which could have been used for alcohol testing. Later that day, however, Michele Gable ("Ms. Gable") notified Plaintiff Ratfield of a "random" PEth test, which was a non-standard timeframe test as exemplified by Plaintiff Ratfield's Delta Pilot Alcohol and Drug Recovery Program Aftercare

Contract (“Contract A”). This PEth test, however, was sent to the wrong address and Ms. Gable rescheduled the test for November 21, 2019, at a third-party lab. However, when Plaintiff Ratfield arrived at the lab, it did not have the Choice Labs’ Whole Blood Analysis PEth test kit. Thus, she had to take a non-controlled Dried Blood Spot PEth test that is notorious for its false positives. A non-controlled test is a violation of Delta’s own policy requiring controlled tests and the test came back positive despite Plaintiff Ratfield not having consumed any alcohol.

74. On November 26, 2019, Plaintiff Ratfield was notified of a positive PEth test result from Captain Baltera and was taken off flight status. There was no initial re-run of the test, Plaintiff Ratfield was not provided with an opportunity for a confirmatory test despite her requests, and Delta refused to provide the “litigation package” containing the testing procedures and results and factual data surrounding the test for almost a year. All of the above accommodations have been provided to male pilots. That same day, Plaintiff Ratfield, on her own accord, returned to the same lab and had another PEth test taken at a significantly lower alcohol level of detection and the results were negative. Plaintiff Ratfield provided these results to Delta, but Delta rejected the results. Dr. Kozarksy also refused to provide her with a confirmatory test, despite the late Dr. Harper, Sr., Delta’s former HIMS AME, permitting additional testing for male pilot(s) when there was a question about a test result.

75. Notably, Captain H. Miller afforded Captain Michael Perez (“Captain Perez”) a secondary test, and the late Dr. Harper Sr. permitted Captain Perez to undergo further testing after a *second* positive test result. Unlike Plaintiff Ratfield, Captain Perez was not required to attend retreatment or execute a “last chance” agreement. Moreover, in 2016, a male pilot, Michael Rysso (sic), incurred a DUI and was not required to enter Delta’s HIMS/Delta Pilots Assistance Committee (“DPAC”) program, execute a Contract “A,” or be seen by a Delta contracted HIMS

AME. Rather, Delta only required him to be monitored by his AME for two years. This AME was not contracted by Delta like Dr. Kozarsky was/is. This option was never offered to Plaintiff Ratfield who *voluntarily* entered the HIMS program for the purpose of sexual assault counseling.

76. On November 26, 2019, before her second test, Captain Monjeau, ordered Plaintiff Ratfield not to obtain additional testing. This order conflicts with Delta's HIMS/DPAC two-test protocol, and recommendations for male pilots in similar cases. The result of Plaintiff Ratfield's test was negative. Despite the fact that this was a 3rd party Dried Blood Spot PEth test from the exact same lab administered by the exact same person, Captain Burns argued that the first one was "controlled," and the second was not. This position is inconsistent and illogical.

77. On November 27, 2019, Plaintiff Ratfield took a Whole Blood PEth test and Hair Follicle test at a hospital and both test results were negative. The hair follicle test has an up to 90-day retrospection for the presence of alcohol. Plaintiff Ratfield informed Delta's management, but they did not accept the results despite accepting (and even asking for) secondary results from male pilots.

78. On December 10, 2019, Plaintiff Ratfield took a fingernail test, which has an up to 180-day retrospection for the presence of alcohol, and the results were again negative. Once again, Plaintiff Ratfield informed Delta's management, but they would not accept the result.

79. On December 10, 2019, Captain Baltera directed Plaintiff Ratfield to report to The Meadows treatment facility in Phoenix, Arizona, which no pilot has ever previously attended, for a minimum of forty-five days. By no coincidence, Jennifer Angier, the Talbott Chief Executive Officer during Plaintiff Ratfield's admittance, was now the Vice President of Behavioral Health at The Meadows.

80. On December 11, 2019, Plaintiff Ratfield spoke with Captain H. Miller regarding Captain Perez. Captain Miller denied any knowledge of his workings with Captain Perez and told her just to “take the easy route” and receive treatment.

81. On December 12, 2019, Plaintiff Ratfield emailed former Senior Vice President of Flight Operations Captain Jim Graham asking for help and also reporting unfair and discriminatory treatment. He did not respond to her email.

82. On Sunday, December 15, 2019, Plaintiff Ratfield was interviewed by Captain Baltera on a 25-minute phone call. Plaintiff Baltera questioned her regarding her children’s custody arrangements, divorce details, and childcare issues. Plaintiff Ratfield reiterated that even though she did not drink, nor “slip,” nor relapse, that she was open to a mutually agreeable solution to maintain her employment with Delta. She then again suggested Hazelden Betty Ford since it is a world-renowned treatment facility in the Minneapolis area. This plan would have afforded her the ability to see her children as well as comply with her Family Medical Leave Act leave requirements on file with Delta. Despite not needing it, Plaintiff Ratfield never refused retreatment.

83. On December 19, 2019, Plaintiff Ratfield received a toxicologist report from Dr. David Koch from Grady Memorial Hospital and Emory University, stating that the “Nov. 21st specimen is in serious doubt.” Delta, however, did not accept these findings.

84. On December 23, 2019, Plaintiff Ratfield was interviewed for 3 hours by Captain Baltera and MSP Chief Pilot Paul Borgstrom (“Captain Borgstrom”). During this meeting, Captain Baltera asserted that Plaintiff Ratfield “flushed her blood” to garner the negative results and stated that the PEth may have a half-life of 1-day in her blood, effectively accusing her of showing up to her HIMS AME appointment intoxicated. Later that day, Dr. Kozarsky informed Plaintiff Ratfield

that she was required to see a HIMS Psychiatrist because she was maintaining her innocence and because Dr. Kozarsky stated she was “in denial.”

85. On December 27, 2019, Captain Baltera informed Plaintiff Ratfield that she was terminated and that she must attend a meeting for the notice of intent to terminate (“NOI”). Also on December 27, 2019, Dr. Kozarsky told Plaintiff Ratfield to attend in-patient treatment to make it “easy” on herself because Delta and the Federal Aviation Administration (“FAA”) do not like pilots who do not go to treatment, and threatened her by stating that “you do not want to go up against big company and big government.”

86. On January 1 and 2, 2020, in a 14-hour period, Captain Baltera emailed Plaintiff Ratfield three times, delivering her NOI non-standard via email, with each email increasing in a threatening tone, stating, “As your supervisor, I am directing you to acknowledge receipt of this email.” Captain Baltera knew she was sick. In addition, the NOI was filled with falsities that lacked any supporting documentation to include that Plaintiff Ratfield had “refused retreatment” and that her stay at Talbott was “characterized” by rule violations and disruptions, all of which are completely without merit.

87. On January 16, 2020, Dr. Kozarsky informed Plaintiff Ratfield that he was not part of the decision making that Plaintiff Ratfield attend inpatient treatment at The Meadows despite the fact that the NOI Plaintiff Ratfield received stated as such (“[Y]our HIMS AME agreed that re-treatment at the Meadows was appropriate.”).

88. On January 21, 2020, Plaintiff Ratfield emailed Delta, Mr. Bastian, Delta’s Ethics and Compliance, Delta’s Executive Vice President – Flying/Air Operations Bill Lentsch (“Mr. Lentsch”), and Delta’s Ethics and Compliance Department requesting assistance and reported the sexual harassment, gender discrimination, and retaliation she was subjected to throughout the years

of her employment with Delta and her looming retaliatory termination. She also reported Dr. Kozarsky's conflict of interest with Delta as an FAA designee and the fact that he was forcing her to undergo a psychiatric evaluation because she maintained her sobriety. Moreover, as an FAA designee, Dr. Kozarsky is not permitted to refer pilots to a specific treatment facility or psychiatrist. This regulation apparently did not apply to Plaintiff Ratfield.

89. On February 11, 2020, Plaintiff Ratfield received a toxicologist report from Theodore F. Shults, Chairman of the American Association of Medical Review Officers, stating that "All of the relevant testing done after the November 21, 2019, indicate alcohol abstinence and point to the November 21, 2019 PEth as a false-positive result." Delta, however, did not accept these findings.

90. On February 12, 2020, Plaintiff Ratfield reported to Captain Burns of the falsities contained in the NOI and reported the sexual harassment at Talbott. She also questioned why Delta chose to send her to The Meadows. Captain Burns outright refused to listen to the preponderance of evidence that demonstrated Plaintiff Ratfield's innocence. Then he gave Plaintiff Ratfield a hug.

91. On March 9, 2020, Delta's Human Resources Employees Amy Bondurant ("Ms. Bondurant") and Nicole Bell ("Ms. Bell") met with Plaintiff Ratfield in a 3-hour meeting to discuss her allegations of sexual harassment, gender discrimination, and retaliation. Delta denied Plaintiff Ratfield the right to have any representation with her, and refused her request to record the meeting due to lack of a witness being permitted.

92. On March 16, 2020, Plaintiff Ratfield provided Captain Burns and Ms. Bondurant a chart detailing discrimination between male and female pilots regarding alcohol/drug testing, but did not receive a response.

93. On April 8, 2020, Plaintiff Ratfield's FAA Special Issuance Authorization and First Class Medical Certification was revoked. That same day, the FAA spoke directly with Michele Gable of Delta-contracted Choice Labs regarding Plaintiff Ratfield's case, which is not a standard practice. Notably, it was due to Ms. Gable's errors in non-standard timing and not sending the Choice Labs Whole Blood PEth test kit to Plaintiff Ratfield's home and the lab which led to Plaintiff Ratfield being forced to take a Dried Blood Spot PEth test.

94. On April 21, 2020, Plaintiff Ratfield contacted Ms. Bondurant again regarding being discriminated against for not receiving the November 21, 2019 litigation package.

95. On April 22, 2020, Plaintiff Ratfield called Dr. Thomas Faulkner ("Dr. Faulkner"), HIMS AME, and Delta's Director of Health Services asking for assistance with Dr. Kozarsky's unethical actions and behavior. Dr. Faulkner claimed that he wears "two different hats," and that neither of his roles affects the other. Plaintiff Ratfield then explained her case in detail and asked if Dr. Faulkner would consider being her HIMS AME because Dr. Kozarsky was clearly trying to harm her and her career and had stopped her FAA-required monitoring (random drug/alcohol screens). Dr. Faulkner agreed to be her HIMS AME and scheduled a Zoom call on April 29, 2020.

96. On April 29, 2020, Plaintiff Ratfield had the Zoom video call with Dr. Faulkner and discussed her case in further detail and the steps needed to reacquire her FAA Special Issuance Authorization and First Class Medical. Dr. Faulkner agreed to restart Plaintiff Ratfield on the required FAA random alcohol testing.

97. On April 30, 2020, Captain Burns rescinded Plaintiff Ratfield's notice of termination on the condition she attends inpatient retreatment and executes a "last chance" agreement, which was not imposed upon male pilots (*e.g.*, Captain Michael Perez). The required inpatient treatment directly violates Plaintiff Ratfield's FMLA on file pertaining to her son that

states “patient (Hunter) displays extreme stress over mother’s absence for long periods of time decreasing patient’s ability to learn effectively resulting in decrease effectiveness of therapies,” and that he is “unable to perform daily activities and school activities w/out significant aid.”

98. In May 2020, Plaintiff Ratfield provided Delta with the results from a polygraph test affirming that she has sustained sobriety, three expert toxicologist reports, and other supporting documentation. Once again, Delta refused to acknowledge Ms. Ratfield’s sobriety.

99. On May 3, 2020, Plaintiff Ratfield emailed Captain Burns and requested intensive outpatient treatment again so she could ensure adequate childcare and FMLA compliance for her sons and to remain on her current “Contract A,” but was denied.

100. On May 7, 2020, Plaintiff Ratfield emailed Captain Burns and requested that she no longer be required to use Dr. Kozarsky and Choice Labs as her testing facility and suggested a neutral HIMS AME or Dr. Faulkner, but was denied with the threat by Captain Burns that “any additional attempts to delay reporting will cause us to re-open the disciplinary process.”

101. On May 11, 2020, Plaintiff Ratfield emailed Ms. Bondurant regarding her concerns of working with the male employees who she complained about for engaging in unlawful activities and being forced to see Dr. Kozarsky. Nothing was done.

102. On May 20, 22, and 29, 2020, Plaintiff Ratfield spoke with and emailed Captain Baltera, Captain Borgstrom, and Captain Burns to postpone her Hazelden start date by two weeks to secure adequate childcare, but was denied.

103. On June 1, 2020, Captain Burns denied Plaintiff Ratfield’s request to not work with employees who she had complained of sexually harassing her.

104. On June 1, 2020, Captain Burns denied Plaintiff Ratfield’s request to work with a female representative, and to have her present at all meetings.

105. On June 1, 2020, Plaintiff Ratfield checked into the Hazelden Treatment Center and was informed that Delta advised them to simply admit her without a given diagnosis. Also on June 1, 2020, Dr. Kozarsky contacted Hazelden Counselor Chinelo Steiner (“Ms. Steiner”) and informed her that Plaintiff Ratfield had psychological problems and/or a personality disorder.

106. On June 15, 2020, Dr. Kozarsky again contacted Ms. Steiner to attempt to negatively impact Plaintiff Ratfield’s evaluations. When his malicious efforts failed, Dr. Kozarsky told Ms. Steiner that Plaintiff Ratfield had “really rubbed some people the wrong way” and that “this must be the good ol’ boys club after all.”

107. Dr. Kozarsky’s attempt to influence Captain Ratfield’s treatment staff has been received as inappropriate and/or questionable by her and the other staff. Captain Ratfield again requested a HIMS AME change through the FAA so that “she can avoid undue influence from her employer to continue HIMS monitoring with Dr. Kozarsky.”

108. On June 22, 2020, Plaintiff Ratfield again emailed Delta to request a HIMS AME change due to Dr. Kozarsky’s unethical and unlawful behavior. Also on June 22, 2020, Plaintiff Ratfield lodged another request to the FAA for a HIMS AME change. The FAA permitted Plaintiff Ratfield to change HIMS AME to Dr. Stacy Berckes (“Dr. Berckes”), but first required Dr. Kozarsky to release her by providing his rationale as to why he wished to retain her, which he did not do.

109. On June 23, 2020, Dr. Kozarsky released Plaintiff Ratfield, and advised Delta of this during the “mid-phase” conference call of the FAA’s approval of her HIMS AME change to Dr. Berckes. Also on June 23, 2020, during the “mid-phase” conference call with Hazelden, Captain Baltera, Captain Monjeau, and First Officer Mowry provided Hazelden with part of an alcohol test with no name mentioned and alleged that it was Plaintiff Ratfield’s. Notably, this

alcohol test was in Delta's possession without Plaintiff Ratfield's acknowledgment, authorization, or consent. Delta attempted to use this test to convince Hazelden that Plaintiff Ratfield was lying and not in remission, despite the fact that Delta did not even consider this test a positive result. Hazelden, however, refused to change its "in sustained remission" diagnosis.

110. On June 24, 2020, Captain Monjeau called Hazelden and requested that the test provided to Hazelden be destroyed, which is noted in Plaintiff Ratfield's medical report.

At the request of Scott Monjeau from Delta Airlines, copy of PeTH Test sent by him was destroyed on 6/24/20

111. On June 26, 2020, Plaintiff Ratfield emailed Mr. Bastian, Executive Vice President and Chief People Officer Joanne Smith ("Ms. Smith"), Mr. Lentsch, Ms. Bondurant, Ms. Bell, Captain Burns, and Senior Vice President John Laughter ("Mr. Laughter") reporting Delta's retaliatory actions. Plaintiff Ratfield also requested again to no longer work with the individuals that were retaliating against her such as Captains Baltera and Monjeau, and First Officer Mowry.

112. On June 28, 2020, Captain Monjeau and Captain Baltera called Hazelden and attempted to cover up their retaliatory efforts as demonstrated by Hazelden's notes:

Pt's referents called me on a conference call to discuss a previous conversation I had with Scott Monjeau. Initially Captain Monjeau requested that we destroy any copies of the PEth test he sent to me, stating "That test is the property of Delta." During this call however, Captain Baltera inferred that I must have misunderstood, that they do not need any test results destroyed. I expressed confusion, as Captain Monjeau was very clear in his instructions to me previously, and he apologized for any confusion he caused. They once again pushed the tx team to consider the PEth test they sent us as a positive, despite that fact that Delta does not even consider it a positive. I let them know that we would continue to use evidence-based practices to help the patient continue with her recovery.

113. On June 29, 2020, Plaintiff Ratfield was discharged from Hazelden. Plaintiff Ratfield also wrote Mr. Bastian about Delta's retaliatory actions against her. Mr. Bastian did not

respond again and nothing was done to stop the retaliatory actions despite multiple violations of Delta's Rules of the Road and Code of Ethics and Business Conduct being violated.

114. On July 15, 2020, Plaintiff Ratfield received her FAA Special Issuance Authorization and First Class Medical Certificate from Dr. Berckes, her new HIMS AME, pending final approval from the FAA.

115. Beginning on August 4, 2020 and continuing to this day, as part of Delta's DPAC/HIMS Program, every single month Plaintiff Ratfield is required to meet with two (2) male supervisors, while male pilots are permitted to meet with only one (1) supervisor. This in itself is discriminatory and retaliatory, as Plaintiff Ratfield never had to do this prior to the false positive and continued reporting of the harassment and retaliation. Despite repeatedly requesting a female representative in these meetings, Delta continues to force Plaintiff Ratfield to meet with not one but two men every month.

116. On August 3, 2020, the night before the execution of the "last chance" agreement, Delta's Managing Director Flying Operations Captain Wayne Cochran ("Captain Cochran"), notified the Air Line Pilots Association International ("ALPA") that Plaintiff Ratfield was required to be seen by Dr. Kozarsky once again despite receiving approval from the FAA to be seen by Dr. Berckes. Moreover, Captain Cochran claimed that Delta contacted Dr. Quay Snyder ("Dr. Snyder"), the President of the Aviation Medicine Advisory Service (the aeromedical advisor of ALPA) and the FAA/ALPA HIMS Program Manager and that he *recommended* that Dr. Kozarsky should remain as her HIMS AME. On August 4, 2020, however, Dr. Snyder emailed the ALPA to state that "at no time did [he] advise or offer any opinion about whether or not a change in HIMS AMEs was appropriate for Plaintiff Ratfield."

117. On August 4, 2020, Plaintiff Ratfield informed Captain Cochran and Captain Baltera that she felt unsafe working with Dr. Kozarsky due to his unlawful, unethical, and retaliatory treatment.

118. On August 7, 2020, Delta denied Plaintiff Ratfield's request to remain with Dr. Berckes despite the FAA not requiring a pilot to see a specific HIMS AME.

119. On August 12, 2020, Plaintiff emailed Ms. Bondurant, Ms. Bell, and Ms. Smith to complain that Delta's refusal to permit her to see a female HIMS AME was discriminatory and of the retaliatory actions Delta was taking against her.

120. On August 31, 2020, Delta required Plaintiff Ratfield to make a request to the FAA that Dr. Kozarsky becomes her HIMS AME within 48 hours.

121. On September 1, 2020, ALPA informed Delta that they do not agree with its decision to force Plaintiff Ratfield to utilize Dr. Kozarsky as her HIMS AME. Especially in light of Delta's policy that a HIMS AME is to be decided upon by "mutual agreement" between the Company and the ALPA.

122. On September 17, 2020, the Federal Air Surgeon reinstated Plaintiff Ratfield's FAA Special Issuance Authorization and First Class Medical Certificate with Dr. Stacy Berckes named as her FAA HIMS AME.

123. In late September 2020-early October 2020, Delta did not reinstate her flight status, but rather required her full in-patient medical records containing mental health information and medical disorders of her family members from Hazelden without her authorization. This is non-standard as Plaintiff Ratfield had already received her FAA Special Issuance Authorization and First Class Medical.

124. On October 30, 2020, ALPA filed a formal grievance regarding the forced signing of the “last chance” agreement and to remedy the unlawful harm to which Plaintiff Ratfield was subjected.

125. On November 27, 2020, Plaintiff Ratfield was notified that she was being displaced to First Officer on a new aircraft despite her return to active flying status as a Captain.

126. On November 30, 2020, Plaintiff Ratfield had an in-person meeting with Captain Burns in Atlanta regarding the removal of her grievance from her “last chance” agreement. During this meeting, Captain Burns demanded that Plaintiff Ratfield tell him how she learned of Captain Perez and refused to answer why Delta did not abide by the two-test protocol baselessly claiming that Delta followed protocol. Plaintiff Ratfield stated that she is not comfortable and is fearful of the MSP CPO. Notably, Captain Burns attempted to gaslight Plaintiff Ratfield stating on multiple occasions that he felt “concerned” that Plaintiff Ratfield was suggesting people were retaliating against her. This is not unlike First Officer Pettitt when Delta set her up to see a psychiatrist for “concerns.”

127. During the same meeting with Captain Burns on November 30, 2020, Captain Burns mentioned that Delta could not honor a test that a pilot took on their own accord. However, the November 26, 2019 Dried Blood Spot PEth test was taken after Michele Gable of Choice Labs directed Plaintiff Ratfield to take another test immediately after Captain Baltera advised Plaintiff Ratfield of the alleged positive PEth test result. The test was given at the same lab under the same direction of Michele Gable. Plaintiff Ratfield relayed to Captain Burns that she was aware of numerous male pilots who were not only given additional testing but that Delta even paid for the testing.

128. On December 12, 2020, Captain Baltera denied Plaintiff Ratfield's request to remain as a Captain. Notably, in or around January 2020, Captain Baltera backdated 25:40 hours of her Company Administrative leave ("CADM") status in December 2019 to SICK status. As a result, Plaintiff Ratfield was demoted to First Officer because of Delta's retaliatory backdating of the SICK status forced her onto disability and prevented her reinstatement rights in September 2020. Furthermore, Plaintiff Ratfield was not reissued the full 240 hours of sick leave in June 2020 nor was permitted to use the following year's sick leave as is standard practice.

129. On December 21, 2020, Captain Burns denied Plaintiff Ratfield's grievance.

130. On December 30, 2020, Plaintiff Ratfield emailed Mr. Laughter regarding: (i) Captain Chris Storbeck's, the author of Delta's Flight Operations Substance Abuse Policy, testimony that the DPAC/HIMS Program was designed to be a two test program; (ii) her negative PEth tests and Delta's refusal to accept them; and (iii) Captain Baltera retaliating against her for her complaints of sexual harassment by effectively demoting her and refusing to reinstate her to Captain despite his ability to do so. Again, no remedial action was taken by Delta in response to Plaintiff Ratfield's protected complaints.

131. On January 1, 2021, Captain Steve Sullivan ("Captain Sullivan") contacted Plaintiff Ratfield and he informed her that he received a positive urine test, which should have resulted in his immediate termination as he was already on a "Contact B" ("last chance contract"), and Delta attempted to make him admit to drinking alcohol. When he refused, Delta permitted him to take a secondary test, unlike Plaintiff Ratfield. Captain Sullivan's secondary test was negative and Delta accepted it. His negative secondary test was also eight days after his positive test. Plaintiff Ratfield's negative secondary test that Delta refused to accept was only five days after her false-

positive test. Remarkably, Captain Baltera kept Captain Sullivan on CADM status during this process whereas Plaintiff Ratfield's status was changed from CADM to SICK.

132. On January 2, 2021, Plaintiff Ratfield informed Mr. Bastian, Ms. Smith, Mr. Lentsch, Mr. Laughter, and Captain Burns of the foregoing and that the only difference between her and Captain Sullivan was that she complained of sexual harassment and retaliation to Delta. Neither of these individuals provided a substantive response.

133. On January 12, 2021, Plaintiff Ratfield attended her FAA Special Issuance Authorization and First Class Medical Certificate appointment with Dr. Kozarsky. At this appointment, Dr. Kozarsky shockingly **required Plaintiff Ratfield to remove her shirt and bra** to simply listen to her lungs. Plaintiff Ratfield reported this retaliatory, heinous and unnecessary behavior to Mr. Bastian, Ms. Smith, Ms. Lentsch, Captain Cochran, Mr. Laughter, Captain Burns, and Captain Baltera, but nothing was done.

134. In or around February 2021, Captain Burns asked a pilot if he had a sexual relationship with Plaintiff Ratfield while questioning him about a potentially suicidal event that he underwent.

135. On February 22, 2021, Mr. Cochran denied Plaintiff Ratfield's request to not be required to work with Dr. Kozarsky, despite Captain Ratfield again stating she felt uncomfortable and unsafe with Dr. Kozarsky.

136. On March 17, 2021, during Plaintiff Ratfield's pre-flight from London to Atlanta, she got up from her seat to stretch her back and one of the male pilots asked if her back hurt. Another male pilot then asked if she had tried an inversion table. Thereafter, Line Check Airman Captain Joseph Gilroy who was training Plaintiff Ratfield stated, "I'd like to see my wife inverted

every morning” to Captain Gary Mavity, the other Line Check Airman on the flight, and First Officer Michael Floyd.

137. On March 21, 2021, the ALPA filed another grievance with Delta regarding Plaintiff Ratfield being forced to work with Dr. Kozarksy.

138. On April 10, 2021, Plaintiff Ratfield was volunteering at the airport for the monthly disability tours and service dog training. As Plaintiff Ratfield was waiting to board the aircraft, Line Check Airman Captain Brian Cloherty approached Plaintiff Ratfield and looked at her up-and-down in a lewd manner, including directly at her breasts. Plaintiff Ratfield, feeling uncomfortable, introduced herself and gave him a handshake. Captain Cloherty then stated, “Wow, you have such a strong handshake. You must be a bodybuilder” and proceeded to lewdly look Plaintiff Ratfield up and down again.

139. On or around June 8, 2021, Plaintiff Ratfield’s newly Delta assigned HIMS Psychiatrist Dr. Steven Lynn (“Dr. Lynn”) called her and stated: “I’m not sure I’m going to be able to see you. I’m going to have to check with Delta because I know a little bit about your situation because some of the people who you have seen, and some of my colleagues, have called me and I’ve talked to them in support of them trying to figure out what to do with this, and what to do with that, and so as a result of that I’m not so sure I could be objective because I’ve talked to several of the people involved in your case. So let me call Delta and see what they want to do. I’m probably not the right person to see you because I wish I could be objective but you know you know it could create problems because of conflict of interest so in my mind. So let me talk with Delta.” The “case” Dr. Lynn was referring to was this action prior to its transfer to this Court.

140. Delta did not require Plaintiff Ratfield to undergo alcohol treatment prior to her complaints of sexual harassment and gender discrimination.

141. Plaintiff Ratfield never had any alcohol-related incidents while performing work for Delta. Plaintiff Ratfield also voluntarily entered the HIMS program.

142. Notably, while she was a First Officer, Plaintiff Ratfield reported her Line Check Airman, and instructor pilot, Captain Thomas Ginavan's heavy drinking the night before a flight in Lagos, Nigeria and being hungover prior to take off the next day to the other Captain on the flight, Captain Steven Weiss. Upon information and belief, the Line Check Airman was not placed in the HIMS program and he maintains his seniority. Notably, according to Delta Aeromedical Captain Mark Pinsky, Captain Ginavan had been reported previously, yet nothing had been done.

143. As a results of being in the HIMS program, Plaintiff Ratfield loses pay and time with her sons every six months as a result of having to commute to New Jersey for her HIMS AME appointments.

144. Delta retaliated against Plaintiff Ratfield for her complaints of gender discrimination and sexual harassment by forcing her to undergo faux alcoholic rehabilitation treatment, attempting to terminate her, and demoting her from Captain to First Officer in violation of Title VII, the NYSHRL, the NYCHRL, and the MHRA.

145. Delta discriminated against Captain Ratfield on the basis of her gender by refusing to accept her secondary negative alcohol tests despite accepting secondary tests of male pilots and by refusing to allow her to be seen by a female HIMS AME in violation of Title VII, the NYSHRL, and the NYCHRL.

146. Delta Discriminated against Plaintiff Ratfield on the basis of her status as a victim of sexual assault by forcing her to undergo faux alcoholic rehabilitation treatment, attempting to terminate her, and demoting her from Captain to First Officer in violation of the NYCHRL.

147. Delta unlawfully subjected Plaintiff Ratfield to ongoing sexual harassment throughout her employment with it and it failed to take any corrective action in response to her complaints in violation of Title VII and the MHRA.

148. Delta's violations of Title VII, and the MHRA were willful as it has more than adequate knowledge of the foregoing statutes and their requirements.

149. The collective bargaining agreement, which Plaintiff was and is currently subjected to provides no recourse, including arbitration, for claims of sexual harassment, gender discrimination or retaliation under Title VII, the MHRA, or any other laws prohibiting discrimination or retaliation for complaining of discrimination.

CAUSES OF ACTION

AS AND FOR A FIRST CAUSE OF ACTION FOR A VIOLATION OF Title VII of the Civil Rights Act of 1964 42 U.S.C. § 2000e-3 (Retaliation)

150. Plaintiff Ratfield repeats and re-alleges the allegations contained in the paragraphs above as if fully set forth herein.

151. Plaintiff Ratfield engaged in protective activity by complaining to Delta that its conduct violated Title VII by subjecting her to a sexually hostile work environment.

152. Delta retaliated against Plaintiff Ratfield by forcing her to undergo faux medical treatment and examinations.

153. Delta further retaliated against Plaintiff Ratfield by attempting to terminate her and demoting her.

154. Delta's conduct was in violation of the Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-3.

AS AND FOR A SECOND CAUSE OF ACTION FOR A VIOLATION OF
The Minnesota Human Rights Act – 363A (*et. seq.*)
(Retaliation)

155. Plaintiff Ratfield repeats and re-alleges the allegations contained in the paragraphs above as if fully set forth herein.

156. Plaintiff Ratfield engaged in protective activity by complaining to Delta that its conduct violated MHRA by subjecting her to a sexually hostile work environment and discrimination.

157. Delta retaliated against Plaintiff Ratfield by demoting her while she was based out of St. Paul, Minnesota.

158. Delta's conduct was in violation of the Minnesota Human Rights Law.

AS AND FOR A THIRD CAUSE OF ACTION FOR A VIOLATION OF
Title VII of the Civil Rights Act of 1964 42 U.S.C. § 2000e-2
(Discrimination)

159. Plaintiff Ratfield repeats and re-alleges the allegations contained in the paragraphs above as if fully set forth herein.

160. Plaintiff Ratfield is a female and is thus a member of a protected class under Title VII.

161. Delta discriminated against Plaintiff Ratfield on the basis of gender by refusing to accept her secondary negative alcohol test results despite accepting negative secondary test results of similarly situated male pilots. This discriminatory treatment had a direct adverse effect on her income with Delta and resulted in a demotion.

162. Delta's conduct was in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2.

AS AND FOR A FOURTH CAUSE OF ACTION FOR A VIOLATION OF
Minnesota Human Rights Act 363A (*et. seq.*)

(Sexual Harassment)

163. Plaintiff Ratfield repeats and re-alleges the allegations contained in the paragraphs above as if fully set forth herein.

164. Throughout Plaintiff Ratfield's employment with Delta, including within the applicable statute of limitations, she was subjected to ongoing severe or pervasive sexual harassment.

165. Despite Plaintiff Ratfield's complaints of being sexually harassed, Delta failed to take any remedial action. The sexual harassment continued after her repeated complaints of it including an unlawful incident in March 2021, while she was based in Saint Paul, Minnesota.

166. Delta subjected Plaintiff Ratfield to unlawful sexual harassment.

167. The sexual harassment Plaintiff Ratfield was subjected to is ongoing and continuous.

168. Delta's conduct was willful and in violation of the Minnesota Human Rights Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Ratfield demands judgment against Delta as follows:

A. Preliminary and permanent injunctions against Delta and its officers, owners, agents, successors, employees, representatives, and any and all persons acting in concert with them, from engaging in each of the unlawful practices, policies, customs, and usages set forth herein;

B. Training on the subject of employment discrimination for all of Delta's employees;

C. Diversity training for all supervisors and managers conducted by reputable outside vendors;

D. Supervisory discipline up to and including termination for any supervisor and managers who engages in unlawful discrimination;

E. Active monitoring of the work areas to ensure compliance with discrimination policies;

F. Monitoring by the Court of a Federal Agency to ensure that Delta complies with all injunctive relief;

G. A judgment declaring that the practices complained of herein are unlawful and in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.* and the Minnesota Human Rights Act;

H. All damages which Plaintiff Ratfield has sustained as a result of Delta's conduct, including back pay, general and special damages for lost compensation and job benefits they would have received but for Delta's unlawful discriminatory and retaliatory conduct, front pay, reinstatement, punitive damages, attorneys' fees, interest, and compensatory damages including for emotional distress humiliation, embarrassment, and anguish;

I. An award to Plaintiff Ratfield of pre-judgment interest at the highest level rate, from and after the date of service of the initial complaint in this action on all unpaid wages from the date such wages were earned and due;

J. An award to Plaintiff Ratfield representing Delta's share of FICA, FUTA, state unemployment insurance, and any other required employment taxes;

K. Awarding Plaintiff their costs and disbursements incurred in connection with this action, including reasonable attorneys' fees, expert witness fees, and other costs;

L. Pre-judgment and post-judgment interest, as provided by law; and

M. Granting Plaintiff Ratfield other and further relief as this Court finds necessary and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff Ratfield demands a trial by jury on all questions of fact raised by this complaint.

Dated: August 18, 2022
Garden City, New York

Respectfully submitted,

/s/ _____

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