

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

JESSICA BRYAN,

Plaintiff,

v.

Case No: _____

GARY KING (in his individual capacity),

Defendant.

COMPLAINT

NOW COMES the plaintiff, Jessica Bryan, by her attorney Paul A. Kinne of Gingras, Thomsen & Wachs, who hereby submits the following:

NATURE OF PROCEEDINGS

1. This case is being brought pursuant to 42 U.S.C. sec. 1983 whereby the plaintiff alleges that former District Attorney Gary King discriminated against the plaintiff on the basis of her sex by subjecting her to a sexually hostile working environment and other sexually harassing conduct.

JURISDICTION AND VENUE

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because for the claims that arise under federal law.

3. Venue is proper under 28 U.S.C. § 1391 in that all the acts alleged to have been committed by the defendant occurred within the Western District of Wisconsin.

PARTIES

4. Plaintiff Jessica Bryan (Bryan, female) is an adult resident of the State of Wisconsin, and at all times relevant hereto, has resided within the Western Judicial District of Wisconsin.

5. At all times relevant to this matter, Defendant Gary King (King, male) was employed as the District Attorney for Eau Claire County, which is located within the Western Judicial District of the State of Wisconsin. The conduct attributed to King in this complaint was undertaken within the scope of his employment and under color of state law. His conduct was further intentional.

FACTUAL BACKGROUND

6. At all times relevant to this case, Bryan worked as the Victim Witness Coordinator in the Victim Witness Office for Eau Claire County. In her role, she worked closely with the Eau Claire District Attorney's Office. Institutionally speaking, the District Attorney controlled, at least in part, the terms and conditions of Bryan's employment with Eau Claire County.

7. The District Attorney is an elected position in Wisconsin. A District Attorney does not report to any other position. No one can discipline a District Attorney as an employee: a District Attorney is his or her own boss.

8. By August 2019, King was making sexually harassing comments to Bryan at least monthly. This continued through November, 2020.

9. King's conduct over this period included but is not limited to the following:

- a. In July 2019, King complimented Bryan to Bryan's husband, telling him that Bryan was great and he was lucky to have her.
- b. In the summer of 2019, King remarked that Bryan's summer attire was "too distracting" for him, ordering her not to wear a particular outfit again. He also leered at her.
- c. In March 2020, King drove past hotels on the way to a breakfast meeting and asked Bryan to get a room with him. When Bryan rejected his proposal, King informed her, "I'm telling you that you have to." While he attempted to pass off his comment as a joke, during the breakfast meeting, he continued to cajole her about getting a room.
- d. During the period covering May through July 2020, King informed Bryan that she needed to "stay out of his dreams" because it was getting him in trouble, implying that his dreams about her were sexual in nature.
- e. In June 2020, King expressed to Bryan that he was disappointed that Bryan had not attended a wedding over the prior weekend. He commented that she was supposed to come so they could have gone in the corner to "make out" and give everyone something to talk about.
- f. During the June to July 2020 time period, a coworker warned Bryan that King was in a "hugging mood." King stated to Bryan, "Yes I am! Come give me a hug!" King then hugged Bryan twice. He also pulled her ponytail out and played with Bryan's hair. King often commented about Bryan's hairstyle and her appearance, generally.

g. In this same period, King asked Bryan if she wanted to have a “threesome” with him and a man who lived in a pink house behind the courthouse.

10. Around November 2020, the harassing comments and interactions between Bryan and King increased in frequency and intensity.

a. On December 23, 2020, Bryan had her shoe off with her legs crossed such that her bare foot was resting on her leg. King approached her from behind and began rubbing Bryan’s foot.

b. On or about January 5, 2021, King told Bryan that he loved her and that he felt he was holding things back. He hugged Bryan from behind while she was sitting at her desk and attempted to kiss her on the mouth. Bryan moved in time to avoid a mouth-to-mouth kiss, but King did kiss her on the cheek.

c. Later that same day, King pulled Bryan onto his lap. When she struggled to free herself, King responded, “No, you need to sit here and comfort me.” Bryan managed to get free and to sit next to King, but as she did, King held her hand.

d. On January 19, 2021, King informed Bryan that he thought she was the kind of “girl” he could take to the Super 8 [a discount hotel] but instead she was the kind of person he would have to take to the Lismore [a higher-end hotel in Eau Claire]. He also accused her of having eight men on the side and told her that he did not approve of her outfit that day. In fact, he said it was so ugly he would cut it off her if she wore it to work again.

e. On or about February 10, 2021, King asked Bryan about her sex life with her husband. He commented that if either of them approached the other in a vulnerable state, neither would be able to control themselves sexually. During the same meeting, King told Bryan that she was beautiful inside and out, that he trusts her and that she is one of the few people he lets into his bubble.

f. At the conclusion of the meeting, King asked Bryan if he should send an email to staff to inform them that he and Bryan were a couple. When Bryan said “no,” King informed her they could secretly be together. Bryan asked King to please keep things professional, but he said he could only promise to do so 95 percent of the time.

g. On February 16, 2021, King informed Bryan that they would end up together someday. When Bryan did not respond except with folded hands, King stated, “You’re giving me a sign folding your hands that way.”

11. Throughout the period covered by the harassment described above, Bryan repeatedly told King to stop his offensive and harassing conduct. King refused to stop.

12. Prior to mid-February 2021, Eau Claire County employees, including management employees, were aware of King’s conduct and that Bryan found it to be offensive.

13. Around mid-February 2021, Bryan made a formal complaint to Eau Claire County human resources. However, at some point, Corporation Counsel for Eau Claire County informed Bryan that because King was the District Attorney, Eau

Claire County “could not touch him.”

14. During the period described above, King was frequently intoxicated while engaging in his abusive conduct.

**BRYAN’S FIRST CAUSE OF ACTION AGAINST KING -
VIOLATION OF THE EQUAL PROTECTION CLAUSE –
SEX DISCRIMINATION**

15. Plaintiff Bryan restates the previous paragraphs as if set forth fully herein.

16. By engaging in the conduct described above, King violated Bryan’s rights to equal protection under laws by subjecting her to sexual harassment and abuse.

17. This abuse has caused Bryan severe and permanent emotional and other harm.

WHEREFORE, the plaintiff requests a trial by jury along with the following relief:

- A. Unspecified compensatory damages;
- B. Punitive damages;
- B. Any injunctive relief that the Court may deem just and proper to award;
- C. An award of Plaintiffs’ reasonable attorneys’ fees and costs incurred in this action;
- D. Pre- and post-judgment interest; and
- E. Any other such relief as the Court may deem appropriate.

JURY DEMAND

The plaintiff respectfully requests that this matter be tried before a jury of six (6) competent persons.

Dated this 5th day of January, 2022.

GINGRAS THOMSEN & WACHS LLP
Attorneys for Plaintiff

s/ Paul A. Kinne

Paul A. Kinne

State Bar Number: 1021493

8150 Excelsior Drive
Madison, WI 53717
Phone: (608) 833-2632
Fax: (608) 833-2874
Email: kinne@gtwlawyers.com

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jessica Bryan

(b) County of Residence of First Listed Plaintiff Dunn (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Gingras, Thomsen & Wachs, LLP 8150 Excelsior Dr., Madison, WI 53717 (608) 833-2632

DEFENDANTS

Gary King (in his individual capacity)

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Real Property, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. sec. 1983

Brief description of cause: Discrimination based on sex and subjecting Plaintiff to sexually hostile working environment & other sexually harassing conduct

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 01/05/2022 SIGNATURE OF ATTORNEY OF RECORD /s/ Paul A. Kinne

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: