

# ALBIES, STARK & GUERRIERO

ATTORNEYS AT LAW

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## **TORT CLAIM NOTICE SENT PURSUANT TO ORS § 30.275**

*Via First Class Certified Mail and Email*

August 25, 2023

Robert L. Taylor  
City of Portland Attorney  
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Ted Wheeler  
Mayor, City of Portland  
1221 SW 4th Avenue, Room 340  
Portland, OR 97204  
[MayorWheeler@PortlandOregon.gov](mailto:MayorWheeler@PortlandOregon.gov)

### **RE: Tort Claims Notice on Behalf of Jennifer Liddicoat**

Mr. Taylor and Mayor Wheeler:

Our office represents Jennifer Liddicoat, employee of the City of Portland, in her employment claims. This letter is sent pursuant to ORS § 30.275 to place the City of Portland on notice that Ms. Liddicoat intends to pursue her legal rights, including claims for money damages, injunctive relief, punitive damages, and equitable remedies, for the continuing violations as described herein.

Ms. Liddicoat's claims include, but are not limited to, Gender Discrimination and Retaliation (ORS § 659A.030); Retaliation for Good Faith Complaint of Illegal Conduct (ORS § 659A.199); Retaliation for Whistleblowing (ORS § 659A.203); Aiding and Abetting (ORS § 659A.030(1)(g)); Disability Discrimination (ORS § 659A.112-118); Equal Rights under the Law (42 U.S.C. §1981(a)); and constitutional substantive and procedural due process rights, liberty interests and her right to equal protection, and torts such as Intentional Infliction of Emotional Distress.

Please note that our investigation is ongoing, and we intend to supplement this Tort Claims Notice with additional facts.

### **FACTS AND LEGAL CLAIMS**

On or around December 9, 2019, Ms. Liddicoat started the position as Fleet Service Coordinator at CityFleet, which is a male-dominated division. Ms. Liddicoat has been subjected to ongoing differential treatment and discrimination on the basis of gender.

In July of 2021, Ms. Liddicoat complained to Eric Chitoubol, Fleet Garage Operations Supervisor, that a co-worker told her that he was recording her on his phone. Mr. Chitoubol spoke to the employee, who admitted that he said something about "Snapchat" but denied taking any videos. Mr. Chitoubol inappropriately went back to Ms. Liddicoat to ask if she was telling the truth.

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In or around March 11, 2022, Kevin Novak, Day Shift Supervisor, treated Ms. Liddicoat differently than similarly-situated male employees by telling her that she was not allowed to assign work or to talk to motorcycle officers. Mr. Novak shouted this information at Ms. Liddicoat in an aggressive and unprofessional manner and directed her to “apologize” to the swing shift technicians for “over-assigning” them work. When Ms. Liddicoat complained to Mr. Chitoubol, he reinforced the order to Ms. Liddicoat not to assign work despite the fact that two other similarly-situated male employees were allowed to assign work.

Around the same time, Mr. Novak inappropriately stated to Ms. Liddicoat that he saw her “flirting” with the tow truck driver, which was not true. [REDACTED], also told Ms. Liddicoat that Mr. Novak did not like her personality.

On or around July 8, 2022, Ms. Liddicoat reported to Mr. Novak and Mr. Chitoubol that a co-worker was mimicking shooting a gun, which she believed in good faith to be a violation of law, rule or regulation and created an unsafe and hostile work environment. During the investigation, Ms. Liddicoat also shared with Human Resources that Mr. Novak’s yelling in the workplace made her uncomfortable. On or around August 14, 2022, Mr. Chitoubol told Ms. Liddicoat that she was identified by name in the employee’s termination letter and stated the city was offering to pay for “DeleteMe” service so she could remove her personal information from online.

Due to the City’s identification of Ms. Liddicoat in the termination letter, the information spread within the department. Ms. Liddicoat’s co-workers began treating her differently, including pointing at her and whispering around her.

On or around, November 16, 2022, Ms. Liddicoat was talking with a coworker about a K9 police dog that had visited the workplace. Mr. Novak walked out of his office and yelled something along the lines of “Jenny I don’t want to hear about dogs anymore! SHUT UP and get back to work!” Mr. Novak then closed his door aggressively. Ms. Liddicoat told Mr. Chitoubol about the incident and complained that she was being treated differently than her similarly-situated male colleagues. The City failed to take any prompt or effective remedial action.

In the Winter of 2022, Ms. Liddicoat again complained to Mr. Chitoubol that Mr. Schaber was allowed to assign work to technicians and pull vehicles into the shop even though she was not. Ms. Liddicoat asked if she could assign technicians looking for work, but Mr. Chitoubol responded along the lines of “do not poke the bear.” Ms. Liddicoat interpreted this statement as a reference to Mr. Novak. When Ms. Liddicoat asked Mr. Novak why Mr. Schaber was allowed to assign work, he simply stated “Cody is ex-military.”

In mid-January 2023, Ms. Liddicoat was speaking with Brad Schaffer, PPB Auto Servicer, and Mike Woodard, PPB Auto Servicer. Mr. Novack walked over and yelled something like, “Jenny SHUT UP and get back to your desk!” Mr. Novack aggressively snapped his fingers and pointed at Ms. Liddicoat’s chair. Ms. Liddicoat walked over and sat down at her desk, while Mr. Schaffer and Mr. Woodard looked shocked. Ms. Liddicoat again complained to Mr. Chitoubol about the incident, but the City failed to take any prompt or effective remedial action.

On or around January 31, 2023, Mr. Novak and his friend, Jason Blackburn, made inappropriate comments in a demeaning tone to Ms. Liddicoat regarding her use of equipment vendors.

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On or around February 2, 2023, Ms. Liddicoat was on the phone and Mr. Novak yelled at her again to “shut up.”

On or around February 7, 2023, Ms. Liddicoat again complained to Mr. Chitoubol that she was not being allowed the same freedom or authority given to her similarly-situated male employees. The City failed to take any prompt or effective remedial action.

Around the same time, Mr. Novak again screamed at Ms. Liddicoat in front of other employees something along the lines of “let’s leave the parts department alone and stop hassling them!”

In or around mid-February 2023, Mr. Novak started frequently telling Ms. Liddicoat in a mocking fashion that she must have ADHD with how much she talks. Ms. Liddicoat brought it up to Mr. Chitoubol one day, and Mr. Novak responded that he does believe that Ms. Liddicoat has ADHD. Mr. Chitoubol failed to take any prompt or remedial action to stop the inappropriate behavior. As a result, Mr. Novak continued to call Ms. Liddicoat “ADHD” and “squirrel” and yelled at her things like ““WHAT WHAT WHAT WHAT! Stop saying the word WHAT!” Ms. Liddicoat tried one more time to complain to Mr. Chitoubol about the demeaning manner that Mr. Novak used ADHD insults, but he simply responded that he had heard Ms. Liddicoat herself talking about ADHD.

One of the times that Mr. Novak yelled, Ms. Liddicoat started crying and then Mr. Novak called her bipolar. After these occurrences, other technicians in the office started to comment and use the same language, referring to Ms. Liddicoat as ADHD or bipolar.

In or around mid-February, Mr. Novak shockingly put his finger in front of Ms. Liddicoat’s mouth and yelled “SHUT UP, we have a customer in the office! Don’t talk about other customers in front of customers!”

In or around mid-to-late February, Ms. Liddicoat elevated her complaint to Eric Forslund, VPC Coordinator and prior Fleet Coordinator. Mr. Forslund stated that it is not right to be talked to in that manner and that he believed that Mr. Novak was treating Ms. Liddicoat that way because of her gender. Within a few weeks, Mr. Novak called Ms. Liddicoat into his office to apologize for “shushing” her.

Things briefly improved, but on or around March 22, 2023, Mr. Novak started back up again. He pulled Ms. Liddicoat aside and told her that she cannot tell Mr. Martinez what to do or assign work, meanwhile kicking rocks and appearing very irritated with Ms. Liddicoat. Ms. Liddicoat again complained to Mr. Chitoubol about the differential treatment, emailing him three specific examples, including one that would have saved the City \$4,300 if Ms. Liddicoat has been allowed to make a decision like her peers.

On or around March 7, 2023, Ms. Liddicoat was speaking with Officer Betsy Hornstein. Mr. Novak walked out of his office and stated in a demeaning manner something like, “Jenny shut up and let her get back to work!” Officer Hornstein turned to Mr. Novak and said “you shut up.” Again, in mid-March 2023, Mr. Novak yelled at Ms. Liddicoat to get off the phone with Dan Baker, Satellite Shop Supervisor, and then repeatedly called Mr. Baker to try to interrupt their conversation. Mr. Baker recommended that Ms. Liddicoat come work with him downtown given her working conditions.

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Ms. Liddicoat asked Mr. Chitoubol for a reassignment to the downtown location due to the ongoing harassment and discrimination. Mr. Chitoubol said he would think about it but has never followed up.

As a result of the City's ongoing violations – including discrimination, harassment, retaliation, and a failure to properly address her complaints, Ms. Liddicoat has suffered and continues to suffer significant emotional distress.

If you would like to discuss these claims with me, please contact me by the close of business day on **September 6, 2023.**

**ALBIES, STARK & GUERRIERO**



Talia Guerriero