



5. Defendant Brian Krup is a resident of Scott County, Iowa now and at all times relevant to the events complained of herein. He was also acting as agent and employee of Defendant City at all times relevant to the events complained of herein.

### **JURISDICTION AND VENUE**

6. Venue is proper in the District Court for Scott County pursuant to Iowa Code § 616.14 because some of the defendants are located in Scott County and this action is connected with the business of defendant's office in that County.

7. Subject matter jurisdiction of the District Court for Scott County is proper pursuant to Iowa Code § 602.6101.

8. The amount in controversy exceeds the jurisdictional amount.

### **GENERAL FACTUAL ALLEGATIONS**

9. Plaintiffs restate all preceding paragraphs as if set forth herein.

10. Plaintiffs are former employees of Defendant City.

11. Throughout at least 2023, Plaintiffs were subject to harassment, discrimination, and a hostile work environment while working for the City.

12. In August 2023, City officials requested that Plaintiffs provide the City with summaries of the reported harassment, alongside amicable separation agreement requests.

13. At the time of soliciting these amicable separation agreement requests, Plaintiffs were informed and assured by Defendants that this information would be placed in their respective confidential personnel files and 1) treated as confidential materials under Iowa law which 2) would not be disclosed to the public.

14. Based on these assertions by Defendant City, Plaintiffs complied and provided the City with reports of the harassment and harms they had suffered as a result [Hereinafter “personal information”].<sup>1</sup>

15. This personal information contained sensitive physical and mental health information regarding the Plaintiffs, the broader circulation of which would objectively inflict harm, embarrassment, and suffering on them.

16. On the basis of this personal information, the City drafted and induced Plaintiffs to sign settlement agreements on September 8, 2023.

17. Thereafter, Plaintiffs ceased employment with Defendant City.

18. Later, on November 13, 2023, a FOIA request was filed with the City, seeking:

All timesheets for former city of Davenport employees, Tiffany Thorndike and Samantha Torres from August 1, 2023 until today as well as all check stubs for Tiffany Thorndike and Samantha Torres for the same time period. Also, any separation or settlement agreement between the city of Davenport and Ms. Thorndike and Ms. Torres. Also, any documentation or records relating to their separation of employment.

19. Similarly, during this same time period, several other FOIA requests were filed, seeking substantially the same information from the City.

20. Defendant Heyer’s duty at the time was to process these requests.

21. Defendant Krup’s duty at the time was to manage the City’s FOIA system, and ensure that Defendant Heyer properly reviewed and prepared materials for FOIA requests, which included Plaintiffs’ personal information.

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<sup>1</sup> Plaintiffs’ Torres and Thorndike also filed a short addendum on September 6 and September 7, 2023, respectively. This is included in Plaintiffs’ personal records where referred to in the pleading.

22. In line with the City's prior inducement, Defendant Heyer correctly confirmed in his official capacity that Plaintiffs' personal information, as well as its specific content, constituted a confidential record under Iowa law.

23. Defendants, as the lawful custodian of these records, exercised their powers under Iowa law to retain these records rather than release them.

24. Defendant Heyer set about preparing the FOIA responses to these requests, compiling all responsive records and excluding Plaintiffs' personal information.

25. Unfortunately, Defendants negligently performed this duty.

26. While taking the affirmative act of preparing the City's response, Defendant Heyer "screwed up" and negligently forwarded the entire contents of Plaintiffs' personal information to be sent out in response to the FOIA request, despite the Defendants' prior affirmative decision to retain them as the lawful custodian under Iowa's Open Records Act.

27. Despite the attempt to retain this personal information as allowed under Iowa law, it was provided to the public at large.

28. Neither Defendant Krup, Defendant Heyer, nor any other City employee detected this gross error before the personal information was released.

29. As a direct result of this admitted negligence, Plaintiffs' personal information was sent by the Defendants to multiple private individuals.

30. As a direct result of this admitted negligence, Plaintiffs' personal information was widely disclosed and circulated.

31. Plaintiffs suffered harm as a result of this negligence.

## CAUSES OF ACTION

### Count I

### Negligence

(Against All Defendants)

32. Plaintiff incorporates all prior paragraphs as if fully set forth herein.
33. The law of negligence was clearly established in Iowa at the time of the events alleged in this petition.
34. Defendants assumed the duty of maintaining the confidentiality of Plaintiffs' personal information by their inducement and promise that the information solicited from Plaintiffs would be kept confidential under Iowa law, creating a special relationship between the parties.
35. Defendants likewise assumed a duty to Plaintiffs by affirmatively attempting to retain and/or redact Plaintiffs' unique personal information in response to public records requests, after determining that Plaintiffs' personal information was a protected material to be withheld under Iowa Code Chapter 22.
36. Defendants negligently performed this affirmative act in one or more of the following ways:
- a. Negligently including the Plaintiffs' personal information in FOIA request responses after affirmatively classifying them as confidential records to be withheld;
  - b. Negligently including the Plaintiffs' personal information in FOIA request responses after affirmatively classifying them as confidential records to be redacted;
  - c. Failing to exercise oversight over city employees to ensure that the City's decisions about which materials to release in response to FOIA requests were executed accurately and according to the City's established intent; and
  - d. All other acts of negligence falling below the applicable standard of care.
37. As a direct, proximate, predictable outcome of these acts, Plaintiffs suffered harms within the scope of liability.

38. The failures of the individually named Defendants were wanton and reckless sufficient to incur punitive damages.

39. As a result of the above, Plaintiffs sustained damages and injuries as follows:

- a. Medical expenses;
- b. Pain and suffering;
- c. Loss of mental and physical function;
- d. Emotional impairment and mental anguish;
- e. Punitive damages; and
- f. Other such damages as may arise through the course of discovery.

**WHEREFORE**, Plaintiffs pray for judgment, in an amount representing full and fair compensation for the injuries and damages set forth above and for such further relief as this court may deem just and necessary.

**Count II**  
**Vicarious Liability/Respondeat Superior**  
(Against Defendant City)

40. Plaintiff incorporates all prior paragraphs as if fully set forth herein.

41. The law of vicarious liability and Respondeat Superior was clearly established in Iowa at the time of the events alleged in this petition.

42. Defendant City employed Defendants Krup, Heyer, and other employees at the time of their acts of negligence.

43. The injury to Plaintiffs occurred within the scope of these employees' employment relationship with Defendant City.

44. Plaintiffs are entitled to recover the following damages:

- a. Medical expenses;
- b. Pain and suffering;
- c. Loss of mental and physical function;
- d. Emotional impairment and mental anguish;

