

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

**DEBBIE SCHLUSSEL a/k/a
DEBORAH K. SCHLUSSEL,**

Plaintiff,

v.

Case No.

Hon.
Magistrate

CITY OF DEARBORN HEIGHTS, a
Michigan municipal corporation,
**CITY OF DEARBORN HEIGHTS
POLICE DEPARTMENT**, a Michigan
Municipal corporation, **DAN PALETKO**
individually and in his official capacity as
Mayor of the City of Dearborn Heights,
LEE GAVIN, individually and in his official
Capacity as Chief of the City of Dearborn
Heights Police Department, **GARY MIOTKE**,
individually and in his official capacity as
counsel and FOIA Respondent for the City of
Dearborn Heights,

JURY DEMAND

Jointly and severally,

Defendants.

Daniel J. Lehman (P66126)
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COMPLAINT

NOW COMES Plaintiff, DEBBIE SCHLUSSEL a/k/a DEBORAH K. SCHLUSSEL, by and through her attorneys, Daniel J. Lehman and The Integrated Law Group PLLC, and for her Complaint, state as follows:

JURISDICTION AND VENUE

1. This action presents various Constitutional, statutory, and common law claims arising under the First and Fourteenth Amendments to the United States Constitution, Article I, Sections 2 and 4 of the Michigan Constitution of 1963, the Civil Rights Act of 1964, 42 U.S.C. Section 1983 *et seq.*, the Michigan Freedom of Information Act, Act 442 of 1976, MCL 15.231 *et seq.*, and the Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq.* Jurisdiction is conferred upon this Court, pursuant to 28 U.S.C., Sections 1331 and 1343 and 42 U.S.C. Section 2000cc-2(a). This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. Section 1367.

2. Plaintiffs' claims for equitable, declaratory, and injunctive relief are authorized pursuant to 28 U.S.C., Sections 2201 and 2202, 42 U.S.C. Section 1983 *et seq.*, U.S.C., 42 Section 1981 *et seq.*, Rules 57 and 65 of the Federal Rules of Civil Procedure, and the general legal and equitable powers of this Court.

3. Pursuant to 42 U.S.C. Section 1983, 42 U.S.C., Section 1981 *et seq.*, And other applicable law, this Court is justified to award nominal, compensatory, and punitive damages, and equitable relief against Defendant Dan Paletko, in his individual capacity, against Defendant Gary Miotke, in his individual capacity, against Defendant City of Dearborn Heights, and against the Defendant City of Dearborn Heights Police Department for the past and ongoing violations of Plaintiffs' Constitutional rights and the harm caused by their actions.

4. This Court is justified to award reasonable costs of litigation, including

attorneys' fees and expenses, pursuant to the Civil Rights Act of 1964, 42 U.S.C. Section 1983 *et seq.*, 42 U.S.C. Section 1981 *et seq.*, the Michigan Freedom of Information Act, Act 442 of 1976, MCL 15.231 *et seq.*, and the Elliott-Larsen Civil Rights Act, and other applicable law.

5. Venue is proper in the Eastern District of Michigan pursuant to 28 U.S.C. Section 1391(b) because all Defendants reside within this district and a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred within this district. Further, this Court has personal jurisdiction over Defendants in that they maintain systematic and continuous contacts with Michigan, do business in the State of Michigan, and committed illegal acts intended to and that did cause harm to Plaintiff Schlusel in the State of Michigan.

PLAINTIFF

6. Plaintiff Debbie Schlusel a/k/a Deborah K. Schlusel (hereinafter referred to as "Schlusel") is a lifelong citizen of the State of Michigan and resident of Oakland County. At all relevant times herein, Plaintiff Schlusel was a member of a class of protected persons under 42 U.S.C., Section 1983 *et seq.*, 42 U.S.C. Section 1981 *et seq.*, the Michigan Freedom of Information Act, Act 442 of 1976, MCL 15.231 *et seq.*, and the Elliott-Larsen Civil Rights Act, and other applicable law.

DEFENDANTS

7. Defendant City of Dearborn Heights (hereinafter, "Dearborn Heights") is a Michigan municipal corporation and governmental entity established by and operating pursuant to a City Charter permitted and organized under the laws of the State of Michigan. Dearborn Heights has the authority to sue and be sued in its own name. At all relevant times herein, Dearborn Heights

was a “person” acting under the color of state law pursuant to 42 U.S.C., Section 1983 *et seq.*, 42 U.S.C. Section 1981 *et seq.*, the Michigan Freedom of Information Act, Act 442 of 1976, MCL 15.231 *et seq.*, and the Elliott-Larsen Civil Rights Act, and other applicable law.

8. Defendant City of Dearborn Heights Police Department (hereinafter, “Dearborn Heights PD”) is a public entity within Defendant Dearborn Heights. However, it operates in a semi-autonomous nature and maintains a separate Freedom of Information Act coordinator and procedure, pursuant to the Michigan Freedom of Information Act, Act 442 of 1976, MCL 15.231 *et seq.* Upon information and belief, Dearborn Heights PD has the authority to sue and be sued in its own name. Dearborn Heights PD is charged with the operation of the public safety and policing of Dearborn Heights, and promulgates the policies, practices, customs, and usages in furtherance thereof. At all relevant times herein, Dearborn Heights PD was a “person” acting under the color of state law pursuant to 42 U.S.C., Section 1983 *et seq.*, 42 U.S.C. Section 1981 *et seq.*, the Michigan Freedom of Information Act, Act 442 of 1976, MCL 15.231 *et seq.*, and the Elliott-Larsen Civil Rights Act, and other applicable law.

9. Defendant Dan Paletko, has been the Mayor of Dearborn Heights since 2004. At all relevant times, for purposes of the Constitutional claims, Defendant Paletko was acting in the scope of his employment and under color of State law. Defendant Paletko is sued individually and in his official capacity and in combination and consort with Defendants Dearborn Heights and Dearborn Heights PD.

10. Defendant Lee Gavin has been the Chief of Defendant Dearborn Heights Police Department since May 30, 2008. At all relevant times, for purposes of Constitutional claims, Defendant Gavin was acting in the scope of his employment and under color of State law.

Defendant Gavin is sued individually and in his official capacity and in combination and consort with Defendants Dearborn Heights and Dearborn Heights PD.

11. Defendant Gary Miotke has been counsel for Defendants Dearborn Heights and Dearborn Heights PD for several decades and remains in that position. In that position, Defendant Miotke is partially responsible for creating, adopting, and implementing Dearborn Heights and Dearborn Heights PD policies, practices, customs, and usages, including responses to requests under the Michigan Freedom of Information Act, Act 442 of 1976, MCL 15.231 *et seq.* At all relevant times herein, for purposes of the Constitutional claims, Defendant Miotke was acting in the scope of his employment and under color of State law. Defendant Miotke is sued individually and in his official capacity and in combination and consort with Defendants Dearborn Heights and Dearborn Heights PD.

COMMON ALLEGATIONS

12. Plaintiff re-alleges and incorporates by reference all prior paragraphs in this Complaint as though repeated herein.

13. On March 24, 2016, Plaintiff Schlusssel sent the Dearborn Heights PD a request for information, pursuant to the Michigan Freedom of Information Act, Act 442 of 1976. A copy of Schlusssel's FOIA request is attached hereto as "Exhibit A."

14. In her FOIA request, Plaintiff Schlusssel requested the following information:

- Copies of any and all booking photos taken by your department of Malak Ibrahim Kazan without her hijab/Muslim headscarf on;
- Copies of any and all "booking" videos taken of Ms. Kazan by your department on or around July 9, 2014;
- Copies of any and all dash camera footage of the police stop and/or arrest of Ms. Kazan on or around July 9, 2014;

- Copies of any and all police camera videos of he [sic] Ms. Kazan on or around July 9, 2014.

Exhibit A.

15. On April 22, 2016, Defendant Miotke, acting in his official capacity as Corporation Counsel for the City of Dearborn Heights, sent Schlusssel a response to her FOIA request denying most of her FOIA request, refusing to provide a copy of the booking photos of Ms. Kazan without her hijab and declining to provide the complete video footage of Ms. Kazan's arrest and booking to Ms. Schlusssel. Mr. Miotke's response is attached hereto as "Exhibit B."

16. Miotke cited a "right to privacy" as the reason for his denial of most of Schlusssel's FOIA request to the Dearborn Heights PD. Exhibit B.

17. Michigan Courts have repeatedly ruled that there is no "right to privacy" for booking photos. See *Detroit Free Press v. Oakland County Sheriff*, 164 Mich. App. 656 (1987) ("the booking photograph of a person arrested . . . reveals no facts about the arrestee which are not matter of legitimate public concern") which was affirmed by *Patterson v. Allegan Cty. Sheriff*, 199 Mich. App. 638 (1993), and reaffirmed again in *Rataj v. City of Romulus*, 306 Mich. App. 735 (2014).

18. Further, Defendant Miotke requiring her to pay \$24.00 (Twenty-Four Dollars) for the limited information the City of Dearborn Heights agreed to supply in response to her FOIA request "because the failure to charge a fee would result in unreasonably high costs to the City" and "because of the nature of the request in this particular instance due to labor costs directly associated with searching for, locating and examining requested items as well as separating and deleting information exempt from disclosure." Exhibit B.

19. On November 5, 2014, Amir Makled sent the Dearborn Heights PD a request for

information pursuant to the Michigan Freedom of Information Act, MCL 15.231 et seq. A copy of Makled's FOIA request is attached hereto as "Exhibit C."

20. In his FOIA request, Makled requested the following information regarding a ticket and arrest involving Malak Ibrahim Kazan:

1. The booking photo
2. The booking video
3. Any dash camera footage of the stop
4. Any police camera videos.

Exhibit C.

21. On November 7, 2014, the Dearborn Heights PD granted Makled's FOIA request "in its entirety," requiring him to pay \$15.00 (Fifteen Dollars) for the materials requested. The document granting his FOIA request is attached hereto as "Exhibit D."

22. Mr. Makled's FOIA request asked for virtually the identical information as that requested by Ms. Schlüssel in her FOIA request, and Ms. Schlüssel cited Mr. Makled's FOIA request in her own. Exhibit A.

23. Mr. Makled is male, Muslim, of Arabic ethnicity, and, upon information and belief, of Lebanese heritage and/or national origin.

24. Ms. Schlüssel is female, Jewish in religion and ethnicity, and is of American national origin, having been born in the United States.

25. On October 16, 2016, Schlüssel appealed Miotke's denial of her FOIA request, sending the appeal to Defendant Dearborn Heights Mayor Daniel S. Paletko. The appeal is attached as "Exhibit E."

26. Schlüssel's appeal cited the various Michigan Court of Appeals rulings, cited herein *supra*, which hold that there is no right to privacy for booking photos, under the Michigan Freedom of Information Act. Exhibit E.

27. Schlusssel's appeal also cited the fact that the City of Dearborn Heights PD granted the male Muslim Arab (and, upon information and belief, Lebanese) Makled's FOIA request in its entirety—never citing an alleged “right to privacy,” while it declined to grant the female, Jewish, American-born Schlusssel's identical FOIA request on the unlawful “right to privacy grounds.” Exhibit E.

28. Further, Schlusssel's appeal noted that the Dearborn Heights PD charged the male, Muslim, Arab (and, upon information and belief, Lebanese) Makled only \$15.00 (Fifteen Dollars) for his complete FOIA request materials, while it charged the female, Jewish, American-born Schlusssel \$24.00 (Twenty-Four Dollars)—apparently a *jizya*, a discriminatory Muslim tax assessed on non-Muslims—for only limited and incomplete materials in response to her FOIA request.

29. On November 16, 2016, Defendant Dearborn Heights Mayor Daniel S. Paletko denied Schlusssel's appeal of the City's denial of her FOIA appeal. The denial of Schlusssel's appeal is attached hereto as “Exhibit F.”

30. On June 8, 2015, Defendant Dearborn Heights PD Chief Lee A. Gavin established the “City of Dearborn Heights Policy Regarding Booking Procedure for Females Wearing a Hijab, Burka or Other Religious Head Covering” (hereinafter, referred to as “the Hijab Policy”). The Hijab Policy is attached as “Exhibit G.”

31. The Hijab Policy was developed by Muslim lawyers, including Mr. Makled, and agreed to by Defendants and Defendants' lawyers James Acho and Cummings, McClorey, Davis & Acho, P.L.C. in settlement of a federal lawsuit filed by Ms. Kazan.

32. The Hijab Policy is a form of *sharia* or “Islamic law” and violates the Establishment

Clause of the First Amendment of the United States Constitution as well as Article I, Sections 2 and 4 of the Michigan Constitution, as it only applies “in instances [involving] a female of the Muslim faith.” Exhibit G.

33. Further, the Hijab Policy violates the Michigan Freedom of Information Act, Act 442 of 1976, MCL 15.231 *et seq.*, because it provides that booking photos “sans religious covering will not be available to the public pursuant to FOIA. On the other hand, photographs of the female with the hijab on will be available to the public.” Exhibit G.

34. The Michigan Freedom of Information Act, Act 442 of 1976, MCL 15.231 *et seq.*, can only be amended by Michigan statute and/or an act of the Michigan Legislature. It cannot be amended by local or county ordinance, let alone a unilateral declaration by a police chief, such as the Hijab Policy established by the Dearborn PD.

35. Therefore, the Hijab Policy violates Michigan law and should be declared invalid.

COUNT I - (All Defendants)

Michigan Freedom of Information Act, Act 442 of 1976, MCL 15.231 *et seq.*

36. Plaintiff re-alleges and incorporates by reference all prior paragraphs in this Complaint as though repeated herein.

37. Plaintiff Schlüssel is a journalist whose work has appeared and/or been cited in The New York Times, the Wall Street Journal, USA Today, the Jerusalem Post, the New York Post, The Detroit News, the Detroit Free Press, Newsweek, and many other respected mainstream media publications. She has also appeared on and/or been cited by ABC, ABC News, NBC News, CBS News, FOX News, CNN, MSNBC, ESPN, FOX Sports, Al-Jazeera, and Al-Arabiya. She also appears weekly, giving commentary and reports on news, politics, and culture on various radio shows around the United States and on SiriusXM satellite radio. In the past,

Schlüssel hosted a Detroit-based radio program for CBS Radio. This is in addition to her popular website, DebbieSchlüssel.com, which has broken many news stories that have gone viral and been picked up by many major media news sources.

38. The City of Dearborn Heights and the Dearborn Heights PD are “public bodies” as defined by FOIA, MCL 15.232(d), and the public records they maintain are subject to disclosure under the provisions of FOIA.

39. As previously noted herein, Schlüssel has requested that the City of Dearborn Heights and the Dearborn Heights PD disclose certain documents in their possession and both have made a final determination to deny that request as indicated in the responses of Defendants Paletko and Miotke.

40. Defendants’ explanations are insufficient and illegal, as a matter of law, to justify the nondisclosure of important public records pertaining to Malak Kazan.

41. Ms. Kazan filed a highly-publicized lawsuit pertaining to the records sought by Ms. Schlüssel, and the story became a news story of international interest.

42. While FOIA does not require that a party have any purpose in requesting public documents, the documents sought are newsworthy and essential to the public’s interest in monitoring the actions and conduct of municipalities such as Dearborn Heights and its police department and the administration of the law by its elected and appointed officials.

43. The need for public disclosure of the requested information has increased because of the passage of time and because of the unlawful, unconstitutional actions of officials of the City of Dearborn Heights and its police department.

44. Schlüssel and the public she serves will be irreparably harmed, absent immediate and full disclosure of the public records sought on this matter of enormous public concern.

45. Schlusssel has no adequate remedy at law to redress the injury she will sustain if she does not receive immediate and full disclosure of the information requested from Defendants.

WHEREFORE, Plaintiff Debbie Schlusssel respectfully requests that this Honorable Court:

- a) Issue an order compelling the disclosure of all public records sought by Schlusssel, including the booking photos of Malak Kazan without her hijab and the complete videos of her arrest and the booking process;
- b) Declare Defendants' non-disclosure of the requested records violative of FOIA;
- c) Declare Defendant's Hijab Policy to be illegal and violative of FOIA;
- d) Award Plaintiff her actual and reasonable attorney fees and costs, as required by MCL 15.240(6);
- e) Award Plaintiff civil fines pursuant to MCL 15.240(7);
- f) Award Plaintiff additional actual and reasonable attorney fees and costs, as required by MCL 15.240a(6);
- g) Award Plaintiff additional civil fines pursuant to MCL 15.240a(7);
- h) Award Plaintiff further civil fines of at least \$7,500 pursuant to MCL 15.240b; and
- i) Award such other relief as this Honorable Court deems appropriate.

COUNT II – (All Defendants)
Equal Protection of the Law
As Incorporated through the Fourteenth Amendment of the U.S. Constitution
42 U.S.C. Section 1983

46. Plaintiff re-alleges and incorporates by reference all prior paragraphs in this Complaint as though repeated herein.

47. 42 U.S.C. Section 1983 states:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

42 U.S.C. Section 1983.

48. 42 U.S.C. Section 1983 prohibits any person acting under color of state law, custom, or usage, to deprive a citizen of rights secured by the Constitution.

49. Defendants, at all relevant times herein, were acting under color of state law.

50. Plaintiff had a right to fair and equal treatment under the law regardless of her sex/gender, religion, ethnicity, and national origin, as guaranteed by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

51. Defendants, acting under color of law, intentionally singled out and treated Plaintiff less favorably than a similarly situated male Muslim of Arabic descent (who, upon information and belief, is of Lebanese national origin), without a legitimate, important, or compelling interest for that treatment.

52. The discrimination on the basis of sex/gender, religion, ethnicity, and national origin, as described more fully above, represents official policy and practice of and is attributable to Defendants.

53. It would have been plainly obvious to a reasonable policymaker that such discrimination did deprive or would lead to deprivations of Plaintiff's Constitutional rights.

54. Defendants nevertheless agreed to, approved, and ratified this unconstitutional

conduct.

55. Acting under color of law, Defendants promulgated and carried out the official policies, orders, and directives described above intentionally and deliberately, with wanton and reckless disregard for the civil and Constitutional rights, privileges, and sensibilities of Plaintiff.

56. By reason of the aforementioned FOIA policy and discriminatory conduct in response to Schlüssel's FOIA request, Defendants, acting under color of state law, deprived Schlüssel of the equal protection of the law guaranteed under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. Section 1983 by discriminating against Plaintiff in the application of their acts, policies, practices, custom usage, and omissions on the basis of Plaintiff's gender, religion, ethnicity, and national origin, thereby treating her on less than equal terms.

57. Defendants targeted Plaintiff for discriminatory and arbitrary treatment on account of her sex/gender, religion, ethnicity, and national origin, thereby infringing on her fundamental rights.

58. Defendants granted the FOIA rights (which it denied Schlüssel) when it granted a similarly situated male Muslim of Arabic descent (who upon information and belief is of Lebanese national origin) the same FOIA materials it denied to Schlüssel and manufactured a pretextual "right to privacy" which does not exist, as an excuse to deny Schlüssel the FOIA materials.

59. Schlüssel is a member of three protected classes. She is female (gender/sex), Jewish in ethnicity and religion, and she was born in the United States (national origin).

60. Defendants treated Schlüssel differently than Mr. Makled, despite her FOIA

request being virtually identical to his, because unlike him, she is female not male; Jewish not Arab and Muslim; and born in the United States, not, upon information and belief, in Lebanon—thus, depriving her of her Constitutionally protected right to equal treatment and equal protection under the law.

61. Defendants' FOIA policy and discriminatory FOIA responses to the same requests for the same information discriminates against Plaintiff, and deprives Plaintiff and the class of similarly situated non-male, non-Muslim, native-born Americans of equal privileges of obtaining information under FOIA, based on their sex/gender, religious, ethnic, and national origin statuses.

62. As a direct and proximate cause of Defendants' wrongful acts and omissions, Plaintiff has sustained injury and damages, including her rights under the Fourteenth Amendment to the United States Constitution.

63. As a direct and proximate cause of Defendants' violations of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Plaintiff has suffered irreparable harm and sustained injury and damages, including loss of her Constitutional rights, entitling her to declaratory and injunctive relief and damages as set forth in the common allegations of this Complaint.

WHEREFORE, Plaintiff Debbie Schlusel respectfully requests that this Honorable Court enter a judgment in favor of Plaintiff and against Defendants, for damages in whatever amount Plaintiff is found to be entitled; preliminary injunctive relief followed by permanent injunction; declaratory judgment; costs and attorneys' fees wrongfully incurred to bring this action; and any other damages, including punitive damages as provided by applicable law.

COUNT III – (All Defendants)
Conspiracy to Deprive Equal Protection Rights Guaranteed
by the U.S. Constitution in violation of 42 U.S.C. Section 1985(3)

64. Plaintiff re-alleges and incorporates by reference all prior paragraphs in this Complaint as though repeated herein.

65. Defendants conspired to violate Plaintiff's rights as guaranteed under the United States Constitution.

66. Defendants acted in furtherance of the conspiracy when they refused to release the FOIA materials to her pursuant to her request.

67. In conspiring to create a discriminatory, unlawful FOIA policy and refusing to release the materials to Plaintiff—and releasing identical materials requested to a similarly situated party who was of the "acceptable" sex/gender, religion, ethnicity, and, upon information and belief, national origin—Defendants violated 42 U.S.C. Section 1985(3).

68. As a direct and proximate result of Defendants' wrongful acts and omissions, Plaintiff has sustained damages and injury.

WHEREFORE, Plaintiff Debbie Schlusel respectfully requests that this Honorable Court enter a judgment in favor of Plaintiff and against Defendants, for damages in whatever amount Plaintiff is found to be entitled; preliminary injunctive relief followed by permanent injunction; declaratory judgment; costs and attorneys' fees wrongfully incurred to bring this action; and any other damages, including punitive damages as provided by applicable law.

COUNT IV – (All Defendants)
Michigan Elliott-Larsen Civil Rights Act – MCL 37.2101 et seq.

69. Plaintiff re-alleges and incorporates by reference all prior paragraphs in this Complaint as though repeated herein.

70. At all relevant times herein, Plaintiff and Defendants were covered by and within the meaning of the Michigan Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq.*

71. Defendants City of Dearborn Heights and Dearborn PD are “public services” pursuant to MCL 37.2301(b).

72. Pursuant to MCL 37.302, “a person shall not: (a) Deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of a place or public accommodation or public service because of religion, race, color, national origin, age, sex, or marital status.”

73. By granting the FOIA materials (and at a lower price) to a male Muslim of Arab descent who, upon information and belief, is of Lebanese origin—and denying those same materials to Plaintiff who is female, Jewish, and born in the United States, Defendants violated MCL 37.302.

74. Pursuant to MCL 37.302, Defendants had a duty to refrain from discriminating against Plaintiff on the basis of religion, national origin, and sex.

75. Defendants’ discriminatory actions were intentional, with reckless indifference and in disregard of Plaintiff’s rights and sensibilities.

76. As a direct and proximate result of Defendants’ actions in violation of MCL 37.302, Plaintiff sustained injury and damages.

WHEREFORE, Plaintiff Debbie Schlusel respectfully requests that this Honorable Court enter a judgment in favor of Plaintiff and against Defendants, for damages in whatever amount Plaintiff is found to be entitled; preliminary injunctive relief followed by permanent injunction; declaratory judgment; costs and attorneys’ fees

wrongfully incurred to bring this action; and any other damages, including punitive damages as provided by applicable law.

COUNT V – (All Defendants)
First Amendment – Establishment Clause

77. Plaintiff re-alleges and incorporates by reference all prior paragraphs in this Complaint as though repeated herein.

78. The First Amendment to the United States Constitution provides: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, and to petition the government for redress of grievances.”

79. Upon information and belief, Defendants were and are aware that Schlüssel is of the Jewish religion.

80. By denying Schlüssel the FOIA materials but granting them to a similarly situated party of another religion (Muslim), Defendants violated Schlüssel’s First Amendment Rights because Defendants established a favored religion in Violation of the First Amendment’s Establishment Clause.

81. Further, by making a policy specifically exempting only Muslim women from the FOIA laws, Defendants further violated the Establishment Clause by favoring one religion over all others.

82. By denying Schlüssel the FOIA materials because of her religion and violated the Establishment Clause and depriving her of her rights, Defendants caused Plaintiff injury and damages.

83. By violating the Establishment Clause, Defendants’ Hijab Policy is unconstitutional

and illegal and should be declared as such.

WHEREFORE, Plaintiff Debbie Schlusel respectfully requests that this Honorable Court:

- a) Issue an order compelling the disclosure of all public records sought by Schlusel, including the booking photos of Malak Kazan without her hijab and the complete videos of her arrest and the booking process;
- b) Declare Defendants' non-disclosure of the requested records violative of the Establishment Clause of the First Amendment of the United States Constitution;
- c) Declare Defendant's Hijab Policy to be illegal and violative of the Establishment Clause of the First Amendment of the United States Constitution;
- d) Award Plaintiff her actual and reasonable attorney fees and costs; and
- e) Award such other relief as this Honorable Court deems appropriate.

COUNT VI – (All Defendants)
First Amendment – Freedom of Speech, Freedom of the Press

84. Plaintiff re-alleges and incorporates by reference all prior paragraphs in this Complaint as though repeated herein.

85. The First Amendment to the United States Constitution provides: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, and to petition the government for redress of grievances."

86. Upon information and belief, Defendants were and are aware that Schlusssel maintains a website and is a journalist whose work frequently appears in the media.

87. By denying Schlusssel the FOIA materials (but granting them to a similarly situated), Defendants violated Schlusssel's First Amendment Rights to Free Speech and Freedom of the Press.

88. By denying Schlusssel the FOIA materials, Defendants violated the Freedom of Speech and Freedom of the Press clauses of the First Amendment to the United States Constitution, deprived her of her rights and caused Plaintiff injury and damages.

WHEREFORE, Plaintiff Debbie Schlusssel respectfully requests that this Honorable Court:

- a. Issue an order compelling the disclosure of all public records sought by Schlusssel, including the booking photos of Malak Kazan without her hijab and the complete videos of her arrest and the booking process;
- b. Declare Defendants' non-disclosure of the requested records violative of the First Amendment of the United States Constitution;
- c. Declare Defendant's Hijab Policy to be illegal and violative of the First Amendment of the United States Constitution;
- d. Award Plaintiff her actual and reasonable attorney fees and costs; and
- e. Award such other relief as this Honorable Court deems appropriate.

COUNT VII – (All Defendants)
First Amendment – Freedom of Religion

89. Plaintiff re-alleges and incorporates by reference all prior paragraphs in this Complaint as though repeated herein.

90. The First Amendment to the United States Constitution provides: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, and to petition the government for redress of grievances.”

91. Upon information and belief, Defendants were and are aware that Schlusel is of the Jewish religion.

92. By denying Schlusel the FOIA materials but granting them to a similarly situated party of another religion (Muslim), Defendants violated Schlusel’s First Amendment Rights because Defendants violated her freedom to worship as she sees fit and still qualify to receive the FOIA documents.

93. By denying Schlusel the FOIA materials because of her religion and violating the Freedom of Religion Clause and depriving her of her rights, Defendants caused Plaintiff injury and damages.

WHEREFORE, Plaintiff Debbie Schlusel respectfully requests that this Honorable Court:

- a) Issue an order compelling the disclosure of all public records sought by Schlusel, including the booking photos of Malak Kazan without her hijab and the complete videos of her arrest and the booking process;
- b) Declare Defendants’ non-disclosure of the requested records violative of the Freedom of Religion Clause of the First Amendment of the United States Constitution;
- c) Award Plaintiff her actual and reasonable attorney fees and costs; and
- d) Award such other relief as this Honorable Court deems appropriate.

COUNT VIII – (All Defendants)
Michigan Constitution – Article I, Section 2 – Equal Protection

94. Plaintiff re-alleges and incorporates by reference all prior paragraphs in this Complaint as though repeated herein.

95. Article I, Section 2 of the Michigan Constitution states:

No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin.

Michigan Constitution, Article I, Section 2.

96. By reason of the aforementioned FOIA policy and discriminatory conduct in response to Schlusssel's FOIA request, Defendants, deprived Schlusssel of the equal protection of the law guaranteed under the Article I, Section 2 of the Michigan Constitution, by discriminating against Plaintiff in the application of their acts, policies, practices, custom, usage, and omissions on the basis of Plaintiff's religion and national origin, thereby treating her on less than equal terms.

97. Defendants targeted Plaintiff for discriminatory and arbitrary treatment on account of her religion and national origin, thereby infringing on her fundamental rights.

98. Defendants granted the FOIA rights (which it denied Schlusssel) when it granted a similarly situated male Muslim of Arabic descent (who upon information and belief is of Lebanese national origin) the same FOIA materials it denied to Schlusssel and manufactured a pretextual "right to privacy" which does not exist, as an excuse to deny Schlusssel the FOIA materials.

99. Schlusssel is a member of three protected classes. She is female (gender/sex), Jewish in ethnicity and religion, and she was born in the United States (national origin).

100. Defendants treated Schlusssel differently than Mr. Makled, despite her FOIA request being virtually identical to his, because unlike him, she is female not male; Jewish not Arab and Muslim; and born in the United States, not, upon information and belief, in Lebanon—thus, depriving her of her Constitutionally protected right to equal treatment and equal protection under the law.

101. Defendants' FOIA policy and discriminatory FOIA responses to the same requests for the same information discriminates against, violates, and deprives Plaintiff and the class of similarly situated non-male, non-Muslim, native-born Americans of equal privileges of obtaining information under FOIA, based on their sex/gender, religious, ethnic, and national origin statuses.

102. As a direct and proximate cause of Defendants' wrongful acts and omissions, Plaintiff has sustained injury and damages, including her rights under the Article I, Section 2 of the Michigan Constitution.

103. As a direct and proximate cause of Defendants' violations of Article I, Section 2 of the Michigan Constitution, Plaintiff has suffered irreparable harm and sustained injury and damages, including loss of her Constitutional rights, entitling her to declaratory and injunctive relief and damages as set forth in the common allegations of this Complaint.

WHEREFORE, Plaintiff Debbie Schlusssel respectfully requests that this Honorable Court enter a judgment in favor of Plaintiff and against Defendants, for damages in whatever amount Plaintiff is found to be entitled; preliminary injunctive relief followed by permanent injunction; declaratory judgment that the aforementioned Hijab FOIA policy is illegal and violates Article I, Section 2 of the Michigan Constitution;

costs and attorneys' fees wrongfully incurred to bring this action; and any other damages, including punitive damages as provided by applicable law.

COUNT IX – (All Defendants)
Michigan Constitution – Article I, Section 4 – Equal Protection

104. Plaintiff re-alleges and incorporates by reference all prior paragraphs in this Complaint as though repeated herein.

105. Article I, Section 4 of the Michigan Constitution states:

No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Michigan Constitution, Article I, Section 4.

106. By reason of the aforementioned FOIA policy and discriminatory conduct in response to Schlüssel's FOIA request, Defendants, deprived Schlüssel of the equal protection of the law guaranteed under the Article I, Section 4 of the Michigan Constitution, by discriminating against Plaintiff in the application of their acts, policies, practices, custom, usage, and omissions on the basis of Plaintiff's religion and national origin, thereby treating her on less than equal terms.

107. Defendants' aforementioned FOIA policy also violates Article I, Section 4 of the Michigan Constitution because it appropriates money and property belonging to the state for and provides protection from FOIA requests only for Muslim women.

108. Defendants targeted Plaintiff for discriminatory and arbitrary treatment on account of her religion and national origin, thereby infringing on her fundamental rights.

109. Defendants granted the FOIA rights (which it denied Schlüssel) when it

granted a similarly situated male Muslim the same FOIA materials it denied to Schlusssel and manufactured a pretextual “right to privacy” (only for Muslim women) which does not exist in Michigan law, as an excuse to deny Schlusssel the FOIA materials.

110. The City of Dearborn Heights is a majority Muslim city and the site of the second largest mosque in North America, the Islamic House of Wisdom a/k/a “Dar Al-Hikma.” A large number of its citizens are of Arabic descent and were born in the Muslim Middle East, where women are not respected.

111. Schlusssel practices the Jewish religion.

112. Defendants treated Schlusssel differently than Mr. Makled, despite her FOIA request being virtually identical to his, because unlike him, she is Jewish not Muslim—thus, depriving her of her Constitutionally protected right to equal treatment and equal protection under the law.

113. Defendants’ FOIA policy and discriminatory FOIA responses to the same requests for the same information discriminates against, violates, and deprives Plaintiff and the class of similarly situated non-male, non-Muslim, native-born Americans of equal privileges of obtaining information under FOIA, based on their sex/gender, religious, ethnic, and national origin statuses.

114. As a direct and proximate cause of Defendants’ wrongful acts and omissions, Plaintiff has sustained injury and damages, including her rights under the Article I, Section 4 of the Michigan Constitution.

115. As a direct and proximate cause of Defendants’ violations of Article I, Section 4 of the Michigan Constitution, Plaintiff has suffered irreparable harm and sustained injury and damages, including loss of her Constitutional rights, entitling her to

declaratory and injunctive relief and damages as set forth in the common allegations of this Complaint.

WHEREFORE, Plaintiff Debbie Schlusel respectfully requests that this Honorable Court enter a judgment in favor of Plaintiff and against Defendants, for damages in whatever amount Plaintiff is found to be entitled; preliminary injunctive relief followed by permanent injunction; declaratory judgment that the aforementioned Hijab FOIA policy violates Article I, Section 4 of the Michigan Constitution; costs and attorneys' fees wrongfully incurred to bring this action; and any other damages, including punitive damages as provided by applicable law.

JURY DEMAND

116. Plaintiff requests trial by jury on all claims herein.

Respectfully submitted,

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