

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS EASTERN  
DIVISION**

JOSEPH J. SMITH	)
PLAINTIFF,	)
	)
vs.	)
THE CITY OF CHICAGO,	)
UNKNOWN EMPLOYEES	)
	)
Defendants.	)

**COMPLAINT AT LAW**

NOW COMES the PLAINTIFF, JOSEPH J. SMITH, by and through his attorney, Blake Horwitz, Esq., from The Blake Horwitz Law Firm, LTD., and pursuant to this Complaint at Law, states the following against the CITY OF CHICAGO and unknown employees.

**JURISDICTION**

1. The jurisdiction of this Court is invoked pursuant to the Civil Rights Act, 42 U.S.C. §1983; the Judicial Code 28 U.S.C. §1331 and §1343(a); the Constitution of the United States; and this Court’s supplementary jurisdiction powers.

**PARTIES**

- 2. JOSEPH J. SMITH is a resident of the State of Illinois and of the United States.
- 3. The CITY OF CHICAGO is a duly incorporated municipal corporation and is the employer and principal of UNKNOWN EMPLOYEES.

4. The UNKNOWN EMPLOYEES were acting under color of state law, ordinance and/or regulation, statutes, custom and usages of the CITY OF CHICAGO.

**FACTS**

4. On or about November 1, 2011, Mark Altman arrived at or about 1200 W. North Ave., Chicago, Illinois.

5. At that time, he was a captain of the Chicago Fire Department.

6. On or about November 1, 2011 PLAINTIFF was employed as a CITY OF CHICAGO Marine Unit Officer.

7. PLAINTIFF has extensive training in marine and underwater rescue as a CITY OF CHICAGO Marine Unit officer.

8. PLAINTIFF arrived on the scene, pursuant to his duties, to rescue two individuals who fell into the Chicago River. PLAINTIFF came to the aforementioned scene to assist with the search and rescue effort.

9. PLAINTIFF arrived at or about 1200 W. North Ave., Chicago, Illinois and PLAINTIFF began to search for the individuals who fell into the Chicago River.

10. During PLAINTIFF'S search, PLAINTIFF came into contact with Mr. Altman, wherein Mr. Altman told PLAINTIFF to "get the fuck out of here, get the fuck back."

11. When Mr. Altman saw the PLAINTIFF on said date, PLAINTIFF was in full uniform as a CITY OF CHICAGO Marine Unit officer.

12. Subsequently, Mr. Altman threw PLAINTIFF to the ground, causing significant injury, including but not limited to, two surgeries (one to the neck and the other to the back).

13. After PLAINTIFF was battered by Mr. Altman, PLAINTIFF went to the Chicago Police Department to report the misconduct of Mr. Altman.

14. Subsequently, PLAINTIFF filed a federal civil rights lawsuit.

15. After substantial pre-trial proceedings took place, a jury found in favor of the PLAINTIFF in the amount of \$1,331,779.15.

16. Ultimately, the CITY OF CHICAGO compensated PLAINTIFF pursuant to the judgment.

17. After payment on the verdict, the PLAINTIFF was returned to work for the CITY OF CHICAGO police department on September 7, 2016.

18. After PLAINTIFF returned to work, he was not paid for the work he performed until December 1, 2016. In other words, he was not paid for work he performed until two and one half months after he began working for the CITY OF CHICAGO.

19. After the PLAINTIFF returned to work, he was also demoted.

20. There was and is no justifiable basis for demoting PLAINTIFF and for refusing to timely pay PLAINTIFF.

21. As a result of the demotion, PLAINTIFF received and continues to receive a reduction in his salary in the amount of, approximately \$4,428.00 per year.

22. PLAINTIFF, after being re-employed by the CITY OF CHICAGO, was placed on un-paid leave and was required to use his accrued vacation time in order to continue his employment for the CITY OF CHICAGO.

**Count I**  
**740 ILCS 174/1**  
**Whistleblower Act**

23. PLAINTIFF re-alleges paragraphs 1-22 as set forth above.

24. The UNKNOWN DEFENDANTS played a substantial role in retaliating against the PLAINTIFF.

25. Each UNKNOWN DEFENDANT proximately caused the retaliation of the PLAINTIFF and caused him to be placed on unpaid leave, to be prevented from receiving a salary for work performed and to be prevented from receiving medical benefits, pension and seniority.

26. As a result of the retaliation against PLAINTIFF, the PLAINTIFF has suffered damages in the form of emotional distress and financial losses.

27. The actions alleged above were the direct and proximate cause of the violations of Illinois State law and the injuries sustained by PLAINTIFF.

WHEREFORE, PLAINTIFF demands compensatory, attorney fees and costs.

**Count II**  
**745 ILCS 10/9-102 Claim**  
**Against the CITY OF CHICAGO**

28. PLAINTIFF restates and re-alleges paragraphs 1-22 as though fully set forth herein.

29. The Defendant CITY OF CHICAGO is the employer of the UNKNOWN DEFENDANTS.

30. The UNKNOWN DEFENDANTS, as alleged above, committed the above-described actions in the scope of employment of the Defendant CITY OF CHICAGO.

WHEREFORE, should the UNKNOWN DEFENDANTS, in their individual capacity, be found liable for any of the alleged counts in this cause, PLAINTIFF demands that, pursuant to 745 ILCS 10/9-102, the Defendant CITY OF CHICAGO pay any judgment obtained against said Defendants.

**Count III**  
**Supplementary Claim for *Respondeat Superior***

31. PLAINTIFF restates and re-alleges paragraphs 1-22 as though fully set forth herein.

32. The aforesaid acts of the UNKNOWN DEFENDANTS, in their individual capacity, were in the scope of employment, undertaken with willful and wanton disregard for the PLAINTIFF and therefore the Defendant CITY OF CHICAGO, as principal, is liable for the actions of its agents under the doctrine of *respondeat superior*.

WHEREFORE should the UNKNOWN DEFENDANTS, in their individual capacity, be found liable for any state claims alleged herein, PLAINTIFF demands judgment against the Defendant CITY OF CHICAGO and such other additional relief, as this Court deems equitable and just.

**COUNT V**  
**First Amendment Retaliation – Freedom of Speech**

33. PLAINTIFF re-alleges paragraphs 1-22 as though fully set forth herein.

34. PLAINTIFF had a First Amendment right to free speech during and at all times relevant to this action.

35. PLAINTIFF exercised his right to free speech by filing a lawsuit against the CITY OF CHICAGO and its agent.

36. PLAINTIFF exercised his right to free speech by securing a judgment against the CITY OF CHICAGO.

37. The UNKNOWN DEFENDANTS retaliated against the PLAINTIFF by, *inter alia*, reducing his salary, demoting his status as a police officer and forcing him to be placed on un-paid leave.

WHEREFORE, PLAINTIFF demands compensatory damages from the DEFENDANTS. PLAINTIFF also demands punitive damages, costs and attorneys' fees against the UNKNOWN DEFENDANTS. PLAINTIFF also demands whatever additional relief this Court deems equitable and just.

#### **COUNT VI**

#### **First Amendment Retaliation – Right to Petition Government For Redress**

38. PLAINTIFF re-alleges paragraphs 1-22 as though fully set forth herein.

39. PLAINTIFF has rights secured to him by the Petition Clause of the First Amendment of the United States Constitution to exercise his First Amendment right to petition the government for redress.

40. PLAINTIFF exercised his First Amendment right to petition the government for redress by filing a federal civil rights lawsuit against the CITY OF CHICAGO and agent.

41. PLAINTIFF exercised his right to free speech by securing a judgment against the CITY OF CHICAGO.

42. The UNKNOWN DEFENDANTS retaliated against the PLAINTIFF by, *inter alia*, reducing his salary, demoting his status as a police officer and forcing him to be placed on un-paid leave.

WHEREFORE, PLAINTIFF demands compensatory damages from the

DEFENDANTS. PLAINTIFF also demands punitive damages, costs and attorneys' fees against the UNKNOWN DEFENDANTS. PLAINTIFF also demands whatever additional relief this Court deems equitable and just.

**JURY DEMAND**

43. PLAINTIFF demands trial by jury.

Respectfully submitted,

s/ Blake Horwitz  
Attorney for the Plaintiff

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