

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GORDON SPRINGS,

Civ. No.

Plaintiff,

-against-

**COMPLAINT**

THE CITY OF NEW YORK, FIRE COMMISSIONER DANIEL A. NIGRO (Individually And In His Respective), (Jury Trial Demanded) Capacity As The Commissioner of the Fire Department of The City of New York), Lieutenant EDWARD VREELAND (Individually And In His Respective Capacity As An Acting Officer of the Fire Department of New York), PEDRO ARISTY, CHARLES SWIFT, AND PETER GRILLO (Individually And In Their Respective Capacities As Members Of The Fire Department Of The City of New York)

Defendants.

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Plaintiff, GORDON SPRINGS (“Plaintiff” or “Springs”), by and through his attorneys, DEREK SMITH LAW GROUP PLLC, complaining of Defendants, jointly and severally, herein respectfully shows to this Court and alleges the following:

**NATURE OF THE CASE**

1. This is an action to remedy discrimination based on race and is brought by Plaintiff Gordon Springs pursuant to the provisions of the Civil Rights Act of 1866, 42 U.S.C. § 1981, as amended by the Civil Rights Act of 1991 (“Section 1981”), and pursuant to Article I, § 11 of the New York State Constitution for the violation of his due process and other constitutional rights to be free from racial discrimination.

2. This is further an action in which the Plaintiff seeks relief for Defendants’ violation, under color of state law, of his rights, privileges and immunities secured by the Civil Rights Act of 1871, 42 U.S.C. § 1983, the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution, and the Constitution and laws of the State of New York

3. Plaintiff also complains pursuant to Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C § 2000e et. Seq. (“Title VII”), and to remedy violations of the laws of the State of New York, based upon diversity and the supplemental jurisdiction of this Court pursuant to Gibb, 38 U.S. 715 (1966) and 28 U.S.C. § 1367, seeking relief and damages to redress the injuries Plaintiff has suffered as a result of being sexually harassed, discriminated and retaliated against by his employer on the basis of gender discrimination, racial discrimination and retaliation inflicted upon Plaintiff by Defendants.

4. Defendants engaged in a pattern and practice of committing sexual harassment against new firefighters, also known as “Probies.”

5. The Defendants had prior knowledge of these horrific acts from other instances of sexual harassment against “Probies.” By way of example, see *Baraka Smith v. The City of New York*, EDNY 14 CV 4982.

#### JURISDICTION AND VENUE

6. Jurisdiction of this Court is proper under 42 U.S.C. § 2000e-5(f)(3), and 28 U.S.C. §§ 1331 and the Civil Rights Act of 1866 and 1871 which give this Court jurisdiction for each statute; the damages; exclusive of interest and costs in this instance exceed that of all lower courts, and this Court’s pendent jurisdiction is also invoked.

7. The unlawful employment practices alleged herein occurred wholly or in part, in the jurisdiction of the Southern District of New York.

#### JURY DEMAND

8. Plaintiff hereby demands a trial by jury on all issues properly triable thereby.

PARTIES

9. Plaintiff Gordon Springs is an individual African American male who resides in the State of New York, County of New York.

10. Defendant, The City of New York, is a municipal corporation, incorporated in the State of New York, and resides in all five boroughs of New York City. The causes of action in this case arise within the County and City of New York.

11. The City of New York assumes the risk incidental to the maintenance of a fire department and the employment of firefighters.

12. The Fire Department of the City of New York has their headquarters in Brooklyn, New York, and has its principal place of business at 9 Metro Tech Center, Brooklyn, New York 11201.

13. At all relevant times, the City acted through its agency, the Fire Department of the City of New York (the "FDNY"), to commit the acts alleged in this Complaint and were responsible for such acts.

14. A substantial and significant portion of the events took place at Firehouse Engine 40-Ladder 35 which is located at 131 Amsterdam Avenue, New York, New York 10023.

15. Defendant FireFighters Charles Swift, Aristy Aristy and Peter Grillo were and are firefighters with the City of New York and are residents of New York State.

16. Defendant Lieutenant Edward Vreeland was and is an officer/firefighter with the City of New York and is a resident of the State of New York.

17. At all times relevant, the above named firefighter defendants were acting within their official capacities.

18. Defendants Aristy, Swift and Grillo, along with the Defendants, assisted and/or conspired to and/or acted in concert and/or did engage in the violations of Plaintiff's constitutional rights. During all times mentioned herein, the Defendants acted under the color

of law, to wit, under color of constitution, statutes, ordinances, laws, rules, regulations, policies, customs and usages of the State of New York and/or the City of New York.

19. At all times relevant to this action, Defendants Aristy, Grillo and Swift had the power and the duty to restrain themselves and other firefighters from committing unlawful acts against the Plaintiff and had a duty to not violate the law and the rights of the Plaintiff.

20. At all times relevant to this action, the City of New York acting through the FDNY, had the duty to properly supervise firefighters at the firehouses named herein and failed to so even though they possessed the authority.

21. At all times material, the above mentioned Firefighters were stationed at Ladder 35, Engine 40.

22. Defendant Lieutenant Firefighter Vreeland was and is a Firefighter with the City of New York and is a resident of New York State.

#### **PROCEDURAL HISTORY**

23. On or about October 29, 2015, Plaintiff Springs filed a charge of sexual harassment, gender discrimination, racial discrimination and retaliation with the Equal Employment Opportunity Commission (“EEOC”).

24. On or about November 10, 2016, the EEOC issued a determination and finding of reasonable cause on behalf of Plaintiff Springs, finding that Plaintiff Springs was the victim of both (i) sexual harassment and (ii) racial discrimination in violation of federal law.

#### **PRELIMINARY STATEMENT**

25. Since the time Plaintiff Springs was a child, he dreamt of becoming a New York City Firefighter. Plaintiff Springs endured great hardship in the earlier part of his life after he lost both of his parents at a young age and later, was forced to live on

the streets. Plaintiff Springs, an African American, pursued his dreams and took the FDNY exam in 2011. Subsequently, Plaintiff Springs entered the FDNY Academy where he later graduated in or around May of 2015.

26. As a new firefighter, Defendants assigned Plaintiff Springs to Ladder Company Thirty Five (“35”) which shares their house and responsibilities with Fire Engine Company Forty (“40”) (hereinafter referred to as L 35, E 40).
27. Plaintiff Springs was a Probationary Firefighter or a “probie” as they are colloquially referred to by the department, was new to the FDNY but could and often would complete the same work activities of more senior firefighters.
28. Plaintiff Springs alleges that on or about May 4, 2015, Plaintiff Springs and three other newly minted firefighters reported for active duty and for an assigned tour at L 35, E 40. As the tour went on, firefighters directed Plaintiff Springs and others to a part of the tour that was not on the guide; the gym.
29. Upon entering the gym, four naked firefighters greeted Plaintiff Springs. Plaintiff Springs attempted to leave the gym but the door was forcibly held shut. Defendant Firefighter Aristy, standing completely naked, ordered Plaintiff Springs to lie down on a weight bench. Plaintiff Springs, who was advised in the FDNY Academy, to comply with orders of any senior firefighter, lay down on the bench as he was told.
30. As Plaintiff Springs placed his head onto the bench, Defendant Firefighter Aristy, already naked, bent down and placed his testicles onto the Plaintiff Springs’s head. As Plaintiff Springs endured the sexual assault he was also forced to watch other acts of sexual harassment.
31. Immediately following the incident and in the months that followed, Plaintiff Springs would be singled out time and time again on account of his race as

an African American male. Defendant Aristy further threatened Plaintiff Springs with physical violence if he dared to report the incident of sexual assault and other unlawful treatment to the FDNY's Equal Employment Opportunity Office ("EEO").

32. Though Plaintiff Springs remains a FDNY firefighter, it has not been without struggle, unlawful discrimination and unlawful retaliation. In essence, as a result of Plaintiff's race and having been subjected to sexual assault, Defendants have forced Plaintiff Springs to wear a "Scarlett Letter", which follows him around like a shadow irrespective of where they assign him.

### FACTS

33. On or about May 4, 2015, one day before Plaintiff Springs' graduation from the FDNY Fire Academy, Plaintiff Springs was given his assignment for active duty to Tower Ladder 35, Engine 40 located on the corner of 66<sup>th</sup> St. and Amsterdam Avenue next to Lincoln Center, New York, N.Y. (Upper West Side, Manhattan).
34. Also on or about May 4, 2015, in what would have been Plaintiff Springs' first day at this particular fire station, Plaintiff Springs was told by drill instructors at the Academy to "come bearing traditional firehouse gifts (cakes and pies)."
35. Upon arriving at the fire station (for what was supposed to be a tour), Plaintiff Springs was greeted by Defendant Grillo, who told Plaintiff Springs: "Our house is really gay."
36. Immediately thereafter, firefighters aggressively pushed and falsely imprisoned Plaintiff Springs, along with three other probationary fire fighters into the gym area. Plaintiff Springs feared for his safety and attempted to leave the gym. However, the door was forcibly held shut by firefighters on the other side of the door.

37. When Plaintiff Springs turned around, in a state of shock and horror, Plaintiff Springs saw Defendants' Aristy and Swift standing completely naked with two to three other firefighters.

38. Plaintiff Springs was frozen stiff and refused to move away from the door in fear of what would happen next. However, as naked firefighters began to surround Plaintiff Springs, Defendant Aristy yelled out and ordered Plaintiff Springs to "Lay down on the bench!"

39. Plaintiff Springs was advised at the FDNY Academy that probationary firefighters had to take orders from senior/supervisory firefighters such as Defendant Aristy who could direct the daily activities of probationary firefighters. In essence, this was a custom and/or policy of the New York City Fire Department.

40. Defendant Aristy continued to shout and berate Plaintiff Springs, repeatedly telling Plaintiff Springs to "Lay down on the bench!"

41. Defendant Aristy then moved directly in front of Plaintiff Springs' face and ordered him onto the bench.

42. Plaintiff Springs, fearful of being insubordinate to Defendant Aristy (a senior member of the fire station), reluctantly laid on the bench.

43. Defendant Aristy instructed Plaintiff Springs to begin lifting two dumbbells (a dumbbell chest press on a flat bench). Immediately after picking up the dumbbells, Defendant Aristy began assisting Plaintiff Springs with the weights.

44. **As Defendant Aristy, who was already naked, assisted Plaintiff Springs with the weights, Defendant Aristy moved his penis and testicles very close to Plaintiff Springs.**

45. **Defendant Aristy then proceeded to bend down and position his genitals towards Plaintiff Springs' face.**

46. Immediately after positioning himself, Defendant Aristy literally placed his testicles onto Plaintiff Springs' forehead.
47. In a complete state of shock and horror, Plaintiff Springs was also forced to observe Defendant Swift doing pull-ups in the gym while completely naked at or around the same exact time Defendant Aristy was personally sexually harassing Plaintiff Springs.
48. When the sexual assault finally ended Defendants released Plaintiff Springs from the gym and Defendant Aristy approached Plaintiff Springs and said "I know you liked my balls in your mouth."
49. The actions of Defendants' City of New York, The New York City Fire Department, and its employees Defendant Aristy and Defendant Swift were totally inappropriate, egregious, repulsive, shocking to the conscience, and against FDNY Regulations against hazing, sexual misconduct, and EEO regulations.
50. As a result of the severe sexual harassment and sexual abuse perpetrated by Defendants Aristy, Swift and other fire fighters, Plaintiff Springs was extremely emotionally distressed, faced high anxiety and was in an overall state of fear.
51. The above is just one of many of the tangible employment actions taken by senior firefighters against the Plaintiff which altered the terms and conditions of his employment.
52. The above unlawful incident of sexual harassment and discrimination represents the actions of on duty firefighters, senior to the Plaintiff, who acted under the color of state law to deprive the Plaintiff of his rights because they used their badge of authority to do so.
53. The experiences of Plaintiff Springs were compounded with bouts of racism against Plaintiff from Defendant Aristy and other firefighters as well (which took



place immediately following the incident of sexual assault/harassment against the Plaintiff). For example, later that day on May 4, 2015, Defendant Aristy pulled Plaintiff Springs away from other firefighters on probation and ordered Plaintiff Springs to stand at attention. While Plaintiff Springs was standing at attention, Defendant Aristy persistently asked Plaintiff Springs, “What are you?” referring to Plaintiff Springs’s race.

54. After the incident was over and Defendant Aristy was done unlawfully berating the Plaintiff, Defendants ordered the Plaintiff and other probies to go to the kitchen where they would cook the meal for the evening and then depart for the night.

55. At or around this same time period, Plaintiff Springs was berated by numerous other firefighters at the station house who persistently grilled Plaintiff Springs in aggressive manner asking him, “What are you? Black or what?”

56. The above represents further discrimination by the Defendants against Plaintiff Springs on account of his race.

57. In late May of 2015, approximately two weeks after Plaintiff Springs graduated and shortly after Plaintiff Springs was subjected to sexual assault/harassment, Defendant Aristy pulled Plaintiff Springs over to the side at the firehouse and said to Plaintiff Springs **“I don’t like you...blacks getting on the job this way. You don’t have good work ethic.”** Upon information and belief, the statement by Aristy referred to African Americans who were so-called “priority” hires, which was also the basis of a significant lawsuit filed by the Vulcan Society. In fact, Defendant Aristy continued to berate Plaintiff Springs and told him “I could punch you in the face and there’s nothing you can do about it. If you called EEO, everyone in the firehouse would keep their mouth shut and EEO wouldn’t find anything. Then, after everyone realized you called EEO, the real fun would begin.”

58. Plaintiff Springs would have filed an assault charge immediately against Defendant Aristy but refrained from doing so on account of Defendant Aristy's threats.
59. The above statements represent: (i) How Defendant Aristy and other firefighters perceived Plaintiff Springs as a "priority hire" which he was not; (ii) The disdain and hatred that some of the Defendants had for African American firefighters; (iii) How the sexual assault/harassment perpetrated against Plaintiff Springs was based, in part, on Defendants' intent to unlawfully discriminate against Plaintiff Springs on account of his race since other Caucasian firefighters were not subjected to the same harsh discrimination as Plaintiff Springs and (iv) How Defendant Aristy and other firefighters knew that the EEO became involved in previous complaints of a similar nature that Defendants were made aware of.
60. On or about June 3, 2015, Plaintiff Springs' fire house celebrated "Medal Day." Plaintiff Springs was scheduled to work that evening, but unbeknownst to Plaintiff Springs, he was expected to be present in the firehouse that morning for Medal Day. While Plaintiff Springs was in the firehouse kitchen on the night of June 3, 2015, a number of firefighters asked Plaintiff Springs why he was unable to attend Medal Day. Defendant Aristy, however, grabbed a loaf of bread and hit the Plaintiff Springs over the head with it. As Defendant Aristy hit Plaintiff Springs over the head, he said to Plaintiff Springs, "We gonna play later, you shit bag" referring to more sexual abuse. Upon leaving the fire house kitchen, Defendant Aristy continuously called Plaintiff Springs a "shit bag" and told Plaintiff Springs that not only would he make Plaintiff Springs's life miserable, he would also make Plaintiff Springs quit.
61. Immediately after telling Plaintiff Springs he would make him quit, Defendant Aristy told Defendant Swift, "Take care of him" referring to Plaintiff Springs.

62. On or about June 3, 2015, at or around 11:45 P.M., while all other firefighters were resting, Defendant Swift ordered Plaintiff Springs to sweep the floor for the entirety of the night. Plaintiff Springs did as he was told because Defendant Swift was following orders of a senior/supervisory firefighter. No other probationary firefighters and/or no other Caucasian firefighters were subjected to such disparate treatment that night.
63. On or about June 29, 2015, Firefighter Rix of Engine 40 and Firefighter Sanchez of Engine 40, forced Plaintiff Springs and two other firefighters on probation to “climb the pole” inside the fire station. (As is well known, the “pole” is the brass bar inside the fire station where firefighters may slide down in order to put on their gear and respond to an emergency call).
64. Out of fear, Plaintiff Springs climbed the pole as ordered. Upon reaching the top of the pole, Firefighters Rix and Sanchez threw several buckets of water and breadcrumbs on the Plaintiff Springs, forcing Plaintiff Springs to fall one story onto the floor. Rix and Sanchez threw only water on the other “probies” who climbed the Pole. However, Rix and Sanchez threw both breadcrumbs and water onto Plaintiff Springs causing Plaintiff Springs to slide and fall.
65. Upon information and belief, Plaintiff Springs faced harsher punishment during the discriminatory exercise on account of his race. This is evidenced by the fact that when it was Plaintiff Springs’ turn to climb the pole, Defendant Grillo once again held the door shut so that Plaintiff Springs had no escape. The door was not held shut for the other “probies” when they were climbing the pole. This is further evidenced by the fact that Defendants threw a significant amount of both breadcrumbs and water onto Plaintiff Springs which caused the pole to become slippery and therefore would increase the chances that Plaintiff Springs would fall.

66. When Plaintiff Springs fell to the floor, he felt a sharp shooting pain across his back. Furthermore, Plaintiff Springs was covered head to toe in breadcrumbs. When Lieutenant Vreeland heard the commotion, he came over to Plaintiff Springs and asked what happened in front of other firefighters who witnessed the occurrence.

67. Before Plaintiff Springs could answer Defendant Lieutenant Vreeland, Firefighter Linheart, a participant in the incident, spoke up and said “[Plaintiff Springs] rolled his ankle over a man hole after he got a call for a stuck elevator.”

68. Later that evening, Plaintiff Springs approached Defendant Vreeland and explained how other firefighters caused him to fall off the pole. Upon explaining Plaintiff Springs’ treatment to Vreeland, Vreeland offered no commentary and instead filled out a medical form for Plaintiff Springs’ ankle.

69. As time went on, Plaintiff Springs was bullied and ostracized persistently by other firefighters and in late July of 2015, a firefighter requested that Plaintiff Springs cover his tour on or about August 15, 2015. In response, Plaintiff Springs stated that he would check his schedule and get back to the firefighter. In response to Plaintiff Springs’ offer to check his schedule, on August 1, 2015, the Plaintiff Springs’s entire locker was vandalized.

70. Upon information and belief, Plaintiff Springs was the only firefighter who had his locker vandalized and was the only African American to have his locker vandalized at the firehouse.

71. The vandalizing of Plaintiff Springs’ locker is yet another example of discrimination against the Plaintiff.

72. On or about August 6, 2015, Plaintiff Springs was scheduled for his annual medical exam with the fire department. At this exam, doctors noted Plaintiff Springs’s

extreme back pain and further noted that the Plaintiff Springs was suffering from depression.

73. On or about August 8, 2015, Plaintiff Springs visited the F.D.N.Y Bureau of Health and Services (“BHS”) to speak about the pain in his lower back which had grown in severity.
74. Furthermore, BHS referred Plaintiff Springs to the FDNY Counseling Service Unit, where Plaintiff Springs complained about the sexual abuse he endured at the firehouse. During this same time period, Plaintiff Springs also went out on medical leave.
75. On or about August 10, 2015, a mass text was sent around the fire house stating that “probies” (*firefighters on probation following graduation from the academy*), are expected to attend the Company picnic for Engine 40. In fact, a following mass text went out that stated “THIS MEANS YOU SPRINGS.” At the time, the Plaintiff Springs was on medical leave due to the severe back pain and was in great fear of what would be done to him if he attended the picnic with the same firefighters who sexually harassed and racially discriminated against him. Therefore, the Plaintiff Springs did not attend the picnic.
76. On or about September 7, 2015, another fighter on probation, texted Plaintiff Springs “A bunch of guys told me to tell you this word for word, ‘be here for 9/11 or you might as well put in for a transfer.’ I’m sorry I had to relay that message.” When Plaintiff Springs read the message, Plaintiff Springs feared additional retaliation from the Defendants.
77. The above communication represents just some of the retaliation that Plaintiff Springs faced for expressing discontent with the unlawful actions taken against him.

78. Even though Defendants were aware of the unlawful discrimination and retaliation against Plaintiff Springs, or in the exercise of reasonable care, should have known of the discriminatorily abusive environment perpetrated against Plaintiff Springs; no reasonable steps were taken by the Defendants to eliminate it.
79. Despite physical threats from Defendant Aristy regarding communications to EEO (see Plaintiff's Complaint, ¶48); Plaintiff Springs filed a complaint with the FDNY's EEO on or about October 2, 2015.
80. Defendants placed Plaintiff Springs on light duty (referring to administrative work which the Plaintiff would perform at FDNY Headquarters) for approximately one week, however, as per his doctor's recommendation, Plaintiff Springs went back on medical leave from in or around October of 2015 to in or around December of 2015.
81. In or around late December of 2015 through January of 2016, Defendants placed Plaintiff Springs back on light duty
82. Upon return to full duty in the department in or around February of 2016, Defendants' Bureau of Investigations and Trials ("BITS") informed Plaintiff Springs that he would be sent to five days of retraining.
83. In order to complete this five day training course, Plaintiff Springs needed to retrieve his uniform (also referred to as "Bunker gear") from L 35, E 40.
84. Upon returning to L 35, E 40 to retrieve his uniform, Plaintiff Springs saw that the uniform was stomped on in retaliation for complaining about the unlawful discrimination and sexual harassment.
85. In further retaliation, Plaintiff Springs also saw that his uniform was stabbed and/or shredded with a knife or sharp object. Coincidentally the uniform was stabbed

in the area where Plaintiff Springs' heart would be. In addition, Plaintiff Springs also saw that his face piece for his helmet had been stolen.

86. Upon information and belief, Defendants desecrated and destroyed Plaintiff Springs' uniform for complaining about unlawful discrimination and retaliation to the FDNY'S EEO Office.

87. Plaintiff Springs informed an FDNY Officer of L 35 that his uniform had been desecrated.

88. The next day, the Bureau of Investigations and Trials ("BITS") investigated Plaintiff Springs' complaint after they were informed of the incident. However, Captain Ochogrosso, an officer who received and disregarded Plaintiffs' complaint, told Plaintiff Springs that despite the uniform being shredded and desecrated he "Can't explain that."

89. Even though Plaintiff was under severe duress and depression on account of the hostile work environment and retaliation that Defendants allow to permeate the workplace, Defendants punished Plaintiff Springs and extended his retraining to a total of twenty two days.

90. From on or about February 1, 2016 to on or about February 22, 2016, Defendants ordered Plaintiff Springs into retraining which he completed.

91. Upon completion of retraining, Plaintiff Springs was detailed to Ladder 40 (L 40) which is located on West 125<sup>th</sup> Street in Manhattan, New York.

92. At L 40, despite the ostensible confidentiality regarding Plaintiff Springs' complaints of sexual harassment, discrimination and retaliation, the firefighters of L 40 were fully aware that Plaintiff Springs had made complaints regarding discrimination. This is evidenced by Plaintiff Springs' interaction with a senior/supervisory firefighter from L 40 that pulled Plaintiff Springs into an office to

threaten him. He told Plaintiff Springs that if the Plaintiff did not follow all house rules (regardless of whether the FDNY had promulgated such rules), the house would turn on Plaintiff Springs and the firefighters would be Plaintiff Springs' "worst enemy."

93. Over the next couple of weeks, interactions with other firefighters intensified.

On one such occasion, a firefighter aggressively asked Plaintiff Springs what happened at the other house. However, due to confidentiality policies, Plaintiff Springs refused to discuss. In response, the L 40 firefighter told Plaintiff Springs "a lot of guys are now walking on egg shells because of your complaint of sexual harassment and discrimination.

94. Moreover, in the following weeks, on another such occasion, while Plaintiff Springs and another firefighter went to buy groceries for the firehouse, the firefighter told Plaintiff Springs that he and other members of the firehouse felt that Plaintiff Springs was trouble because of his complaints of sexual harassment and discrimination and that they needed to be careful around him.

95. On yet another occasion, when EEO came to the house to hold a routine inspection, firefighters of L 40 accused Plaintiff Springs of calling EEO since Plaintiff Springs was "known" for making complaints of sexual harassment and racial discrimination.

96. The above are just a few examples of the severe and pervasive hostile work environment that the Defendants forced the Plaintiff to endure on account of making a protected complaint regarding sexual harassment, racial discrimination and retaliation.

97. Firefighters ostracized and isolated Plaintiff Springs, affecting the terms and conditions of his work environment.



98. The above also represents the disparate impact faced by African American Plaintiff Springs which was not faced by any Caucasian firefighters.
99. During this same time period, when all other firefighters would be relieved early, Defendants forced Plaintiff Springs to remain at the firehouse and on duty, which was further retaliation and in violation of FDNY rules.
100. During this same time period, in which working tours started at 9:00 AM-6:00 PM or from 6:00 PM-9:00 AM, L 40 firefighters ordered Plaintiff Springs to arrive two hours early for duty despite FDNY Department regulations which only permitted firefighters to be ordered to arrive a maximum of one hour early.
101. At or around this same time period, firefighters also engaged in “mutuals” which was the FDNY colloquial term for exchanging shifts. While every other firefighter at L 40 would often exchange shifts, Plaintiff Springs was the only firefighter to be excluded from the “mutuals.”
102. For all of the above examples, Plaintiff Springs made complaints to senior firefighters and officers, explaining that he was being retaliated against and facing disparate treatment.
103. In or around June of 2016, a firefighter of Engine 37 (E 37) (which shares a firehouse with L 40), aware of Plaintiff Springs’ complaints on account of sexual harassment, discrimination and retaliation, told Plaintiff Springs that when they ordered the Plaintiff to stay up all night without any sleep, that was part of tradition and that if Plaintiff Springs didn’t do this, the firefighters would become even more “combative” with Plaintiff Springs (On previous occasions firefighters would order the Plaintiff to stay up all night while senior members of the firehouse fraternized in the firehouse kitchen).

104. No other probie firefighters were threatened or addressed in this matter and therefore the above represents yet another example of the severe and pervasive work environment that Plaintiff Springs was forced to endure on account of his protected complaints.
105. After enduring the above retaliation and hostile work environment, Plaintiff Springs advised multiple officers, FDNY EEO Officers and BITS of the unlawful incidents and environment.
106. After enduring the above retaliation and hostile work environment, Plaintiff Springs advised BITS in or around the early part of July 2016 that he no longer wished to remain at L 40 on account of the discrimination, retaliation and hostile work environment that he faced.
107. After finally acknowledging Plaintiff Springs' complaints, despite numerous attempts to escape the unlawful environment, Defendants transferred Plaintiff Springs to another Engine Company in or around July of 2016.
108. Defendants advised Plaintiff Springs that his transfer/detail at this new Engine Company would only last sixty (60 days). However, Defendants extended Plaintiff Springs' detail at this new Engine a total of three times, despite Plaintiff being left in limbo without a permanent firehouse.
109. When Plaintiff Springs arrived at the house, for the first two months (the original time of Plaintiff's detail), firefighters did not bother Plaintiff Springs. However, when Defendants extended Plaintiff Springs' detail, it became apparent that the firefighters of this new engine, no longer welcomed Plaintiff Springs with open arms.

110. On or about October 23, 2016, the media published a newspaper article regarding the sexual harassment/assault incident that occurred on or about May 4, 2016.
111. Firefighters of Plaintiff's new detail, viewed Plaintiff Springs negatively. In fact, on or about October 26, 2016, unknown firefighters printed out a department order and affixed it the kitchen bulletin board for all firefighters to see. The department order alluded to the sexual harassment incident and other incidents involving racial discrimination perpetrated against Plaintiff Springs.
112. At or around this same exact time, a firefighter working with Plaintiff Springs, addressed Plaintiff Springs in the kitchen in front of all the other on duty firefighters. The firefighter exclaimed "You're almost famous. Everything is in the paper besides your name." Immediately, another firefighter piped up and said "You're wrong. His name is in the paper except that it is spelt wrong because it says he is a 'firefighter.'"
113. Upon information and belief, FDNY regulations, in sum and substance, mandated that department orders be filed in a book at the house watch desk or office. Instead, the orders regarding actions taken on account of Plaintiff Springs' protected complaints were posted to the bulletin board so that everyone could see them and contribute to the severe and hostile work environment against Plaintiff Springs.
114. On or about October 26, 2016, Plaintiff Springs complained about the posted order to a Lieutenant Captain. However, even though a number of officers at the firehouse were aware of the FDNY regulations and were further aware that they likely related to Plaintiff Springs, the officers took no corrective action to remove the orders from the bulletin board for three days. Instead, Plaintiff Springs needed to complain about the order to a Lieutenant Captain, even though officers knew or should have

known that the posted order would foster an environment of retaliation and hostility against the Plaintiff.

115. Even after Plaintiff Springs complained about how the posting of the order created a hostile and harassing work environment on account of complaints of discrimination and sexual harassment, the order remained on the board for months.
116. Again, the unlawful retaliation and hostile work environment against Plaintiff Springs was so consistent that it suggested such behavior was condoned by the Defendants.
117. As much discrimination, retaliation and hostility that the Plaintiff was forced to endure despite complaints; the Plaintiff remained resilient in his work activities despite suffering from severe depression, anxiety, panic attacks, and even a diagnosis of PTSD.
118. The actions taken against Plaintiff Springs had everything to do with discrimination, sexual harassment and a hostile work environment. They were not due to Plaintiff Springs' work performance because in fact Plaintiff Springs always went above and beyond to perform his job.
119. The above also demonstrates that the Defendants failed to properly investigate Plaintiff Springs' complaints and as a result of the duration of time it took to investigate, Plaintiff Springs suffered further acts of discrimination, retaliation and hostility.
120. The above facts, which constitute a violation of the law, were a proximate and legal cause of the Plaintiff's injuries.
121. Defendants failed to properly supervise, train and discipline employees, agents, servers and/or others under its control about discrimination and sexual harassment.

122. The above are just some examples of many in which Defendants either explicitly or implicitly unlawfully discriminated against Plaintiff Springs.
123. As a result of the unlawful discrimination, sexual harassment and retaliation by the Defendants which created an unbearable hostile work environment, Plaintiff Springs suffered from severe mental anguish to the point that he sought mental health treatment and was given a diagnosis of PTSD.
124. As a further result of the unlawful discrimination, sexual harassment and retaliation by the Defendants, the Plaintiff also suffered a physical injury.

**AS AND FOR A FIRST CAUSE OF ACTION  
DISCRIMINATION UNDER TITLE VII  
(Not Against Individual Defendants)**

125. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

126. Title VII states in relevant part as follows:

(a) Employer practices:

It shall be an unlawful employment practice for an employer:

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin;

127. This claim is authorized and instituted pursuant to the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section(s) 2000e et seq., as amended, for relief based upon the unlawful employment practices of the above-named Defendants. Plaintiff complains of Defendants' violation of Title VII's prohibition

against discrimination in employment based, in whole or in part, upon an employee's sex.

128. Defendants engaged in unlawful employment practices prohibited by 42 U.S.C. 2000e et seq., by terminating and otherwise discriminating against Plaintiff as set forth herein.

**AS A SECOND CAUSE OF ACTION FOR  
DISCRIMINATION UNDER TITLE VII  
(Not Against Individual Defendant)**

129. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

130. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-3(a) provides that it shall be unlawful employment practice for an employer: "(1) to . . . discriminate against any of his employees . . . because she has opposed any practice made an unlawful employment practice by this subchapter, or because she has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this subchapter."

131. Defendants engaged in unlawful employment practices prohibited by 42 U.S.C. 2000e seq. by discriminating against Plaintiff with respect to the terms, conditions or privileges of employment because of her opposition to the unlawful employment practices of Defendants.

**AS A THIRD CAUSE OF ACTION FOR  
DISCRIMINATION UNDER THE NEW YORK  
CITY ADMINISTRATIVE CODE  
(Not Against Individual Defendants)**

132. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

133. The Administrative Code of City of NY § 8-107 [1] provides that "It shall be an unlawful discriminatory practice: "(a) For an employer or an employee or agent thereof, because of the actual or perceived age, race, creed, color, national origin, gender, disability, marital status, sexual orientation or alienage or citizenship status of any person, to refuse to hire or employ or to bar or to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment."

134. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(l)(a) by creating and maintaining discriminatory working conditions, and otherwise discriminating against the Plaintiff as set forth herein.

**AS A FOURTH CAUSE OF ACTION FOR  
DISCRIMINATION UNDER THE NEW YORK CITY  
ADMINISTRATIVE CODE  
(Not Against Individual Defendants)**

135. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

136. The New York City Administrative Code Title 8, §8-107(l)(e) provides that it shall be unlawful discriminatory practice: "For an employer... to discharge ... or otherwise discriminate against any person because such person has opposed any practices forbidden under this chapter..."

137. Each of the Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(l)(e) by discriminating against the

Plaintiff because of Plaintiffs opposition to the unlawful employment practices of Plaintiffs employer.

**AS A FIFTH CAUSE OF ACTION FOR  
DISCRIMINATION UNDER THE NEW YORK CITY  
ADMINISTRATIVE CODE  
(As Against Individual Defendants)**

138. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

139. New York City Administrative Code Title 8-107(19) Interference with protected rights. It shall be an unlawful discriminatory practice for any person to coerce, intimidate, threaten or interfere with, or attempt to coerce, intimidate, threaten or interfere with, any person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected pursuant to this section.

140. Defendants violated the section cited herein as set forth.

**AS A SIXTH CAUSE OF ACTION  
FOR DISCRIMINATION UNDER  
THE NEW YORK CITY ADMINISTRATIVE CODE  
(As Against Individual Defendants)**

141. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

142. The New York City Administrative Code Title 8, §8-107(6) provides that it shall be unlawful discriminatory practice: "For any person to aid, abet, incite, compel; or coerce the doing of any of the acts forbidden under this chapter, or attempt to do so."



143. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(6) by aiding, abetting, inciting, compelling and coercing the above discriminatory, unlawful and retaliatory conduct.

**AS A SEVENTH CAUSE OF ACTION FOR  
DISCRIMINATION UNDER THE NEW YORK CITY  
ADMINISTRATIVE CODE  
(Not Against Individual Defendants)**

144. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

145. New York City Administrative Code Title 8-107(13) Employer liability for discriminatory conduct by employee, agent or independent contractor.

- a. An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of any provision of this section other than subdivisions one and two of this section.
- b. An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of subdivision one or two of this section only where:
  - (1) the employee or agent exercised managerial or supervisory responsibility; or
  - (2) the employer knew of the employee's or agent's discriminatory conduct,

and acquiesced in such conduct or failed to take immediate and appropriate corrective action; an employer shall be deemed to have knowledge of an employee's or agent's discriminatory conduct where that conduct was known by another employee or agent who exercised managerial or supervisory responsibility; or

(3) the employer should have known of the employee's or agent's discriminatory conduct and failed to exercise reasonable diligence to prevent such discriminatory conduct.

146. Defendants violated the section cited herein as set forth.

**AS AN EIGHTH CAUSE OF ACTION FOR  
DISCRIMINATION UNDER STATE LAW  
(Not Against Individual Defendants)**

147. Executive Law § 296 provides that "1. It shall be an unlawful discriminatory practice:

"(a) For an employer or licensing agency, because of an individual's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, or domestic violence victim status, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment."

148. Defendants engaged in an unlawful discriminatory practice by discriminating against the Plaintiff as set forth herein.

149. Plaintiff hereby makes a claim against Defendants under all of the applicable paragraphs of Executive Law Section 296.

**AS A NINTH CAUSE OF ACTION  
FOR DISCRIMINATION UNDER  
STATE LAW  
(As Against Individual Defendants)**

150. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

151. New York State Executive Law §296(7) provides that it shall be an unlawful discriminatory practice:

For any person engaged in any activity to which this section applies to retaliate or discriminate against any person because [s]he has opposed any practices forbidden under this article."

152. Defendants engaged in an unlawful discriminatory practice by discharging, retaliating, and otherwise discriminating against the Plaintiff because of Plaintiff's opposition to the unlawful employment practices of Plaintiff's employer.

**AS A TENTH CAUSE OF ACTION FOR  
DISCRIMINATION UNDER STATE  
LAW  
(As Against Individual Defendants)**

153. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

154. New York State Executive Law §296(6) provides that it shall be an unlawful discriminatory practice:

"For any person to aid, abet, incite compel or coerce the doing of any acts forbidden under this article, or attempt to do so."

155. Defendants engaged in an unlawful discriminatory practice in violation of New York State Executive Law §296(6) by aiding, abetting, inciting, compelling and coercing the discriminatory conduct.

**AS AN ELEVENTH CAUSE OF ACTION FOR  
ASSAULT & BATTERY  
(AS AGAINST INDIVIDUAL DEFENDANT SHEA)**

156. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs of the Complaint as set forth at length herein.

157. Under New York law, assault is the (i) intentional placing (ii) of another person (iii) in reasonable apprehension (iv) of imminent harmful or offensive contact. *See United Nat. Ins. Co. v. Waterfront N.Y. Realty Corp., 994 F.2d 105, 108 (2d. Cir. 1993).*

158. Under New York law, as a result of the assault, a Defendant commits a battery when (i) there was bodily contact, (ii) the contact was offensive and (iii) the defendant intended to make the contact.

159. Under the applicable law a Plaintiff may invoke the doctrines of equitable tolling or equitable estoppel because in the current case, Plaintiff was induced by Defendant Aristy to refrain from filing a timely action and Defendant Aristy took affirmative steps to conceal his actions against the Plaintiff and the wrong itself was of such a nature to be self-concealing.

160. Defendant Aristy intentionally placed Plaintiff Springs in reasonable apprehension of imminent harmful and offensive physical contact as he in an

attempt to make offensive contact on Plaintiff Springs.

161. Defendant Aristy did in fact intentionally make offensive contact with Plaintiff Springs after forcing his genitals onto the Plaintiff's face.

162. Defendant Artistry committed assault and battery and is liable to the Plaintiff for her injuries, for which Plaintiff claims damages in an amount to be determined at trial.

**TWELFTH CAUSE OF ACTION**  
**VIOLATION OF RIGHTS SECURED BY 42 U.S.C. §1983**  
**(Against All Defendants)**

163. Plaintiff incorporates all preceding paragraphs of this Complaint as if fully restated herein.

164. 42 U.S.C. § 1983 provides that:

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 law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress . . .

165. In committing the acts of discrimination and retaliation complained of herein, the Defendants acted jointly and under color of state law to deprive Plaintiff Gordon Springs of his clearly established constitutionally protected rights under the Fourteenth Amendment of the United States Constitution.

166. Plaintiff in this action is a citizen of the United States and all of the individual firefighter Defendants to this claim are persons for purposes of 42 U.S.C. § 1983.

167. An employee may bring a retaliation claim under §1983 against a supervisor who, acting under color of law, retaliates against him for opposing discrimination in the terms of his employment.

168. Defendants violated the above statute through multiple acts of unlawful gender and racial discrimination, sexual harassment, and retaliation.

**THIRTEENTH CAUSE OF ACTION**  
**(Individual Supervisory Liability - 42 U.S.C. § 1983)**

169. Plaintiff incorporates all preceding paragraphs of this Complaint as if fully restated herein.

170. Individual Defendant Lieutenant Firefighter Vreeland, was at all relevant times, a supervising officer in the FDNY, with oversight responsibility for the training, instruction and supervision of the Plaintiff.

171. Defendant Lieutenant Firefighter Vreeland knew or should have known that the Defendant Firefighters failed to intervene to prevent the clearly discriminatory and retaliatory actions taken against Plaintiff.

172. Defendant Lieutenant Firefighter Vreeland, as the supervisory officer of the FDNY, failed to supervise Firefighters, including Defendant Firefighters Swift, Pedro, Rix, Linheart and Peter Grillo, regarding unlawful discrimination and retaliation.

173. Defendant Lieutenant Firefighter Vreeland also knew or should have known that Defendants Swift, Pedro, Rix, Linheart and Peter Grillo were unlawfully discriminating against Plaintiff and failed to respond or address such actions in any way.

174. On information and belief, Defendant Lieutenant Firefighter Vreeland was personally involved in either ordering, or failing to take preventative and remedial measures to guard against the unconstitutional discrimination and retaliation against Plaintiff. Defendant Lieutenant Firefighter Vreeland knew, or in the exercise of due diligence, should have known, that the unconstitutional actions taken against Plaintiff by Defendants Swift, Pedro, Rix, Linheart and Peter Grillo were likely to occur

175. The failure of the individual supervisory Defendants to train, supervise and/or discipline any of the aforementioned firefighters with respect to their unlawful discrimination and retaliatory actions amounted to gross negligence, deliberate indifference or intentional misconduct, which directly and proximately caused the injuries and damages to Plaintiff set forth herein.

**FOURTEENTH CAUSE OF ACTION**  
**(EQUAL PROTECTIONS - 42 U.S.C. § 1983)**

176. Plaintiff incorporates all preceding paragraphs of this Complaint as if fully restated herein.

177. Individual Defendant Firefighters Swift and Pedro, were at all relevant times, supervising employees in the FDNY, with oversight responsibility for the training, instruction and supervision of the Plaintiff.

178. Defendant Firefighters Swift and Pedro failed to intervene to prevent the clearly discriminatory and retaliatory actions taken against Plaintiff.

179. Defendant Firefighters Swift and Pedro actively participated in the clearly discriminatory and retaliatory actions taken against Plaintiff

180. Defendant Firefighters Swift and Pedro actively condoned other firefighters to participate in the clearly discriminatory and retaliatory actions taken against Plaintiff

181. Defendant Firefighters Swift and Pedro, as supervisory officers of the FDNY, failed to supervise other firefighters, including Defendants Rix, Linheart and Peter Grillo, regarding unlawful discrimination and retaliation.

182. Defendant Firefighters Swift and Pedro also knew or should have known that Defendants Rix, Linheart and Peter Grillo were unlawfully discriminating against Plaintiff and failed to respond or address such actions in any way.

183. On information and belief, Defendant Firefighters Swift and Pedro were

personally involved in either ordering, or failing to take preventative and remedial measures to guard against the unconstitutional discrimination and retaliation against Plaintiff.

184. Defendant Firefighters Swift and Pedro knew, or in the exercise of due diligence, should have known, that the unconstitutional actions taken against Plaintiff by Defendants Rix, Linheart and Peter Grillo were likely to occur

185. The failure of the individual supervisory Defendants to train, supervise and/or discipline any of the aforementioned firefighters with respect to their unlawful discrimination and retaliatory actions amounted to gross negligence, deliberate indifference or intentional misconduct, which directly and proximately caused the injuries and damages to Plaintiff set forth herein.

**FIFTEENTH CAUSE OF ACTION**  
**(EQUAL PROTECTIONS - 42 U.S.C. § 1983)**

186. Plaintiff incorporates all preceding paragraphs of this Complaint as if fully restated herein.

187. The aforementioned sexual harassment Plaintiff was forced to endure at the hands of Supervisory Firefighters Swift and Pedro amounts to gender discrimination.

188. Supervisory Firefighters Swift and Pedro initially engaged Plaintiff by stating that their firehouse was “really gay”.

189. The ensuing acts of sexual harassment committed by Defendants were based on the Plaintiff’s gender, as a female employee would not have been subjected to the same treatment.

**SIXTEENTH CAUSE OF ACTION**  
**(Monell Claim - 42 U.S.C. § 1983- Against City of New York)**



190. Plaintiff incorporates all preceding paragraphs of this Complaint as if fully restated herein.

191. All of the acts and omissions by the Firefighter Defendants described above, with regard to the unreasonable, unlawful, and retaliatory discrimination against Plaintiff were carried out pursuant to overlapping *de facto* policies and practices of the City which were in existence at the time of the conduct alleged herein and were engaged in with the full knowledge, consent, and cooperation and under the supervisory authority of Defendant City of New York and its agency, the FDNY.

192. Defendant City of New York and the FDNY, by their policy-making agents, servants and employees, authorized, sanctioned and/or ratified the individual wrongful acts of Firefighters Vreeland, Swift, Pedro, Rix, Linheart and Peter Grillo and/or failed to prevent or stop those acts; and/or allowed or encouraged those acts to continue.

193. The actions of Defendants Vreeland, Swift, Pedro, Rix, Linheart and Peter Grillo resulted from and were taken pursuant to the *de facto* policies and/or well-settled and widespread customs and practices of the City, which are implemented by members of the FDNY. The relevant policies, customs and practices with regard to the racial and gender discrimination, and sexual harassment perpetrated against Plaintiff are that FDNY Firefighters are permitted to racially discriminate against “probies” and unlawfully retaliate against said “probies” as a means to suppress the number racial minorities in the Firehouse.

194. The existence of the foregoing unlawful *de facto* unwritten policies and/or well-settled and widespread customs and practices is known to be encouraged, and/or condoned by supervisory and policy-making officers and officials of the FDNY and

City of New York.

195. Notwithstanding knowledge of such an unlawful *de facto* unwritten policy, practice, and/or custom, these supervisory and policy-making officers and officials of the FDNY and City of New York, have not taken steps to terminate this policy, practice, and/or custom, and do not properly train Firefighters with regard to acts of unlawful discrimination and/or unlawful retaliation, and instead sanction and ratify this policy, practice, and/or custom through their active encouragement of, deliberate indifference to, and/or reckless disregard of the effect of said policies, practices, and/or customs upon the constitutional rights of Plaintiff and other persons similarly situated to Plaintiff.

196. The aforementioned City of New York policy, practice, and/or custom of failing to supervise, train, instruct, and discipline firefighters within the FDNY is specifically exemplified and evidenced by the misconduct detailed herein.

197. Plaintiff's injuries were a direct and proximate result of the Defendant City of New York's and its agency, the FDNY's, wrongful *de facto* policy and/or well-settled and widespread custom and practice and of the knowing and repeated failure of Defendant City of New York and the FDNY to properly supervise and train firefighters with regard to unconstitutional discrimination and retaliatory conduct.

198. Defendant City of New York knew or should have known that the acts alleged herein would deprive Plaintiff of his rights in violation of the Fourteenth Amendment to the United States Constitution.

199. Defendant City of New York is directly liable and responsible for the acts of the individual Firefighter Defendants because it repeatedly and knowingly failed to properly supervise, train, and instruct them to require compliance with the constitutions and laws of the State of New York and the United States.

**SEVENTEENTH CAUSE OF ACTION**  
**VIOLATION OF RIGHTS SECURED BY 42 U.S.C. §1981**  
**(Against All Defendants)**

200. Plaintiff incorporates all preceding paragraphs of this Complaint as if fully restated herein.

201. At all times relevant herein, the conduct of all Defendants were subject to the provisions of 42 U.S.C. §1981 which guarantees all persons “the same right ... to make and enforce contracts ... as is enjoyed by white citizens.”.

202. Thus, there is a clearly recognized federal right pursuant to Section 1981 to be free from the use of race-based discrimination in connection with the enforcement of contractual rights.

203. Defendants knew, or reasonably should have known, of these rights at the time of the complained of conduct as they were clearly established at the time.

Defendants are not entitled to qualified immunity for their acts of unlawful discrimination and retaliation as complained of by Plaintiff.

204. The conduct and actions of Defendants, acting jointly and severally, and in concert with each other, in unlawfully discriminating against Plaintiff with race being a motivating factor was done intentionally, maliciously and/or with a reckless disregard for the natural and probable consequences of their acts. Defendants’ discriminatory treatment of Plaintiff was done without lawful justification, and was designed to cause and did cause specific and serious physical, mental, and emotional harm, pain and suffering in violation of Plaintiff’s Constitutional rights as guaranteed under Section 1981.

205. As a direct and proximate result of all of Defendants' wrongful acts, policies, practices, customs and/or usages complained of herein, Plaintiff has suffered injuries

and damages including, but not limited to, extreme emotional distress, pain and suffering, severe anxiety, and embarrassment, without any negligence on the part of the Plaintiff contributing thereto.

206. Plaintiff is also entitled to declaratory and injunctive relief including but not limited to a reinstatement to his position as a Firefighter and a crediting and/or a transfer of his lost wages.

207. Plaintiff is further entitled to attorneys' fees pursuant to 42 U.S.C. §§1988, pre-judgment interest and costs, and special damages as allowable by law. Plaintiff, in addition to compensatory, economic, consequential and special damages, is also entitled to punitive damages against each of the individually named Defendants, in that the actions of each of these individual Defendants have been taken maliciously, willfully and/or with a reckless disregard of the constitutional and statutory rights of Plaintiff.

**EIGHTEENTH CAUSE OF ACTION**  
**VIOLATION OF RIGHTS SECURED BY 42 U.S.C. §1985**  
**(Against All Defendants)**

208. Plaintiff incorporates all preceding paragraphs of this Complaint as if fully restated herein.

209. Section 1985(3) provides, in relevant part, that:

If two or more persons in any State or Territory conspire . . . for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws . . . in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property . . . the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

210. All of the aforementioned Defendants acted either, directly or indirectly, in unlawfully discriminating and retaliating against Plaintiff on the basis of gender and

race.

211. Similarly, all of the aforementioned Defendants acted, either directly or indirectly, to cover-up the unlawful discriminatory and retaliatory actions against Plaintiff.

**NINETEENTH CAUSE OF ACTION**  
**VIOLATION OF RIGHTS SECURED BY 42 U.S.C. §1986**  
**(Against All Defendants)**

212. Plaintiff incorporates all preceding paragraphs of this Complaint as if fully restated herein.

213. Defendants failed to prevent a conspiracy amongst the firehouse employees to deprive Plaintiff of rights protected by the United States Constitution.

214. Specifically, Defendants failed to prevent the execution of systematically discriminatory and retaliatory actions against Plaintiff.

215. As a result, Defendants violated the above statute.

WHEREFORE, Plaintiff demands the following relief jointly and severally against all Defendants:

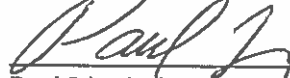
(a) a declaration that Defendants violated Plaintiff's federal and state civil rights;

(d) compensatory damages for the injuries suffered by Plaintiff by reason of Defendants' unlawful and unjustified conduct, in an amount just and reasonable and in conformity with the evidence at trial in an amount to be determined at trial;

- (c) punitive damages against the individual Defendants assessed to deter such intentional and reckless deviations from well-settled constitutional standards, to the extent allowable by law;
- (d) damages for emotional distress, lost wages, back pay, front pay, statutory damages, medical expenses, interest;
- (d) reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and all other applicable laws; and
- (e) such other and further relief as appears just and proper.

Dated: Mineola, New York  
January 20, 2017

DEREK SMITH LAW GROUP, PLLC



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