

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE WAYNE COUNTY

ROBERT PATTISON,

Plaintiff,

Case No. 18-
Hon.

-CD

vs.

CITY OF DETROIT, DETROIT FIRE
DEPARTMENT, ERIC JONES,
ALFIE GREEN, and CHARLES SIMMS,

Defendants.

18-000250-CD

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There is no other pending or resolved civil action arising out of the transaction
or occurrence alleged in this Complaint.

COMPLAINT

NOW COMES Plaintiff ROBERT PATTISON by and through his attorneys, RAVID
AND ASSOCIATES, P.C., and for his complaint states as follows:

PARTIES AND JURISDICTION

1. Plaintiff Robert Pattison is a Michigan resident.
2. Defendants City of Detroit and Detroit Fire Department are governmental entities located in and regularly conducting business in Detroit, Wayne County, Michigan.
3. Defendant Eric Jones, at all relevant times, was the Fire Commissioner for the City of Detroit Fire Department and regularly conducted business in Wayne County.
4. Defendant Alfie Green, at all relevant times, was the Chief of Training for the City of Detroit Fire Department and regularly conducted business in Wayne County.
5. Defendant Charles Simms, at all relevant times, was the Second Deputy Commissioner for the City of Detroit Fire Department and regularly conducted business in

Wayne County.

6. All of the acts giving rise to the present cause of action took place in Wayne County.

7. The Amount in controversy exceeds \$25,000 exclusive of attorney fees, interest, and costs.

GENERAL ALLEGATIONS

8. Plaintiff successfully received Cadet training with the Detroit Fire Department and was hired by the Detroit Fire Department on or about July 10, 2017.

9. Late in September 2017, Plaintiff was assigned to the Detroit Fire Department station known as "Engine 55."

10. Plaintiff was counseled that it is customary practice within the Detroit Fire Department for a firefighter, upon assignment to a new station, to bring a gift for his or her fellow firefighters. The usual gift is doughnuts.

11. In an effort to provide a healthful and economical alternative to doughnuts, Plaintiff, on or about September 30, 2017, brought the firefighters stationed at Engine 55 a watermelon as his customary gift. Plaintiff harbored no racial animus, discriminatory purpose, or any other negative intention in giving the watermelon as a gift.

12. Plaintiff was not on duty and not acting in the course of his employment when he brought his gift to Engine 55.

13. Plaintiff was discharged by Defendant Detroit Fire Department on or about October 5, 2017 with the explanation of: "Unsatisfactory Work Behavior - Offensive conduct of a discriminatory nature." The "City of Detroit Recommendation on Permanent Status Final Probation/Trial Period Report," documenting Plaintiff's discharge was signed by Defendants Green and Simms.

14. The "offensive conduct of a discriminatory nature" was, apparently and preposterously, Plaintiff's act of bringing a watermelon to Engine 55.

15. Plaintiff is a white man. Engine 55, at the time of Plaintiff's termination, was comprised of 90% black firefighters.

16. Black firefighters who engaged in offensive conduct related to race were not subjected to immediate termination.

17. On or about October 6, 2017, Defendant Jones provided the following statement to various members of the press relating to Plaintiff's termination:

"There is zero tolerance for discriminatory behavior inside the Detroit Fire Department. On Saturday, Sept. 30, 2017, at Engine 55, a trial firefighter (probationary employee) engaged in unsatisfactory work behavior which was deemed offensive and racially insensitive to members of the Detroit Fire Department.

After a thorough investigation, it was determined that the best course of action was to terminate the employment of this probationary employee."

18. This statement was published by several national and local news outlets in both online and print versions.

19. The City of Detroit has promulgated policies, through its city ordinances and otherwise, setting forth the duties and scope of employment of the Fire Commissioner.

20. Those policies fail to grant the Fire Commissioner the authority to provide statements relating to the discipline of Defendant City of Detroit Fire Department employees.

21. As such, Defendant Jones was acting outside the scope of his employment when giving his statement to the press regarding Plaintiff's termination.

COUNT I
MICHIGAN'S ELLIOTT-LARSEN CIVIL RIGHTS ACT

22. Plaintiff incorporates all preceding paragraphs by reference.

23. Plaintiff is Caucasian.

24. Defendants' decision to terminate Plaintiff was dominated by the fact that Plaintiff was Caucasian.

25. Defendants' discriminated against Plaintiff on the basis of his race in violation of the Michigan's Elliot-Larsen Civil Rights Act, MCL 37.2101, et. seq., by treating him differently than black employees who have engaged in wrongful conduct. Furthermore, Defendants would never have discharged a black employee for gifting a watermelon.

26. As a direct and proximate result of Defendants' discriminatory conduct,

Plaintiff was harmed and continues to be harmed in that he has suffered economic and non-economic loss including, but not limited to, lost wages, damages to professional reputation, emotional distress, outrage, and humiliation.

COUNT II
MICHIGAN'S BULLARD-PLAWECKI EMPLOYEE RIGHT TO KNOW ACT

27. Plaintiff incorporates all preceding paragraphs by reference.

28. Defendants City of Detroit, Detroit Fire Department, and Eric Jones gave a statement to the press regarding Plaintiff's termination without giving Plaintiff notice that such disclosure would be made.

29. Defendants City of Detroit, Detroit Fire Department, and Eric Jones failure to give Plaintiff notice before speaking to the press about Plaintiff's termination violated Michigan's Bullard-Plawecki Employee Right to Know Act, MCL 423.501, et. seq.

30. Defendants violation was knowing and wilful.

31. As a direct and proximate result of Defendants' violation of the Michigan's Bullard-Plawecki Employee Right to Know Act Plaintiff was harmed and continues to be harmed in that he has suffered economic and non-economic loss including, but not limited to, lost wages, attorney fees, damages to professional reputation, emotional distress, outrage, and humiliation.

COUNT III
42 USC § 1981 - RACE BASED DISCRIMINATION

32. Plaintiff incorporates all preceding paragraphs by reference.

33. Defendants discriminated against Plaintiff in violation of 42 USC § 1981 by treating him differently than black firefighters who have engaged in wrongful activity. Furthermore, Defendants would never have discharged a black employee for gifting a watermelon.

34. By terminating Plaintiff for an act that certainly would have been considered benign if done by a black employee, Defendants intentionally deprived Plaintiff of the same rights that are enjoyed by black citizens to the creation, performance, enjoyment, and all benefits and privileges, of his employment relationship with Defendant Detroit Fire

Department.

35. In their discriminatory actions as alleged above, Defendants have acted with malice or reckless indifference to the rights of Plaintiff, thereby entitling Plaintiff to an award of punitive damages.

36. As a direct and proximate result of Defendants' discrimination in violation of 42 USC § 1981, Plaintiff has been denied employment opportunities providing substantial compensation and benefits, thereby entitling him to injunctive and equitable monetary relief. Plaintiff has suffered anguish, humiliation, distress, inconvenience and loss of enjoyment of life because of Defendants' actions, thereby entitling him to compensatory damages.

COUNT IV
42 USC § 1983 - EQUAL PROTECTION

37. Plaintiff incorporates all preceding paragraphs by reference.

38. Defendants' action in terminating Plaintiff for an act that certainly would have been considered benign had it been undertaken by a black employee, abridged his rights to equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution.

39. Defendants' action in terminating Plaintiff was taken intentionally and was based on Plaintiff's race. Defendants' subsequent public statements on their decision was a malicious effort to punish Plaintiff for a sentiment that he did not possess.

40. In addition, the acts of the individual Defendants evidence a failure to train employees and a policy or custom of discriminating against employees on the basis of race.

41. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage, and humiliation.

COUNT V
42 USC § 1983 - FIRST AMENDMENT RETALIATION

42. Plaintiff incorporates all preceding paragraphs by reference.

43. Plaintiff had a constitutional right under the First Amendment to engage in free and protected speech.

44. Plaintiff exercised his First Amendment right by gifting a watermelon to Engine 55 instead of the customary donuts filled with trans fats (Plaintiff is an EMS worker).

45. In response to Plaintiff's act, Defendants terminated Plaintiff's employment.

46. In addition, the acts of the individual Defendants evince a failure to train employees and a policy or custom of discriminating against employees on the basis of exercising their First Amendment rights.

47. As a direct and proximate result of Defendants' discriminatory conduct, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage, and humiliation.

COUNT VI
DEFAMATION

48. Plaintiff incorporates all preceding paragraphs by reference.

49. At the time Defendant Jones gave his statement to the press, he was acting outside of the scope of his employment as Fire Commissioner and had no reasonable belief that his actions were within the scope of his employment as Fire Commissioner.

50. Defendant Jones, in giving his statement to the press regarding Plaintiff's termination while acting outside the scope of his employment as Fire Commissioner, made false and defamatory accusations that Plaintiff was a racist and engaged in discriminatory behavior.

51. The statement made by Defendant Jones was not subject to any privilege at any time and were published to the general public.

52. At the time Defendant Jones made his statement, he was acting either negligently, with reckless disregard as to the truth of his accusations, or with actual malice.

53. As a direct and proximate result of Defendant Jones's defamatory statement, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage, and humiliation.

COUNT VII
FALSE-LIGHT INVASION OF PRIVACY

54. Plaintiff incorporates all preceding paragraphs by reference.

55. Defendant Jones's, in giving his statement to the press, falsely branded Plaintiff a racist and falsely accused Plaintiff of discriminatory behavior.

56. Defendant Jones, in giving his statement to the press regarding Plaintiff's termination, knowingly broadcast these false accusations to the general public.

57. Defendant Jones's statement had the effect of generating publicity that places Plaintiff in a false light in the public eye.

58. Defendant Jones's act of branding Plaintiff a racist and accusing him of discriminatory behavior was unreasonable, highly objectionable, and attributed Plaintiff characteristics, conduct, and beliefs that were false and placed Plaintiff in a false light.

59. When Defendant Jones made his statement he was acting with either actual malice or reckless disregard as to the falsity of his accusations.

60. As a direct and proximate result of Defendant Jones painting Plaintiff in a false light, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage, and humiliation.

COUNT VIII
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

61. Plaintiff incorporates all preceding paragraphs by reference.

62. Defendant Jones's, in giving his statement to the press where he falsely labeled Plaintiff a racist and falsely accused Plaintiff of discriminatory behavior, engaged in conduct so extreme it goes beyond all possible bounds of decency and is to be regarded as intolerable in a civilized community and conduct such that an average member of the

community would exclaim, "outrageous".

63. Defendant Jones's action was wilful and intentional.

64. Defendants actions amounted to gross negligence and conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

65. As a direct and proximate result of Defendant Jones's extreme and outrageous behavior, Plaintiff was harmed, and continues to be harmed, in that he has suffered economic and non-economic loss, including but not limited to, lost wages, damage to professional reputation, emotional distress, outrage, and humiliation.

WHEREAS, Plaintiff herein prays for the following relief:

1. Reinstatement to his position as a Detroit Firefighter;
2. Judgment against the Defendants in whatever amount the jury determines to be fair, just and adequate compensation for the injuries and damages sustained by Plaintiff together with statutory damages, interest, court costs, and attorney fees.

Respectfully Submitted,

RAVID AND ASSOCIATES, P.C.

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