

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

	X	
	:	
<b>Reynoldo Rodriguez,</b>	:	
<b>Plaintiff</b>	:	<b>3:15-cv-1269 (RNC)</b>
	:	
<b>V.</b>	:	
	:	<b>Jury Trial</b>
	:	
<b>City of Danbury, Mark Boughton,</b>	:	
<b>in his official Capacity as Mayor,</b>	:	
<b>Bernard Meehan, in his individual</b>	:	
<b>capacity, TJ Wiedl, in his individual</b>	:	
<b>capacity, Geoffrey Herald, in his</b>	:	
<b>individual capacity, and International</b>	:	
<b>Association of Fire Fighters Local 801:</b>	:	<b>August 25, 2015</b>
<b>Defendants</b>	:	
	X	

**AMENDED COMPLAINT**

Reynoldo Rodriguez, (hereinafter, "Rodriguez" or "Plaintiff"), by and through his attorneys, Maurer & Associates, PC, hereby states and affirms for his Complaint against the City of Danbury, ("Danbury" or "City"), Mark Boughton, ("Mayor"), in his official capacity as Mayor of the City of Danbury, Bernard Meehan, in his individual capacity ("Deputy Chief Meehan"), TJ Wiedl, in his individual capacity ("Chief Wiedl"), Geoffrey

Herald, in his individual capacity (“Chief Herald”), and the International Association of Fire Fighters Local 801 (“Local 801” or the “Union”) (collectively, the “Defendants”).

### **NATURE OF THE ACTION**

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000 e, et seq., the Civil Rights Act of 1991, the Connecticut Fair Employment Practices Act, and the Common Law of the State of Connecticut, asserting that Defendants have discriminated against Plaintiff by acts of discrimination and harassment, giving rise to a hostile work environment based on race, national origin, and sex. Further, the Plaintiff alleges a breach of the Danbury City Charter by Defendants.

Further, this is an action under 42 U.S.C. §1983 alleging deprivation of the equal protection of the laws pursuant to the Fourteenth Amendment to the Constitution and laws of the United States by acts of discrimination and harassment, giving rise to a hostile work environment based on race, national origin, and sex. This case also sounds in common law breach of contract based on a violation of the City of Danbury’s Charter.

By this action Plaintiff seeks the following relief: (1) compensatory damages pursuant to 42 U.S.C. § 2000e-5(g) and pursuant to 42 U.S.C. §1988, (2) reasonable

attorney's fees, (3) costs, (4) pre and post judgment interest, (5) compensatory damages for emotional distress, (6) an order that Plaintiff be recognized as having a Captain's rank, (7) punitive damages, and (8) such other and further relief that the Court finds just and reasonable.

### **JURISDICTION**

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq. and the Civil Rights Act of 1991. This action is also brought pursuant to 42 U.S.C. §1983 and the Fourteenth Amendment to the United States Constitution. Jurisdiction is founded upon 28 U.S.C. §1331, 28 U.S.C. §1343(a) and 28 U.S.C. §1367(a).
2. All of the allegations made herein occurred within the territorial jurisdiction of the United States District Court for the District of Connecticut.

### **PROCEDURAL PREREQUISITES**

3. On April 17, 2013, Plaintiff filed a charge of discrimination against the defendants in the Southwest Regional office of the State of Connecticut Commission on Human Rights and Opportunities, in Bridgeport Connecticut and with the Boston Area Office of the Equal Employment Opportunity Commission ("EEOC")

4. Plaintiff received a Right-to-Sue Letter dated June 1, 2015, from the EEOC regarding matter 16A-2013-00872, a true and accurate copy of which is attached as Exhibit "A". Plaintiff received a Right-to-Sue Letter dated August 24, 2015, from the EEOC regarding matter 16A-2013-00871, a true and accurate copy of which is attached as Exhibit "B." Plaintiff received Release of Jurisdiction Letters dated May 27, 2015, from the State of Connecticut Commission on Human Rights and Opportunities, true and accurate copies of which are attached as Exhibits "C" and "D."
5. This matter was filed less than 90 days thereafter.

#### **PARTIES**

6. Plaintiff was and is a resident of Sandy Hook, Connecticut. Plaintiff is of Puerto Rican-American Hispanic descent.
7. Defendant City of Danbury ("City" or "Danbury") is a municipality established in accordance with the laws of the State of Connecticut and the Revised Charter of the City of Danbury approved by the electors of the City of Danbury on November 6, 1990 (the "Charter").

8. Defendant Mark Boughton (the "Mayor" or "Boughton") was at all times relevant to this complaint, the Mayor of Danbury and was responsible for the orderly and lawful administration of the City.
9. Defendant Bernard Meehan ("Deputy Chief Meehan") is the Deputy Chief of the Danbury Fire Department ("DFD").
10. Defendant TJ Wiedl ("Chief Wiedl") is the Chief of the DFD and is responsible for the orderly and lawful administration of the DFD.
11. Defendant Geoffrey Herald ("Chief Herald") was the Chief of the DFD from 2007 to 2014 and was responsible for the orderly and lawful administration of the DFD during that time.
12. Defendant The International Association of Fire Fighters Local 801 ("Union") is a labor organization within the meaning of CGS §46a-51(12) and 42 USC §2000e (d).
13. The City provides fire protection and emergency medical services through the DFD. A true and accurate copy of Charter Section 6-10 regarding the duties of the fire department, Ordinance Section 2.16.1 adopting the merit system and, and Ordinance Section 8 of the Code of Ordinances regarding Fire Protection is attached as Exhibit "E."
14. The City employs more than 50 persons.

15. The City is an employer within the meaning of CGS §46a-51(10) and 42 USC §2000e (b).

16. The Union is a labor organization within the meaning of CGS §46a-51(12) and 42 USC §2000e (d).

**FACTUAL ALLEGATIONS AS TO ALL COUNTS**

17. The DFD and the Union have a long history of treating non-white firefighters, women firefighters, and firefighters who do not adhere to a “macho” gender stereotype less well than the white “macho” firefighters. Before 1983, the DFD had never employed any women, African-Americans or Hispanics as firefighters. Gavagan v Danbury Civil Service Com., 1983 US Dist. Lexis 19480 (the Court enjoined the DFD from appointing firefighters using a process that had the effect of excluding all women, African-American and Hispanic applicants.).

18. This long-held practice of exclusion by the DFD has taken the form of awarding preference points for membership in volunteer fire departments that have historically excluded all women and minorities because of their “private association” status, daily ostracism, name calling, lack of critical support during fires, and relentless demeaning and disrespectful conduct.

19. The Union, although obligated to provide representation to all members, has consistently refused to provide service to its women and minority members, even though those minority members are required to be members and to pay dues in the exact same manner and amount as every other Union member
20. To become employed by the DFD, an applicant must pass a written test, a physical aptitude test, and a rigorous background check all of which are controlled and supervised by the City and the Civil Service Commission. Extra points were awarded for being a resident of Danbury, a military veteran, and for membership in a volunteer fire department.
21. In July of 1987, when Plaintiff was hired by the City and was required to join the Union, he became the only firefighter of Hispanic background in the DFD. Plaintiff was accused by co-workers of using the affirmative action laws to force the City to hire him, implying that Hispanics in general and he specifically were unqualified and could not pass the test on their own merit. For example, Lieutenant Stephen Omasta asked Plaintiff, "Why couldn't they have hired a white guy?"
22. The ostracism took many forms. Firefighters would refuse to sit at the same table with either Plaintiff or the only African American member of the DFD, Steve Johnson

while they ate. Johnson and plaintiff were regularly forced to sit at a table alone to eat.

23. The racial animus was at times more overt. As an example, one day, Assistant Chief Vacovetz walked into the day room and announced to the crew he had a joke for Plaintiff. He said, "A baby duck and a baby skunk are lost in the woods. One says to the other, 'Let's figure out who we are.' The skunk says to the duck, 'You are yellow have a duck bill and quack, so you must be a duck.' The baby duck says to the skunk, 'You're half white and half black and you stink like shit, so you must be a Puerto Rican.'" When Plaintiff objected to the joke, Chief Vacovetz and other members of the DFD said, "Can't you take a joke?"
24. Name-calling went on for years. When Plaintiff became EMS Coordinator and had a small office, firefighters taunted him by putting signs on his office door indicating that it was the women's or girls' bathroom, or that he was the secretary or custodian.
25. The ostracism directed at Plaintiff was encouraged by the officers of the DFD who also disparaged him. Firefighters are regularly recognized for their heroism during fires or medical emergencies. During his first year, Plaintiff made two single rescues within a month of each other, but the DFD chose not to recognize those rescues for two years.

26. The Union's hostility was generally expressed by the members of the Executive Board. For example, in an attempt to raise money for exercise equipment for the firefighters, in December of 1993, Steve Johnson, an African American firefighter, and Plaintiff bought a candy machine and asked the Fire Chief for permission to place it in Fire Headquarters. When they sought support for the project at a Union executive board meeting (hereinafter the "E-Board"), Union president Lou DeMici said "It's a black and Puerto Rican thing, and we want nothing to do with it." Throughout his two decade tenure as Union president, Lou DeMici frequently told minority members of the Union that they should start their own minority union.
27. DFD firefighters work as members of a "Crew." Each firefighter is responsible for the safety of his Crew. On one occasion, Plaintiff and the rest of his Crew were responding to a fire in an abandoned building. The other members of the crew withdrew from the interior attack of the fire out of fear that the building would collapse, but no one told Plaintiff leaving him behind and in danger.
28. In 1992, the City and the Danbury Police Department were sued by several police officers asserting racial discrimination in hiring, training, appointment to special units and promotions in violation of Title VII and 42 USC 1981. Pahaham et al. v Danbury Police Dept., 92-cv-00073 AVC. Through the good offices of Judge Eginton and

several special masters, in 1994 the parties resolved their disputes with the DPD admitting that it had deprived African American officers of training in violation of Title VII and 42 USC 1981, and the DPD committing to enact a seventeen page Order covering hiring practices, training, appointment, discipline and agreeing to enact new policies and to be monitored indefinitely by the EEOC and the CHRO. A true and accurate copy of that Order is attached as Exhibit "F."

29. Transferring to a new Crew in March 1997 did not protect Plaintiff from the continuing ostracism and dangerous pranks. In May of 1997, Plaintiff responded to an emergency call with "C-Group" and left a cup of tea he was drinking on the table. Upon his return, he drank the entire cup of tea in one gulp. While he was on the call, someone had filled his cup with Dawn soap. Plaintiff was hospitalized from May 18, 1997 to May 27, 1997 as a result. The attack was not investigated nor was anyone disciplined for poisoning Plaintiff.

30. On March 19, 1998, Plaintiff was appointed to the position of Emergency Medical Services Coordinator after receiving the highest score on the promotional examination. A true and accurate copy of the EMS Coordinator job description in effect in 1997 is attached as Exhibit "G." On information and belief, Plaintiff was the first non-white firefighter to be promoted in the DFD.

31. On March 23, 1998, Mark Omasta, who had also taken the promotional examination but had scored lower than Plaintiff, told the current Fire Chief, T.J. Wiedl, that Plaintiff should never have gotten the job, even though he had scored higher than Omasta. T.J. Wiedl then told the on-duty crew in the day room that Plaintiff had only received the appointment as EMS Coordinator because he was a minority and had threatened to sue the DFD. That allegation was completely false.
32. Plaintiff's work performance as EMS Coordinator was good to excellent according to verbal and written feedback from the City and annual performance evaluations. Plaintiff increased community involvement with the DFD by initiating programs such as "CPR Saturday" where civilians were taught CPR at the Firehouse. Plaintiff's programs were recognized with a variety of awards.
33. Nationwide, the majority of calls to which fire departments respond are related to medical emergencies. To provide the City with high quality medical response services and to keep their certifications up to date, firefighters, emergency medical technicians ("EMTs") and paramedics must complete regular continuing medical education. Unlike firefighting certifications, EMS certifications expire.
34. As EMS Coordinator, Plaintiff was and is responsible for maintaining the EMS training records, providing training to DFD members, and assuring that every

firefighter and EMT's certifications were current. To do so, he scheduled training classes every Wednesday, which was met with resistance by the firefighters and their supervisors.

35. Having been allowed to denigrate and endanger Plaintiff for over a decade, the firefighters and their supervisors knew that they could ignore, resist, and humiliate Plaintiff with impunity. Chiefs would schedule other activities during scheduled class time; firefighters who decided to attend would grandstand, call out responses and be generally disruptive and disrespectful so as to undermine Plaintiff's teaching and authority.
36. Plaintiff complained in writing to the Fire Chief that he was being harassed due to his ethnic background by numerous acts of insubordination and hate speech, but there was no response and the harassment continued. A true and accurate copy of the memo sent to Chief Carmen Oliver on 2/29/2000 is attached as Exhibit "H."
37. Eventually, Plaintiff complained directly to the Director of Human Resources for the City of Danbury, which angered the Chief and other firefighters, but again there was no response. A true and accurate copy of the memo sent to Chief Carmen Oliver and the Director of Human Resources on 10/11/2001 is attached as Exhibit "I."

38. Even in the face of the regular unaddressed insubordination and ridicule, Plaintiff continued to teach and take classes that would expand his knowledge and better serve the DFD. Other fire and police departments requested that he train their members. Plaintiff continued to develop programs to involve the community in the DFD, including the Fire of Life Program, Community CPR, blood pressure screenings for the elderly, mass CPR training classes for the greater Danbury area, and Automatic External Defibrillators in the schools including training the staff.
39. Even though Plaintiff's programs enhanced the DFD's reputation, he was regularly denigrated by his co-workers and supervisors. A true and accurate copy of a memo sent to Deputy Chief Peter Siecienski on 1/10/2001 regarding insubordination and ridicule received from Lt. Meehan is attached as Exhibit "J." A true and accurate copy of a memo sent to Deputy Chief Peter Siecienski on 2/11/2002 again regarding insubordination and ridicule received from firefighters during training is attached as Exhibit "K." A true and accurate copy of a memo sent to Deputy Chief Peter Siecienski on 6/7/2002 again regarding insubordination and ridicule received from firefighters during training is attached as Exhibit "L." A true and accurate copy of a memo sent to Chief Peter Siecienski on 3/10/2005 again regarding

insubordination and ridicule received from firefighters during training is attached as Exhibit "M." Each request for support was ignored.

40. Deputy Chief Meehan, a lieutenant at the time, referred to Plaintiff as "nothing more than a CPR chimp" while Plaintiff ran the Community CPR program from 1999 to 2005. Similarly, in 2006, Phil Curran, then Acting Fire Chief, repeatedly introduced Plaintiff as "the Department's token Puerto Rican Jew."
41. In 2001, after the terrorist attack in New York City, Plaintiff was asked by Deputy Chief Siecienski to take over the lead position of the Regional HAZ-MAT team and assume responsibility for training, and procuring equipment. The prior lead of the Regional HAZ-MAT team was a popular Caucasian firefighter. As a result of Plaintiff's appointment, several firefighters were angry.
42. From 2009 through 2014, Deputy Chief Meehan called Plaintiff "half-a-day Rey", implying that Plaintiff, as a Hispanic, was lazy and/or dishonest by stealing time from the City. The repetition of the pejorative nickname so damaged Plaintiff's reputation that Fire Chief Herald began paging Plaintiff every day at 4:55 p.m. to ensure that he was still in the office. Other officers adopted Meehan's pejorative nickname and began calling Plaintiff, "half-a-day Rey." Even though Plaintiff complained to Fire Chief Herald, about the obvious racial animus, nothing was ever done.

43. From 2005 through May 2008, Plaintiff went to the Union to request its representation in multiple grievances regarding the hostile work environment to which he had been subjected by members of the DFD.
44. Under Article 6 of the contract between the City of Danbury and Local 801, the Union E-Board must first endorse a firefighter's grievance as having "merit" before the Union will represent the member and pursue the grievance with the City. Many of the DFD members who harassed Plaintiff were members of the E-Board; as such, the E-Board always voted against endorsing Plaintiff's grievances. Although a member may pursue a grievance on his own behalf through the first two steps, the matter may not go to arbitration without the Union's endorsement.
45. Each time Plaintiff presented a grievance to the E-Board seeking the Union's representation, the Union refused to provide him that representation. None of the grievances that Plaintiff presented to the Union were ever pursued by the Union on his behalf.
46. On December 1, 2005, Plaintiff discovered that the City of Danbury's Code of Ordinances Sec. 8-2. (e) states that the Ambulance and Rescue division has one Lieutenant and additional men as assigned to the division by the Chief. See: Exhibit "E." Plaintiff, as the head of the EMS function of the DFD, was thus, under the

Ordinance, entitled to the rank of Lieutenant. However, the DFD organizational chart referred to his position as EMS Coordinator a position that had no rank.

47. The DFD, like most fire service departments is structured as a paramilitary organization, with promotions accompanied by a change of rank and a change of command authority. DFD employees without rank are not accorded the right to wear rank insignia, to be addressed by their rank, to have their orders obeyed, or to be treated with the respect a superior officer is entitled to under a quasi-military structure. Without the rank called for in the Ordinance, Plaintiff is deprived of the rights and respect due a superior officer.
48. Plaintiff provided the Ordinance to Chief Siecienski and requested that he have the rank called for in the Ordinance. Chief Siecienski refused. A true and accurate copy of a memo sent to Chief Peter Siecienski and the E-Board of the Union on 12/1/2005 regarding the Ordinance and staff officers rank is attached as Exhibit "N."
49. Plaintiff went to the Union to represent him in acquiring the rank and recognition called for in the Ordinance. He showed the E-Board the Danbury Ordinance Sec. 8-2. described above. Robert Forbes, a Union E-Board member and Officer, told him that the Ordinance was "out of date" and that Plaintiff should "be quiet or you could lose captain's pay." Robert Forbes then threatened Plaintiff saying that the Union

would oppose granting a rank to the EMS Coordinator position, but if he pressed it, they would push for Plaintiff's pay to be reduced to that of a Lieutenant. Not only did the Union refuse to represent Plaintiff, the E-Board threatened him with retribution if he pursued the matter on his own.

50. At the time, Plaintiff fulfilled a variety of responsibilities beyond simply that of EMS Coordinator, including HAZ-MAT Team leader, Infectious Disease Control Officer, DEMHS Executive Board Member, Regional HAZ-MAT Team Battalion leader, Rehab Officer, and LEPC Community Emergency Response Coordinator.

51. Plaintiff was expected to teach, respond to HAZ-MAT and Rehab calls, attend Regional meetings, maintain firefighter certifications, order supplies, spec-out equipment, calibrate meters, and maintain State licenses.

52. Because he was the subject of ongoing harassment and discrimination in the DFD, Plaintiff's performance of his duties was regularly met with contempt and resistance by line members of the DFD. By seeking the rank provided for in the Ordinance, Plaintiff hoped to reduce the misconduct of, at least, the members with lower ranks.

53. In February of 2006, Plaintiff applied for the Drill Master/Training Officer position. The Danbury Charter and Civil Services Rules and Regulations in force in 2006 required that each promotional appointment be made on merit as determined by

competitive testing. In violation of the Charter and Civil Services Rules and Regulations no competitive test was administered and the promotional process was limited to an interview with the candidates.

54. At the time, Plaintiff had far more teaching experience (over 1,200 teaching classroom hours) and credentials as an instructor than any other applicant. After the interviews, Lieutenant Mark Omasta was ranked as the number one candidate even though he had no credentials or experience as an instructor. Even though Plaintiff was objectively the most qualified, he was ranked third on the list of candidates.
55. Kevin Plank, who placed second, challenged the outcome and accused the Civil Service Commission of impropriety. Civil Service Commissioner Michael Finn told Kevin Plank and Plaintiff that the outcome of the interview did not matter and that Mayor Boughton wanted Mark Omasta in the position and would appoint him regardless of the ranking.
56. Mayor Boughton appointed Mark Omasta, a white male, as Drill Master/Training Officer although he had no credentials as an instructor and had never taught a single class. To fulfill his responsibilities as Drill Master/Training Officer for which he lacked certification or experience, Drill Master/Training Officer Omasta forced Plaintiff to continue teaching classes for which Omasta was responsible.

57. The Drill Master/Training Officer position has never had rank associated with it and there is no mention of rank in the Ordinance associated with that position. However, when Mark Omasta was promoted to that position, he immediately placed collar brass on his uniform that displayed three bugles, which in the DFD represented the rank of Assistant Chief. A true and accurate copy of the Danbury Fire Department Uniform Regulations dated 8/25/95 is attached as Exhibit "O." Section 8:1G entitled the Drill Master/Training Officer to wear "Gold Eagles" as his Collar Insignia, whereas an Assistant Chief was entitled to wear 3 Horns. On information and belief, none of the previous Drill Master/Training Officers had ever worn the Assistant Chief 3 Bugles and no regulation, current at that time, entitled him to do so.

58. Although the Union had previously refused to represent Plaintiff in asserting his entitlement to the rank called for in the Ordinance and justified that decision by saying that staff positions do not have rank, the Union chose not to grieve Mark Omasta's unauthorized assumption of the insignia of an Assistant Chief. Although Plaintiff pointed out Omasta's uniform violation to the Fire Chief and Union President, they turned a blind eye.

59. In 2007, Mayor Boughton and the Danbury Police Department were sued for the illegal arrest and detention of eleven Hispanic day laborers. Barrera v Boughton, 07-cv- 01436 (AWC). The matter gained nationwide attention in the media and political debate.
60. On April 4, 2007, Geoffrey Herald became Chief. Under Chief Herald, the EMS division budget was cut even though EMS calls make up 60% of total volume of DFD calls.
61. In 2008, a group of Hispanic police officers complained to the City that they had been threatened with being arrested by a Sargent in the DPD if they refused to leave their duties to respond to a call that had been assigned to another officer because the incident involved a Spanish speaking person. That complaint evolved into a CHRO complaint by a number of Hispanic police officers regarding their alleged disparate treatment that was litigated until 2012.
62. In 2008, there was a change in Union leadership. Plaintiff re-submitted the grievance regarding his recognition as a Lieutenant to the new Union President Chris Ryan. A true and accurate copy of a memo sent to Chief Geoffrey and the E-Board of the Union on 1/4/2008 regarding the Ordinance and staff officers rank is attached as Exhibit "P." Union President Ryan asked the state union association to

look into the situation, which resulted in a study by Matthew J. Flor. In the study, Flor concluded the rank was necessary for staff positions and that in the departments included in the study, the EMS Coordinators position held the rank of Battalion Chief. A true and accurate copy of the Flor study regarding staff officers rank is attached as Exhibit "Q."

63. The Union told Plaintiff that it would not pursue the matter and directed Plaintiff to "wait and see." After several months without action on the Union's part, Plaintiff resubmitted the grievance. A true and accurate copy of a memo sent to the E-Board of the Union on 5/30/2008 regarding the Ordinance and staff officers rank is attached as Exhibit "R." The Union responded as it had before, that if Plaintiff sought the rank of Lieutenant, he could end up with a reduction in pay. When Plaintiff continued to press for its representation, Lou DeMici, once again the Union's president ruled Plaintiff "out of order."

64. On November 4, 2009, Plaintiff asked Fire Chief Herald why Drill Master/Training Officer Mark Omasta was allowed to wear Assistant Chief Bugles when his position did not have legal rank and none of his predecessors had worn Chief's bugles. In response, Fire Chief Herald authorized Plaintiff to wear the Captain's work uniform

and put Captain's bars on his collar. Plaintiff purchased \$500.00 worth of Captain's work uniforms and the Captain's collar brass and reported to work the next day.

65. The very next day the Union filed a complaint with the City that Plaintiff was out of uniform and that Plaintiff was not a Captain. This was in sharp contrast to its unwillingness to pursue Drill Master/Training Officer Omasta's assumption of Assistant Chief Insignia. Chief Herald revoked his authorization of Plaintiff's uniform and collar brass the next day and then after that changed it again, leaving the issue unresolved. A true and accurate copy of the email chain between Plaintiff and Chief Herald on 11/5/ 2009 regarding the Ordinance and staff officers rank is attached as Exhibit "S."

66. In the latest collective bargaining agreement ("CBA"), the City and the Union agreed to switch the rank and title of the positions of Assistant Chiefs and the Deputy Chief so that it would more closely resemble other departments. The four Assistant Chiefs whose legal authority comes from the Code of Ordinances command the individual Battalions. Sec. 8-2 (a)(1). Prior to the latest CBA their pay scale was less than that of the Deputy Chief, but now under the new CBA they are called Deputy Chiefs, a position that does not appear in the Code of Ordinances. Their pay scale did not

change just their rank and title. The position of the Deputy Chief is now called Assistant Chief. The pay scale did not change, only the rank and title did.

67. Plaintiff and other minority members of the DFD are disciplined more harshly than white members and for conduct that would not result in discipline for a white member. In 2010, Captain Meehan told Chief Herald that Plaintiff was abusing the privilege of a city vehicle by driving it for personal use, which was false. In response, Chief Herald prohibited Plaintiff from taking the city vehicle outside of Danbury. Similarly, Captain Meehan falsely reported that the city vehicle assigned to Steve Rogers, an African American member of the DFD, had been seen in a notoriously dangerous and lewd area of Waterbury, causing the Chief to interrogate Rogers as to why his vehicle was in that part of town.
68. On March 8, 2010, Plaintiff sent a memo to the Chief and Deputy Chief Wiedl that he was going to meet with the Region Five HAZ-MAT team representative the next day at 8:00 a.m., before Plaintiff's shift started in New Milford. After receiving the memo, then Deputy Chief Wiedl falsely accused Plaintiff of violating the directive regarding the use of municipal vehicles.
69. Plaintiff was regularly forced to perform HAZ-MAT duties that should have been the responsibility of certain Caucasian firefighters. On April 12, 2011, Plaintiff attempted

to resign as HAZ-MAT team leader but the Fire Chief ran into Plaintiff's office and yelled "Resignation denied!" and ran out... When Plaintiff requested that the Union represent him in a complaint about the HAZ-MAT duties that he was required to perform without additional compensation, the Union refused. A true and accurate copy of the email and grievance is attached as Exhibit "T."

70. Plaintiff began to see a therapist as he was suffering from lost sleep, anxiety and depression due to the barrage of taunting, racial name calling and general insubordination.

71. On or about February 4, 2013, Chief Herald sent Plaintiff an email about an upcoming training for March 2, 2013 which was a scheduled day off. Plaintiff replied that he was interested in attending. The Chief responded saying that Plaintiff's request would probably be denied because Plaintiff was not allowed to attend "activities beyond the tiny squalid office [he] inhabit[s]." A true and accurate copy of the email is attached as Exhibit "U."

72. In March of 2013, Plaintiff was sitting in the day room when Lieutenant Karl Drentwet referred to him as a "Puerto Rican cocksucker" in the presence of then Deputy Chief Wiedl. Plaintiff turned to then Deputy Chief Wiedl and said, "Did you hear what he

called me?” Then Deputy Chief Wiedl said, “I didn’t hear a thing,” laughed, and walked away.

73. Prior to February 6, 2014, Lieutenant Lounsbury had made a disparaging comment about Plaintiff’s competency and. Plaintiff had sent an email to Lieutenant Lounsbury protesting. On February 6, 2014, then Deputy Chief Wiedl told Plaintiff that he did not approve of the email and told Plaintiff to “develop a thicker skin” to cope with the disparaging comments that are common in the Fire House.

74. On June 2, 2014, then Deputy Chief Wiedl ordered Plaintiff to meet him in his office. When Plaintiff arrived, then Deputy Chief Wiedl informed him that he was being charged with dereliction of duty and abandoning his post at the Fire School on May 24, 2014. When Plaintiff returned with Union representative Chip Daly, then Deputy Chief Wiedl told Plaintiff, “Maybe you shouldn’t work here anymore.” On June 19, 2014, Fire Chief Herald issued Plaintiff a written warning and told him to attend counseling. A true and accurate copy of the warning is attached as Exhibit “V.” After a series of visits, the counselor found Plaintiff was functioning on a professional level in his job. A true and accurate copy of the letter is attached as Exhibit “W.”

75. Plaintiff was also harassed on the basis of his sex. Plaintiff was repeatedly called homophobic names, verbally abused, and physically assaulted by then Captain

Meehan based on a perception that Plaintiff was homosexual and did not conform with male gender stereotypes.

76. Other firefighters also left signs on Plaintiff's office door indicating that it was the women's bathroom, or girls' bathroom, or that Plaintiff was the secretary or custodian.
77. On one occasion in 2012 or 2013, members of the DFD put an inflatable sex doll with a carrot embedded in its "anus" in Plaintiff's office. Plaintiff reported the offensive and sexual conduct to Chief Herald, who simply told Plaintiff to get rid of it. Nothing was done to address the harassment.
78. On or about January 18, 2013, Plaintiff was physically assaulted by then Captain Meehan during a staff meeting. Present were Chief Herald, then Deputy Chief Wiedl, and Assistant Chiefs Steve Williams, Charlie Slagle, and Paul Omasta. Then Captain Meehan entered the room, approached Plaintiff and stroked Plaintiff's nipple and then put his feet in Plaintiff's lap. Plaintiff told then Captain Meehan to get off of him. Plaintiff reported then Captain Meehan's conduct to Chief Herald in writing and in person. A true and accurate copy of the email exchange is attached as Exhibit "X." Even though Chief Herald was in the room and Plaintiff reported the incident immediately to him, nothing was done. In fact, instead of punishing then Captain

Meehan, Chief Herald directed Plaintiff to stay away from then Captain Meehan in a hand-written note. A true and accurate copy of the note is attached as Exhibit "Y."

79. On or about January 8, 2014, Deputy Chief Meehan entered Plaintiff's office where he was sitting behind his desk. He told Plaintiff that he needed "a man hug" and proceeded around the desk, preventing Plaintiff from leaving the office. When Plaintiff drew one of his legs up to prevent Deputy Chief Meehan from touching Plaintiff's body, Deputy Chief Meehan rubbed his groin on Plaintiff's leg and humped Plaintiff's leg repeatedly. Plaintiff yelled for Deputy Chief Meehan to "get off of [him]." CGS §53a-73a (2) makes sexual contact without permission a class A misdemeanor.

80. Deputy Chief Meehan dismounted Plaintiff's leg and left his office. Steve Rogers was in the office next to Plaintiff and overheard the incident.

81. Deputy Chief Meehan's attack was reported to Chief Herald the same day. A true and accurate copy of Plaintiff's report of that and another incident of Deputy Chief Meehan's harassment is attached as Exhibit "Z."

82. The Director of Human Resources and the Assistant Corporate Counsel investigated Plaintiff's report. When the Director of Human Resources informed Plaintiff that there was no substantiation to his complaint, he suggested she look at the complaint

of racial harassment made by Steve Rogers at the same time as it included a description of what he witnessed. She appeared angry and left the room. When Plaintiff asked for a copy of Rogers' email, he received no response. The City did not investigate the assault criminally or for disciplinary purposes any further.

83. On or about May 5, 2014, Plaintiff planned to attend the Connecticut Emergency Management Symposium in Cromwell on his own time. Deputy Chief Wiedl asked Plaintiff why he did not request his approval to attend the Symposium. Plaintiff said he was taking a vacation day and using his personal vehicle to get there. Chief Herald sent Deputy Chief Wiedl to the event in Cromwell to confirm Plaintiff was there. There is no legitimate reason to follow an employee attending a seminar on his own time and at his own expense.

84. On or about June 5, 2014, just before his resignation, Chief Herald sent a letter to Mayor Boughton regarding the administrative needs of the DFD and recommending the redrafting of the EMS Coordinator's position and salary to a Deputy Chief's position. A true and accurate copy of that letter is attached as Exhibit "AA."

85. The DFD treats members of color differently from white members.

86. When Mark Omasta, a white male, was appointed as Drill Master/Training Officer in February of 2006, he immediately began wearing chief's bugles on his collar, even

though the Uniform Regulations state that the proper insignia is an eagle. See: Exhibit "O." As described at paragraphs 56-57 above, he suffered no discipline for being out of uniform nor did the Union file a complaint regarding his misuse of the insignia.

87. On October 9, 2014, a Provisional Training Officer Opportunity announcement was sent to all members of the DFD. A true and accurate copy of the announcement and the Drill Master/Training Officer Job Description is attached as Exhibit "BB." On October 20, 2014, Plaintiff submitted his resume for consideration. A true and accurate copy of the resume submitted by Plaintiff is attached as Exhibit "CC." David Easter, Jaime Gagliardo, Doug Zaniewski, Tyler Bergman, Robert Forbes, and David Kirkwood applied for the position, as well.

88. On October 22, 2014, David Kirkwood sent Plaintiff (EMS Coordinator) an e-mail inquiring whether Plaintiff had found a test date for him to take the EMT. Kirkwood had missed the four previous assigned test dates and his EMT certification had expired.

89. Failure to maintain required EMT certifications exposes the City to potential liability. On October 23, 2014, Plaintiff informed Kirkwood, Chief Wiedl, and Assistant Chief Mark Omasta that Kirkwood's EMT certification was ninety days past the expiration

date and he was no longer able to provide patient care as an EMT. A true and accurate copy of the email is attached as Exhibit "DD." DFD members whose EMT certification exceeded 90 days past the expiration date were generally disciplined and/or threatened with termination. A true and accurate copy of such a notice to a DFD with expired certification dated 4/28/2014 is attached as Exhibit "EE."

90. On October 24, 2014, David Kirkwood was appointed Provisional Training Officer.

91. On information and belief, during a Union E-Board meeting on or about October 27, 2014, the issue of Kirkwood's expired EMT certification was discussed. On October 29, 2014, Chief Wiedl asked Plaintiff if he had brought Kirkwood's expired EMT certification to the attention of the Union. Plaintiff said that he had not. Chief Wiedl told Plaintiff that in the past they just "kept it quiet" and got the individual a test date.

92. Plaintiff explained that the State of CT had privatized the testing process so it was no longer just making a phone call and arranging a test. Chief Wiedl accused Plaintiff of not keeping him informed, but then admitted that he had read Plaintiff's emails about the matter. True and accurate copies of emails regarding Kirkwood's testing are attached as Exhibit "FF."

93. Chief Wiedl then stated that it was Plaintiff's job to make sure that Firefighters EMT certification did not expire. Plaintiff told Chief Wiedl that Kirkwood had missed the

four previous assigned test dates. On at least one of those test dates, Kirkwood's position had been "back filled" by someone else, which left Kirkwood available to attend the test. After Kirkwood missed the May 11, 2014 test date, Plaintiff emailed him and said that he had two other opportunities to test but Kirkwood declined.

Chief Wiedl then said that someone was lying and that "it doesn't look good for you."

94. Plaintiff then filed a grievance with the Union requesting its representation regarding Kirkwood being appointed to and holding the position of Provisional Training Officer without EMT certification when he and other applicants had been certified. The Union responded that it should be a class action grievance since individuals other than Plaintiff were potentially grieved.

95. On November 4, 2014, Provisional Training Officer David Kirkwood sent Plaintiff an e-Mail telling him that Plaintiff would be teaching certain classes and not to schedule during the week of March 16, 2015 since Kirkland had scheduled an outside agency to present about Incident Command System (ICS). A true and accurate copy of the email is attached as Exhibit "GG." This training was a costly and unnecessary expense to the City because Plaintiff was certified to teach all levels of ICS. Further, it demonstrates the Drill Master/Training Officer's lack of experience as an Instructor while expecting Plaintiff to perform his duties.

96. On November 17, 2014, Chip Daly, the Union's Secretary told Plaintiff that the Union would not pursue the grievance regarding Kirkwood's certification because none of the other applicants were willing to participate and then discouraged Plaintiff from proceeding alone because it would "look like sour grapes because [he] did not get the position." When Plaintiff asked the other applicants for the position, all of them said that the Union had never asked them about filing a class action grievance.
97. While Mark Omasta was in the position of Training Officer, the Uniform Regulations stated that that officer was required to wear a gold eagle to signify his position. Nevertheless, Mark Omasta wore an Assistant Chief's 3 bugles instead, and he was never reprimanded or told to change his insignia. See: Exhibit "O."
98. After Omasta was promoted, it was assumed that Kirkwood, a white man, would eventually be appointed as Drill Master/Training Officer, since he had been appointed as Provisional Training Officer. While Kirkwood was in the position of Provisional Training Officer, the City and the Union began negotiating a change in the Uniform Regulations. A draft of the Uniform Regulations was prepared that permitted the Drill Master/Training Officer to wear the Assistant Chief's 3 bugles. A true and accurate copy of the Draft Regulation is attached as Exhibit "HH."

99. However, Steve Rogers, an African American man, received the highest score on the Drill Master/Training Officer promotional examination. When the results were posted on a white board in the Fire House, someone wrote “WHERE’S THE REAL LIST?!” beneath it. A true and accurate copy of the posted Eligibility List is attached as Exhibit “II.”
100. Chief Wiedl and Deputy Chief Omasta tried to talk Steve Rogers out of accepting the position or into taking a demotion but Rogers refused both alternatives.
101. On April 4, 2015, Steve Rogers was sworn into the position of Drill Master/Training Officer while wearing the three bugles, as required in the draft Uniform Regulations. The Union complained to the Chief about Rogers wearing the bugles. Both then told Rogers to stop wearing the bugles even though Rogers had the draft Uniform Regulations. Soon after, the Uniform Regulations were changed again to state that the Drill Master/Training Officer should wear the gold eagle.
102. Defendants repeatedly attempted to sabotage the career and prospects of Plaintiff because of his race, national origin, and sex.
103. As a consequence of Defendants’ actions, Plaintiff has suffered emotional distress, humiliation, loss of dignity, stress, frustration, and anxiety.

**AS FOR A FIRST CAUSE OF ACTION**

**(Against Mayor Mark Boughton in his Official Capacity as Mayor of the City of Danbury; 42 U.S.C. §1983 Equal Protection Violation Based on Race and National Origin Discrimination)**

104. The allegations of paragraphs 1 – 103 of this Complaint are hereby incorporated by reference into this paragraph as if fully set forth herein.
105. Defendant Mayor Boughton is a "person" acting under color of state law for purposes of 42 U.S.C. §1983.
106. Defendant Mayor Boughton is policymaker in the City of Danbury with regard to how the City responds to employee complaints of harassment giving rise to a hostile work environment.
107. Defendant Mayor Mark Boughton, acting in his official capacity as Mayor of the City of Danbury, has, by and through his officers, agents, servants, and employees purposefully and intentionally discriminated against Plaintiff on the basis of his race, which is Hispanic, and his national origin, which is Puerto Rican.
108. Defendant Mayor Boughton has, by and through his officers, agents, servants, and employees, encouraged and cultivated a hostile work environment towards Plaintiff because of his race and national origin, which was designed to drive him out of the workplace.

109. Despite Plaintiff's repeated complaints about the racial harassment and hostility to which he was subjected, Defendant Mayor Boughton consciously chose not to address, investigate, or remediate such harassment and hostile work environment.

110. The acts of racial harassment giving rise to the hostile work environment suffered by the Plaintiff on account of his race and national origin were taken pursuant to a municipal policy, practice, and custom in that:

- a. The City of Danbury's failures to address, investigate, or remediate claims of racial harassment and hostile work environment resulted in the creation of a municipal policy, practice, and custom; and
- b. The City of Danbury has a municipal policy, practice, and custom of failing to supervise and discipline firefighters and policemen who are the subjects of complaints of harassment and discrimination; and
- c. The City of Danbury has a policy, practice, and custom of negligent supervision amounting to a deliberate indifference to the potential violation of constitutional rights.

111. By subjecting the Plaintiff to a hostile work environment on the basis of his race and national origin, Defendant Mayor Boughton violated the Fourteenth Amendment to the United States Constitution as made actionable pursuant to 42 U.S.C. §1983.

112. Plaintiff has suffered and will continue to suffer economic losses and damages caused by Defendants' illegal discriminatory conduct including loss of wages and benefits including back pay, as well as long-term economic detriment due to lost seniority, loss of status and lost career options.
113. Plaintiff has further suffered severe emotional distress, anxiety, depression and distress of mind as a direct result of the discriminatory conduct of the Defendants. He has been forced to undergo and will continue to undergo medical treatments for these injuries including without limitation therapy and medication treatments and all of these conditions are or are likely to be permanent.
114. Plaintiff has further suffered losses including without limitation, denial of appropriate rank insignia which losses can only be remedied through equitable action by this Court.
115. Because of the damage caused by Defendants' illegal conduct, Plaintiff is entitled to compensatory damages, equitable relief, reasonable attorneys' fees, costs of litigation, future medical costs, pre and post judgment interest and such further and additional relief as this Court finds just and reasonable.

**AS FOR A SECOND CAUSE OF ACTION**

**(Against Mayor Mark Boughton in his Official Capacity as Mayor of the City of Danbury; 42 U.S.C. §1983 Equal Protection Violation Based on Sex Discrimination)**

116. The allegations of paragraphs 1 – 116 of this Complaint are hereby incorporated by reference into this paragraph as if fully set forth herein.
117. Defendant Mayor Boughton is a "person" acting under color of state law for purposes of 42 U.S.C. §1983.
118. Defendant Mayor Boughton is policymaker in the City of Danbury with regard to how the City responds to employee complaints of harassment giving rise to a hostile work environment.
119. Defendant Mayor Boughton, acting in his official capacity as Mayor of the City of Danbury, has, by and through his officers, agents, servants, and employees purposefully and intentionally discriminated against Plaintiff on the basis of his sex.
120. Defendant Mayor Boughton has, by and through his officers, agents, servants, and employees, encouraged and cultivated a hostile work environment towards Plaintiff because of his sex, which was designed to drive him out of the workplace.

121. Despite Plaintiff's repeated complaints about the sexual harassment and hostility to which he was subjected, Defendant Mayor Boughton consciously chose not to address, investigate, or remediate such harassment and hostile work environment.

122. The acts of sexual harassment giving rise to the hostile work environment suffered by Plaintiff on account of his sex were taken pursuant to a municipal policy, practice, and custom in that:

- a. The City of Danbury's failures to address, investigate, or remediate claims of sexual harassment and hostile work environment resulted in the creation of a municipal policy, practice, and custom; and
- b. The City of Danbury has a municipal policy, practice, and custom of failing to supervise and discipline of firefighters and policemen who are the subjects of complaints of sexual harassment and discrimination; and
- c. The City of Danbury has a policy, practice, and custom of negligent supervision amounting to a deliberate indifference to the potential violation of constitutional rights.

123. By subjecting Plaintiff to a hostile work environment on the basis of his sex, Defendant Mayor Boughton violated the Fourteenth Amendment to the United States Constitution as made actionable pursuant to 42 U.S.C. §1983.

124. Plaintiff has suffered and will continue to suffer economic losses and damages caused by Defendants' illegal discriminatory conduct including loss of wages and benefits including back pay, as well as long-term economic detriment due to lost seniority, loss of status and lost career options.
125. Plaintiff has further suffered severe emotional distress, anxiety, depression and distress of mind as a direct result of the discriminatory conduct of the Defendants. He has been forced to undergo and will continue to undergo medical treatments for these injuries including without limitation therapy and medication treatments and all of these conditions are or are likely to be permanent.
126. Plaintiff has further suffered losses including without limitation, denial of appropriate rank insignia which losses can only be remedied through equitable action by this Court.
127. Because of the damage caused by Defendants' illegal conduct, Plaintiff is entitled to compensatory damages, equitable relief, reasonable attorneys' fees, costs of litigation, future medical costs, pre and post judgment interest and such further and additional relief as this Court finds just and reasonable.

**AS FOR A THIRD CAUSE OF ACTION**

**(Against Deputy Chief Bernard Meehan in his Individual Capacity; 42 U.S.C. § 1983 Equal Protection Violation Based on Sex Discrimination)**

128. The allegations of paragraphs 1 – 128 of this Complaint are hereby incorporated by reference into this paragraph as if fully set forth herein.

129. Defendant Deputy Chief Meehan is a Deputy Chief in the DFD, has supervisory authority over the Plaintiff, and was a "person" acting under color of state law for purposes of 42 U.S.C. §1983.

130. Defendant Deputy Chief Meehan was acting in his professional capacity as a Deputy Chief in the DFD when he purposefully and intentionally discriminated against Plaintiff on the basis of his sex and non-conformance with gender stereotypes, in part, in the following ways:

- a. On or about January 18, 2013, Defendant Deputy Chief Meehan sexually harassed the Plaintiff during a staff meeting at the DFD by poking the Plaintiff's nipple and refusing to acknowledge the Plaintiff's demand that Defendant Meehan "get off of him";
- b. On or about January 8, 2014, Defendant Deputy Chief Meehan entered Plaintiff's office, where Plaintiff was sitting behind his desk, told Plaintiff that he needed "a man hug," approached Plaintiff, rubbed his groin on the

Plaintiff's leg and humped him, and refused to acknowledge the Plaintiff's demand that Defendant Deputy Chief Meehan "get off of him";

- c. Defendant Deputy Chief Meehan repeatedly used homophobic and sexually demeaning language toward Plaintiff, which the Plaintiff perceived as discrimination based on his non-conformance with gender stereotypes.

131. Defendant Deputy Chief Meehan used his authority to harass the Plaintiff on the basis of his sex, thus creating a severe and pervasive hostile work environment, which was designed to drive him out of the workplace.

132. Defendant Deputy Chief Meehan's harassment and discrimination toward Plaintiff on the basis of his sex was repeated, systematic, egregious, malicious, and in reckless disregard to the Plaintiff's rights under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

133. By subjecting the Plaintiff to a hostile work environment on the basis of his sex and non-conformance with gender stereotypes, the Defendant Deputy Chief Meehan violated the Fourteenth Amendment to the United States Constitution as made actionable pursuant to 42 U.S.C. §1983.

134. Plaintiff has suffered and will continue to suffer economic losses and damages caused by Defendants' illegal discriminatory conduct including loss of wages and benefits including back pay, as well as long-term economic detriment due to lost seniority, loss of status and lost career options.
135. Plaintiff has further suffered severe emotional distress, anxiety, depression and distress of mind as a direct result of the discriminatory conduct of the Defendants. He has been forced to undergo and will continue to undergo medical treatments for these injuries including without limitation therapy and medication treatments and all of these conditions are or are likely to be permanent.
136. Plaintiff has further suffered losses including without limitation, denial of appropriate rank insignia which losses can only be remedied through equitable action by this Court.
137. Because of the damage caused by Defendants' illegal conduct, Plaintiff is entitled to compensatory damages, equitable relief, reasonable attorneys' fees, costs of litigation, future medical costs, punitive damages, pre and post judgment interest and such further and additional relief as this Court finds just and reasonable.

**AS FOR A FOURTH CAUSE OF ACTION**

**(Against Chief TJ Wiedl in his Individual Capacity; 42 U.S.C. § 1983 Equal Protection Violation based on Sex Discrimination)**

138. The allegations of paragraphs 1 – 138 of this Complaint are hereby incorporated by reference into this paragraph as if fully set forth herein.
139. Defendant Chief Wiedl is Chief of the DFD, has a superior rank to the Plaintiff, has supervisory authority over the Plaintiff, and is a "person" acting under color of state law for purposes of 42 U.S.C. §1983.
140. Defendant Chief Wiedl is responsible for the orderly administration of the DFD and the supervision of its members, which includes disciplining and reprimanding members who engage in discriminatory and harassing conduct;
141. Defendant Chief Wiedl was acting in his professional capacity as Chief of the DFD when he purposefully and intentionally discriminated against Plaintiff on the basis of his sex and non-conformance with gender stereotypes, in part, in the following ways:
- a. On or about January 18, 2013, Defendant Wiedl was present in the room, during a staff meeting where Defendant Meehan sexually harassed the Plaintiff by poking the Plaintiff's nipple and refusing to acknowledge the

Plaintiff's demand that Defendant Meehan "get off of him," but Defendant Wiedl did not intervene or discipline Defendant Meehan;

- b. In March of 2013, Defendant Wiedl laughed and walked away but did not intervene or reprimand Lieutenant Karl Drentwet when Lt. Drentwet called the Plaintiff a "Puerto Rican cocksucker" while Defendant Wiedl was present in the room and eating a bowl of cereal;
- c. Defendant Wiedl did not intervene or reprimand firefighters who taunted the Plaintiff by placing signs on the Plaintiff's office door indicating that it was the women's bathroom, or girls' bathroom, or that Plaintiff was the secretary or custodian;
- d. Defendant Wiedl did not intervene or reprimand any of the firefighters who used homophobic and sexually demeaning language toward Plaintiff, which the Plaintiff perceived as discrimination based on his non-conformance with gender stereotypes.

142. Defendant Chief Wiedl used his authority to harass the Plaintiff on the basis of his sex and sanction a culture in which discrimination and harassment were tolerated, thus creating a severe and pervasive hostile work environment, which was designed to drive him out of the workplace.

143. Defendant Chief Wiedl's harassment and discrimination toward Plaintiff on the basis of his sex, as well as his failure to investigate and remedy the situation after becoming aware of the Plaintiff's complaints, was repeated, systematic, egregious, malicious, and in reckless disregard to the Plaintiff's rights under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.
144. By subjecting the Plaintiff to a hostile work environment on the basis of his sex, the Defendant Chief Wiedl violated the Fourteenth Amendment to the United States Constitution as made actionable pursuant to 42 U.S.C. §1983.
145. Defendant Chief Wiedl was aware that the Plaintiff made complaints to him that he was being sexually harassed.
146. Despite Plaintiff's repeated complaints to Defendant Chief Wiedl about the harassment and hostility to which he was subjected, Defendant Chief Wiedl chose not to address, investigate, or remediate such harassment and hostile work environment.
147. Plaintiff has suffered and will continue to suffer economic losses and damages caused by Defendants' illegal discriminatory conduct including loss of wages and benefits including back pay, as well as long-term economic detriment due to lost seniority, loss of status and lost career options.

148. Plaintiff has further suffered severe emotional distress, anxiety, depression and distress of mind as a direct result of the discriminatory conduct of the Defendants. He has been forced to undergo and will continue to undergo medical treatments for these injuries including without limitation therapy and medication treatments and all of these conditions are or are likely to be permanent.

149. Plaintiff has further suffered losses including without limitation, denial of appropriate rank insignia which losses can only be remedied through equitable action by this Court.

150. Because of the damage caused by Defendants' illegal conduct, Plaintiff is entitled to compensatory damages, equitable relief, reasonable attorneys' fees, costs of litigation, future medical costs, punitive damages, pre and post judgment interest and such further and additional relief as this Court finds just and reasonable.

**AS FOR A FIFTH CAUSE OF ACTION**

**(Against Former Chief Geoff Herald in his Individual Capacity; 42 U.S.C. § 1983  
Equal Protection Violation Based on Sex Discrimination)**

151. The allegations of paragraphs 1 – 151 of this Complaint are hereby incorporated by reference into this paragraph as if fully set forth herein.

152. Defendant Herald is former Chief of the DFD, had a superior rank, had supervisory authority over the Plaintiff, and was a "person" acting under color of state law for purposes of 42 U.S.C. §1983.
153. As Chief, Defendant Herald was responsible for the orderly administration of the DFD and the supervision of its members, which included disciplining and reprimanding members who engaged in discriminatory and harassing conduct;
154. Defendant Herald was acting in his professional capacity as Chief of the DFD when he purposefully and intentionally discriminated against Plaintiff on the basis of his sex and non-conformance with gender stereotypes, in part, in the following ways:
- a. On November 29, 2009, at 9:00 a.m., after Plaintiff had witnessed Defendant Herald speaking to an unknown female at a bar the night before, Defendant Herald saw Plaintiff and said, "Next time we can do a threesome", which the Plaintiff perceived as discrimination based on his non-conformance with gender stereotypes;
  - b. On or about January 18, 2013, Defendant Herald was present in the room, during a staff meeting where Defendant Meehan sexually harassed the Plaintiff by poking the Plaintiff's nipple and refusing to acknowledge the

Plaintiff's demand that Defendant Meehan "get off of him," but Defendant Herald did not intervene or discipline Defendant Meehan;

- c. Defendant Herald did not intervene or reprimand firefighters who taunted the Plaintiff by placing signs on the Plaintiff's office door indicating that it was the women's bathroom, or girls' bathroom, or that Plaintiff was the secretary or custodian;
- d. Defendant Wiedl did not intervene or reprimand any of the firefighters who used homophobic and sexually demeaning language toward Plaintiff, which the Plaintiff perceived as discrimination based on his non-conformance with gender stereotypes;
- e. Defendant Herald did not intervene or reprimand any of the firefighters responsible for putting an inflatable sex doll with a carrot embedded in its "anus" in Plaintiff's office; rather, Plaintiff showed this to Chief Herald, who simply told Plaintiff to get rid of it, but nothing was ever done to address the harassment.

155. Defendant Herald used his authority to harass the Plaintiff on the basis of his sex and sanction a culture in which discrimination and harassment were tolerated, thus

creating a severe and pervasive hostile work environment, which was designed to drive him out of the workplace.

156. Defendant Herald's harassment and discrimination toward Plaintiff on the basis of his sex, as well as his failure to investigate and remedy the situation after becoming aware of the Plaintiff's complaints, was repeated, systematic, egregious, malicious, and in reckless disregard to the Plaintiff's rights under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.
157. By subjecting the Plaintiff to a hostile work environment on the basis of his sex, the Defendant Herald violated the Fourteenth Amendment to the United States Constitution as made actionable pursuant to 42 U.S.C. §1983.
158. Defendant Herald was aware that the Plaintiff made complaints to him that he was being sexually harassed.
159. Despite Plaintiff's repeated complaints to Defendant Herald about the harassment and hostility to which he was subjected, Defendant Herald chose not to address, investigate, or remediate such harassment and hostile work environment.
160. Plaintiff has suffered and will continue to suffer economic losses and damages caused by Defendants' illegal discriminatory conduct including loss of wages and

benefits including back pay, as well as long-term economic detriment due to lost seniority, loss of status and lost career options.

161. Plaintiff has further suffered severe emotional distress, anxiety, depression and distress of mind as a direct result of the discriminatory conduct of the Defendants. He has been forced to undergo and will continue to undergo medical treatments for these injuries including without limitation therapy and medication treatments and all of these conditions are or are likely to be permanent.

162. Plaintiff has further suffered losses including without limitation, denial of appropriate rank insignia which losses can only be remedied through equitable action by this Court.

163. Because of the damage caused by Defendants' illegal conduct, Plaintiff is entitled to compensatory damages, equitable relief, reasonable attorneys' fees, costs of litigation, future medical costs, punitive damages, pre and post judgment interest and such further and additional relief as this Court finds just and reasonable.

**AS AND FOR A SIXTH CAUSE OF ACTION**

**(Against City of Danbury; Title VII Violation Based on Sex)**

164. The allegations of paragraphs 1 - 164 are fully and completely incorporated by reference as if fully set forth herein.

165. At all relevant times, Danbury was a government entity employing more than fifteen people as defined by Section 701 (b) of Title VII, and thus is covered by and subject to Title VII.

166. Plaintiff has satisfied the procedural and administrative requirements set forth in Section 706 of Title VII, 42 USCA §2000e(a).

167. At all relevant times, Plaintiff was perceived by members of the Defendant's Fire Department as failing to conform to male gender stereotypes in his style of dress, personal conduct and mode of speech.

168. Members of the DFD engaged in deliberate acts of severe and pervasive discriminatory harassment as set forth above, which resulted in a hostile work environment for Plaintiff based on his sex in that the discriminatory harassment was motivated by the aforesaid Department members' perception that Plaintiff failed to conform to male gender stereotypes.

169. The severe and pervasive acts of discriminatory harassment based on gender which resulted in a hostile work environment were frequent, threatening, humiliating and unreasonably interfered with Rodriguez's ability to perform his work. These acts include without limitation, the following:

- a. Pranks based on sex and gender stereotypes such as, placing signs on

Plaintiff EMS Coordinator office door indicating that it was the “women’s bathroom,” or “girls’ bathroom,” or that Plaintiff was the “secretary.”

- b. Plaintiff was repeatedly called homophobic names and was verbally abused by other members of the DFD. Some of the day to day sex-based abusive language used against Plaintiff was (the Plaintiff begs the pardon of the Court for the offensive language):
  - i. “rump rider”;
  - ii. “dickie licker”;
  - iii. “faggot”;
  - iv. “queer”; and
  - v. words implying that he liked anal sex such as, “taking it up the ass.”
- c. Plaintiff was physically assaulted by Captain Meehan while at work, in a manner indicating homophobic animus including the following incidents:
  - i. On or about January 18, 2013, Plaintiff was physically by Captain Meehan, during a staff meeting. Present were Chief Herald, Deputy Chief Wiedl, and Assistant Chiefs Steve Williams, Charlie Slagle, and Paul Omasta. Captain Meehan entered the room, approached Rodriguez and stroked Plaintiff’s nipple. Plaintiff told Captain Meehan to get off of him. Even though Chief Herald was in the room and Plaintiff reported the incident immediately to him,

nothing was done.

- ii. On or about January 8, 2014, Captain Meehan entered Plaintiff's office where Plaintiff was sitting behind his desk. Captain Meehan told Plaintiff that he needed "a man hug" and proceeded around the desk, preventing Plaintiff from leaving the office. When Rodriguez drew one of his legs up to prevent Captain Meehan from touching his body, Captain Meehan rubbed his groin on Plaintiff's leg and "humped" Plaintiff leg repeatedly. Plaintiff yelled for Meehan to "get off of [him]." Captain Meehan dismounted Plaintiff's leg and left his office. Steve Rogers was in the office next to Plaintiff and overheard the incident.
  - iii. Captain Meehan's attack was reported to the Defendants. The City did not investigate the assault criminally or for disciplinary purposes.
- d. In 2012 or 2013, unidentified members of the DFD put a life sized inflatable sex doll with a carrot embedded in its "anus" in Plaintiff's office. Plaintiff reported the offensive and sexual conduct to Chief Herald, who simply told Plaintiff to get rid of it. Nothing was done to address the

harassment.

170. Further, Defendants discriminated against Plaintiff in the terms, conditions and/or privileges of his employment based on his gender in one or more of the following ways:

- a. In that they refused to grant him the appropriate rank insignia that he was due although the proper insignia was granted to other male employees similarly situated;
- b. In that they refused to grant him the appropriate rank insignia that he was due although the proper insignia is a meaningful, material, and important benefit within the DFD and its deprivation is a clear indicia of loss of a reduced status and authority unique to said Department;
- c. Plaintiff was the head of the EMS function of the DFD and was thus, under the authority of City Ordinance, entitled to the rank of Lieutenant. However, the DFD organizational chart referred to his position as “EMS Coordinator” a position that had no rank.
- d. The DFD is structured as a paramilitary organization, with promotions accompanied by a change of rank and a change of command authority. DFD employees without rank are not accorded the right to wear rank

insignia, to be addressed by their rank, to have their orders obeyed, or to be treated with the respect a superior officer is entitled to under a quasi-military structure. Plaintiff was unreasonably and unlawfully denied the appropriate rank for his position as EMS Coordinator.

- e. In February of 2006 Plaintiff applied for and was unreasonably denied the Drill Master/Training Officer position. Disregarding the Danbury Charter and Civil Service Rules, no competitive test was administered and the promotional process was limited to an interview with the candidates in order to prevent Plaintiff from testing into the position.
- f. Although Plaintiff had far more teaching experience and credentials as an instructor than any other applicant, Lieutenant Mark Omasta was ranked as the number one candidate for Drill Master/Training Officer even though he had no credentials or experience as an instructor. Even though Plaintiff was objectively the most qualified, he was ranked third on the list of candidates.
- g. Kevin Plank, who placed second, challenged the outcome and accused the Civil Service Commission of impropriety. Civil Service Commissioner Michael Finn told Kevin Plank and Plaintiff that the outcome of the

interview did not matter and that Mayor Boughton wanted Mark Omasta in the Drill Master/Training Officer position and would appoint him regardless of the ranking.

- h. Mayor Boughton appointed Mark Omasta, a white male, as Drill Master/Training Officer although he had no credentials as an instructor and had never taught a single class. To fulfill his responsibilities as Drill Master/Training Officer for which he lacked certification or experience, Omasta forced Plaintiff to continue teaching classes for which Omasta was responsible.
- i. The Drill Master/Training Officer position has never had rank associated with it and there is no mention of rank in the Ordinance associated with that position. However, when Mark Omasta was promoted to that position, he immediately placed collar brass on his uniform that displayed three bugles, which in the DFD represented the Rank of Assistant Chief. On information and belief, none of the previous Drill Master/Training Officers had ever worn Chief bugles.

171. All of the acts of discrimination based on sex referred to above limited, segregated, and degraded Plaintiff in a way which tended to deprive him of

opportunities, interfered with his work and/or which adversely affected his status as an employee as compared to other employees similarly situated.

172. Plaintiff's sex was a determining factor in all of the Defendants' discriminatory conduct against him, as it was based upon the Defendants' perception that Plaintiff failed to conform to male gender stereotypes, and was therefore a violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e and the Civil Rights Act of 1991.

173. The Defendant Danbury is liable for the discriminatory acts perpetrated against Plaintiff by his co-workers and supervisors in the Defendant's Department because the Defendant provided no reasonable avenue for complaint and/or knew of the harassment but did nothing about it.

174. Plaintiff has suffered and will continue to suffer economic losses and damages caused by Defendants' illegal discriminatory conduct including loss of wages and benefits including back pay, as well as long-term economic detriment due to lost seniority, loss of status and lost career options.

175. Plaintiff has further suffered severe emotional distress, anxiety, depression and distress of mind as a direct result of the discriminatory conduct of the Defendants. He has been forced to undergo and will continue to undergo medical treatments for

these injuries including without limitation therapy and medications and all of these conditions are or are likely to be permanent.

176. Plaintiff has further suffered losses including without limitation, denial of appropriate rank insignia which losses can only be remedied through equitable action by this Court.

177. Because of the damage caused by Defendants' illegal conduct, Plaintiff is entitled to compensatory damages, equitable relief, reasonable attorneys' fees, costs of litigation, future medical costs, pre and post judgment interest and such further and additional relief as this Court finds just and reasonable.

**AS AND FOR A SEVENTH CAUSE OF ACTION**

**(Against City of Danbury; CFEPA Violation Based on Sex)**

178. The allegations of paragraphs 1 - 178 are fully and completely incorporated by reference as if fully set forth herein.

179. By the conduct described above the City has also violated CGS §46a-60(a)(1), CGS §46a-60(a)(8) and CGS §46a-81c.

180. Plaintiff has suffered and will continue to suffer economic losses and damages caused by Defendants' illegal discriminatory conduct including loss of wages and benefits including back pay, as well as long-term economic detriment due to lost

seniority, loss of status and lost career options.

181. Plaintiff has further suffered severe emotional distress, anxiety, depression and distress of mind as a direct result of the discriminatory conduct of the Defendants. He has been forced to undergo and will continue to undergo medical treatments for these injuries including without limitation therapy and medications and all of these conditions are or are likely to be permanent.

182. Plaintiff has further suffered losses including without limitation, denial of appropriate rank insignia which losses can only be remedied through equitable action by this Court.

183. Because of the damage caused by Defendants' illegal conduct, Plaintiff is entitled to compensatory damages, equitable relief, reasonable attorneys' fees, costs of litigation, future medical costs, pre and post judgment interest and such further and additional relief as this Court finds just and reasonable.

**AS AND FOR A EIGHTH CAUSE OF ACTION**

**(Against City of Danbury; Title VII Violation Based On Race/National Origin)**

184. The allegations of paragraphs 1 - 183 are fully and completely incorporated by reference as if fully set forth herein.

185. At all relevant times, Danbury was a government entity employing more than

fifteen people as defined by Section 701 (b) of Title VII, and thus is covered by and subject to Title VII.

186. Plaintiff has satisfied the procedural and administrative requirements set forth in Section 706 of Title VII (42 USCA §2000e-5).

187. At all relevant times, Plaintiff was a Hispanic male of Puerto Rican descent and was the sole Hispanic employee in the DFD and one of only two minority members.

188. Members of the DFD engaged in deliberate acts of severe and pervasive discriminatory harassment as set forth above, which resulted in a hostile work environment for Plaintiff based on his race and/or national origin in that the discriminatory harassment was motivated by the aforesaid Department members' animus towards Hispanics in the nearly all white Department.

189. The severe and pervasive acts of discriminatory harassment based on race and/or national origin which resulted in a hostile work environment were frequent, threatening, humiliating and unreasonably interfered with Plaintiff's ability to perform his work. These acts include all of the facts incorporated herein above into this Count and without limitation, the following:

- a. Racially derogatory name-calling, jokes, and hate-speech based on Plaintiff's Hispanic origin which persisted from 1987 through 2013,

including but not limited to the following incidents:

- i. From 1999 to 2005, Bernard Meehan, a Lieutenant at the time, referred to Plaintiff publicly as “nothing more than a CPR chimp.” Plaintiff understood these comments, which were delivered with racial venom, to refer to his skin tone;
- ii. In 2006, Phil Curran, then Acting Fire Chief, repeatedly introduced Plaintiff as “the Department’s token Puerto Rican Jew” in public;
- iii. Deputy Chief T J Wiedl told the on-duty crew in the day room that Plaintiff had only received the appointment as EMS Coordinator because he was a minority and he had threatened to sue the DFD, which was untrue;
- iv. In March of 2013, Plaintiff was sitting in the day room when Lieutenant Karl Drentwet referred to him as a “Puerto Rican cocksucker” in the presence of Deputy Chief Wiedl. Plaintiff turned to Deputy Chief Wiedl and said “Did you hear what he called me?” Deputy Chief Wiedl said “I didn’t hear a thing,” laughed, and walked away;
- v. From 2009 through 2014, Meehan called Plaintiff by the nickname,

“half-a-day Rey,” implying that Plaintiff as a Hispanic was lazy and/or dishonest by stealing time from the City. The repetition of the nickname caused Fire Chief Herald to begin paging Plaintiff every day at 4:55 p.m. to ensure that he was still in the office while other officers adopted Meehan’s nickname and began calling Plaintiff “half-a-day Rey.”

- vi. Numerous additional instances of Hispanic name-calling, racial/ethnic slurs and comments reflecting animus towards Hispanics by many members of the DFD.
- b. Racially charged pranks including the following which occurred in or around 2000. When Plaintiff became EMS Coordinator and was given a small office, firefighters taunted him by putting signs on Plaintiff’s office door indicating that Plaintiff was the “custodian.”
- c. Intrusive racial inquiries including unauthorized research into Plaintiff’s racial background through an online genealogy search conducted by a co-worker.
- d. Dangerous racially charged pranks including, in May of 1997, where Plaintiff left a cup of tea he was drinking on the table. Upon his return

from a call, Plaintiff drank the entire cup of tea in one gulp. While he was on the call, someone had filled his cup with Dawn liquid dish soap.

Plaintiff was hospitalized from May 18, 1997 to May 27, 1997 as a result.

The crime was not investigated nor was anyone disciplined for poisoning Rodriguez.

- e. Material interference with his duties as EMS Coordinator. Firefighters and Chiefs alike would avoid and disrupt his EMS certification classes. Chiefs would schedule other activities during scheduled EMS class time; firefighters who decided to attend would grandstand, call out responses, and be generally disruptive and disrespectful so as to undermine Plaintiff's teaching and authority.
- f. Unwarranted discipline not imposed on non-Hispanic officers, including on March 8, 2010, Plaintiff was falsely accused by Deputy Chief Wiedl, of violating the directive regarding the use of municipal vehicles.
- g. Plaintiff was regularly forced to perform HAZMAT duties that should have been the responsibility of certain white firefighters. On April 12, 2011, Plaintiff attempted to resign as HAZMAT team leader because of the discriminatory assignments but the Fire Chief ran into Plaintiff's office and

yelled “Resignation denied!”

- h. Plaintiff was disciplined more harshly than white members and for conduct that would not result in discipline for a white member. In 2010, Captain Meehan told Chief Herald that Plaintiff was abusing the privilege of a city vehicle by driving it for personal use, which was false. In response, Chief Herald prohibited Plaintiff from taking the city vehicle outside of Danbury although there was no merit to the charge.
- i. Unwarranted supervision included an incident on or about May 5, 2014, wherein Plaintiff planned to attend a professional symposium on his own time. Although Plaintiff had taken a vacation day and paid for the symposium himself, Chief Herald sent Deputy Chief Wiedl to the event to confirm Plaintiff was there, although there is no legitimate non-discriminatory reason to follow an employee attending a seminar on his own time and at his own expense.
- j. Plaintiff complained in writing to the Fire Chief that he was being harassed due to his ethnic background by numerous acts of insubordination and hate speech, but there was no response and the harassment continued; and

- k. In that they assigned him an unsuitably small and inadequate work space which reflected a lesser status than other male staff officers similarly situated. Chief Herald revealed the discriminatory animus when he commented that one of Plaintiff's requests to attend a seminar would be denied because Plaintiff wasn't allowed to attend "activities beyond the tiny squalid office [he] inhabit[s]."

190. The severe and pervasive acts of discriminatory harassment set forth above were frequent, threatening, humiliating and unreasonably interfered with Plaintiff's ability to perform his work.

191. Further, Defendants discriminated against Plaintiff in the terms, conditions and/or privileges of his employment based on his race and/or national origin in one or more of the following ways:

- a. In that they refused to grant him the appropriate rank insignia that he was due although the proper insignia was granted to other male employees similarly situated;
- b. In that they refused to grant him the appropriate rank insignia that he was due although the proper insignia is a meaningful, material and important benefit within the DFD and its deprivation is a clear indicia of loss of a

reduced status and authority unique to said Department;

- c. Plaintiff was the head of the EMS function of the DFD and was thus, under the authority of City Ordinance, entitled to the rank of Lieutenant.

However, the DFD organizational chart referred to his position as “EMS Coordinator” a position that had no rank.

- d. The DFD is structured as a paramilitary organization, with promotions accompanied by a change of rank and a change of command authority. DFD employees without rank are not accorded the right to wear rank insignia, to be addressed by their rank, to have their orders obeyed, or to be treated with the respect a superior officer is entitled to under a quasi-military structure. Plaintiff was unreasonably and unlawfully denied the appropriate rank for his position as EMS Coordinator.
- e. In February of 2006 Plaintiff applied for and was unreasonably denied the Drill Master/Training Officer position. Disregarding the Danbury Charter and Civil Service Rules, no competitive test was administered and the promotional process was limited to an interview with the candidates in order to prevent Plaintiff from testing into the position.
- f. Although Plaintiff had far more teaching experience and credentials as an

instructor than any other applicant, Lieutenant Mark Omasta was ranked as the number one candidate for Drill Master/Training Officer even though he had no credentials or experience as an instructor. Even though Plaintiff was objectively the most qualified, he was ranked third on the list of candidates.

- g. Kevin Plank, who placed second, challenged the outcome and accused the Civil Service Commission of impropriety. Civil Service Commissioner Michael Finn told Kevin Plank and Plaintiff that the outcome of the interview did not matter and that Mayor Boughton wanted Mark Omasta in the Drill Master/Training Officer position and would appoint him regardless of the ranking.
- h. Mayor Boughton appointed Mark Omasta, a white male, as Drill Master/Training Officer although he had no credentials as an instructor and had never taught a single class. To fulfill his responsibilities as Drill Master/Training Officer for which he lacked certification or experience, Omasta forced Plaintiff to continue teaching classes for which Omasta was responsible.
- i. The Drill Masters position has never had rank associated with it and there

is no mention of rank in the Ordinance associated with that position. However, when Mark Omasta was promoted to that position, he immediately placed collar brass on his uniform that displayed three bugles, which in the DFD represented the Rank of Assistant Chief. On information and belief, none of the previous Drill Master/Training Officers had ever worn Chief bugles.

192. All of the acts of discrimination referred to above limited, segregated, and degraded Plaintiff in a way which tended to deprive him of opportunities and/or which adversely affected his status as an employee as compared to similarly situated non-Hispanic employees.
193. Plaintiff's race and/or national origin was a determining factor in all of the Defendants' discriminatory conduct against him, as it was based upon the Defendants' animus towards Hispanics in the nearly all white Department and was therefore a violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e and the Civil Rights Act of 1991.
194. The decades long policy, practice and custom of the Defendant of neglecting the supervision of its employees in matters of discrimination and harassment have had a disparate impact upon Plaintiff as the only Hispanic member of the DFD, as it has

led to the Defendant's deliberate indifference to or reckless disregard of, the rights of Hispanic officers such as Plaintiff.

195. Defendant Danbury is liable for the discriminatory acts perpetrated against Plaintiff by his co-workers and supervisors in the Defendant's Fire Department because the Defendant provided no reasonable avenue for complaint and/or knew of the harassment but did nothing about it.
196. Plaintiff has suffered and will continue to suffer economic losses and damages caused by Defendant's illegal discriminatory conduct including loss of wages and benefits including back pay, as well as long-term economic detriment due to lost seniority, loss of status and lost career options.
197. Plaintiff has further suffered severe emotional distress, anxiety, depression and distress of mind as a direct result of the discriminatory conduct of the Defendants. He has been forced to undergo and will continue to undergo medical treatments for these injuries including without limitation therapy and medications and all of these conditions are or are likely to be permanent.
198. Plaintiff has further suffered losses including without limitation, denial of appropriate rank insignia which losses can only be remedied through equitable action by this Court.

199. Because of the damage caused by Defendant's illegal conduct, Plaintiff is entitled to compensatory damages, equitable relief, reasonable attorneys' fees, costs of litigation, future medical costs, pre and post judgment interest and such further and additional relief as this Court finds just and reasonable.

**AS AND FOR A NINTH CAUSE OF ACTION**

**(Against City of Danbury; CFEPA Violation Based On Race/National Origin)**

200. The allegations of paragraphs 1-199 are fully and completely incorporated by reference as if fully set forth herein.

201. By the conduct described above Defendants have also violated CGS §46a-60(a)(1).

202. Plaintiff has suffered and will continue to suffer economic losses and damages caused by Defendant's illegal discriminatory conduct including loss of wages and benefits including back pay, as well as long-term economic detriment due to lost seniority, loss of status and lost career options.

203. Plaintiff has further suffered severe emotional distress, anxiety, depression and distress of mind as a direct result of the discriminatory conduct of the Defendants. He has been forced to undergo and will continue to undergo medical treatments for these injuries including without limitation therapy and medications and all of these

conditions are or are likely to be permanent.

204. Plaintiff has further suffered losses including without limitation, denial of appropriate rank insignia which losses can only be remedied through equitable action by this Court.

205. Because of the damage caused by Defendant's illegal conduct, Plaintiff is entitled to compensatory damages, equitable relief, reasonable attorneys' fees, costs of litigation, future medical costs, pre and post judgment interest and such further and additional relief as this Court finds just and reasonable.

**AS FOR A TENTH CAUSE OF ACTION**

**(Against IAFF Local 801; Title VII Violation Based on Race/National Origin)**

206. The allegations of paragraphs 1 - 205 are fully and completely incorporated by reference as if fully set forth herein.

207. At all relevant times, Local 801 was a labor organization within the meaning of Title VII, Section 701 (d) and thus is covered by and subject to Title VII.

208. Plaintiff has satisfied the procedural and administrative requirements set forth in Section 706 of Title VII, 42 USC 2000e-5.

209. At all relevant times, Plaintiff was perceived by members of Defendant Local 801's E-Board as being a minority because of his race and national origin as Puerto Rican.

210. Since 1993, Local 801 by and through its officers has engaged in a pervasive course of discrimination against Plaintiff on the basis of his race and national origin.

211. Members of the Defendant Local 801's E-Board engaged in deliberate acts of severe and pervasive discrimination motivated by the aforesaid E-Board members' hostility to racial and ethnic minorities, including Plaintiff.

212. The severe and pervasive acts of discrimination include, without limitation, the following:

- a. Attempting to exclude Plaintiff from Local 801. Lou DeMici, the Union president since the 1990's and continuing into the present, frequently told Plaintiff that he should be in a minority-only union instead of in Defendant Local 801, implying that Defendant Local 801 would not serve Plaintiff or other minority members.
- b. Refusing to support motions or requests from minority members of the Department attending Union meetings.
- c. Grieving Plaintiff for wearing rank insignia as ordered by Fire Chief Herald; meanwhile, Defendant ignored Mark Omasta's rank insignia violations which had not been ordered by the Fire Chief.

d. Wrongfully refusing to recognize Plaintiff's proper rank when Defendant reorganized the applicable labor contract in November of 2012. Plaintiff had previously submitted a grievance seeking recognition that the ESM Coordinator's position should hold the rank of lieutenant. The study by Matthew J. Flor supported Plaintiff's position, but Defendant still refused to endorse his grievance or recognize his rank. When the labor contract was reorganized in November of 2012, Defendant still refused to change Plaintiff's rank. Defendant Local 801 also breached its duty of fair representation to Plaintiff. These acts include, without limitation, the following:

i. Refusing to endorse Plaintiff's meritorious grievances regarding the hostile work environment to which he had been subjected by members of the Department. Despite Plaintiff's repeated complaints about the hostile work environment based on his race and national origin, Defendant did not respond and the harassment continued with the harassers being reassured that no action would be taken against them.

- ii. Refusing to endorse Plaintiff's grievance about Kirkwood's failure to maintain his EMT certification. Defendant protected a white member while ignoring the complaints of Plaintiff, a minority member. Members of Defendant Local 801's E-Board also lied in order to discourage Plaintiff from exercising his right to initiate a grievance.
- iii. Writing and rewriting the Uniform Regulations to benefit white members while depriving minority members of indicia of higher authority and rank. This is evidence of Defendant Local 801's continued animus towards its minority members.

213. Defendant Local 801, by and through its E-Board, conspired to keep white members in positions of power while preventing minority members such as Plaintiff from obtaining rank and authority.

214. All of the acts of discrimination referred to above limited, segregated, and degraded Plaintiff in a way which tended to deprive him of opportunities and/or which adversely affected his status as an employee as compared to similarly situated non-Hispanic employees.

215. Plaintiff has suffered and will continue to suffer economic losses and damages caused by Defendant Local 801's illegal discriminatory conduct including loss of wages and benefits including back pay, as well as long-term economic detriment due to lost seniority, loss of status and lost career options.

216. Plaintiff has further suffered severe emotional distress, anxiety, depression, humiliation, embarrassment, and distress of mind as a direct result of the discriminatory conduct of the Defendants. He has been forced to undergo and will continue to undergo medical treatments for these injuries including without limitation therapy and medication treatments and all of these conditions are or are likely to be permanent.

217. Plaintiff has further suffered losses including without limitation, denial of appropriate rank insignia which losses can only be remedied through equitable action by this Court.

218. Because of the damage caused by defendants' illegal conduct, Rodriguez is entitled to compensatory damages, equitable relief, reasonable attorneys' fees, costs of litigation, future medical costs, pre and post judgment interest and such further and additional relief as this Court finds just and reasonable.

**AS FOR A ELEVENTH CAUSE OF ACTION**

**(Against IAFF Local 801; CFEPA Violation Based on Race/National Origin)**

219. The allegations of paragraphs 1 - 218 are fully and completely incorporated by reference as if fully set forth herein.
220. The conduct described above also violates CGS §46a-60(a)(3), CGS §46a-60-(a)(5), CGS §46a-81b.
221. Plaintiff has suffered and will continue to suffer economic losses and damages caused by Defendant Local 801's illegal discriminatory conduct including loss of wages and benefits including back pay, as well as long-term economic detriment due to lost seniority, loss of status and lost career options.
222. Plaintiff has further suffered severe emotional distress, anxiety, depression, humiliation, embarrassment, and distress of mind as a direct result of the discriminatory conduct of the Defendants. He has been forced to undergo and will continue to undergo medical treatments for these injuries including without limitation therapy and medication treatments and all of these conditions are or are likely to be permanent.

223. Plaintiff has further suffered losses including without limitation, denial of appropriate rank insignia which losses can only be remedied through equitable action by this Court.

224. Because of the damage caused by defendants' illegal conduct, Rodriguez is entitled to compensatory damages, equitable relief, reasonable attorneys' fees, costs of litigation, future medical costs, pre and post judgment interest and such further and additional relief as this Court finds just and reasonable.

**AS FOR A TWELVETH CAUSE OF ACTION**

**(Against City of Danbury and IAFF Local 801; Breach of City Charter)**

225. The allegations of paragraphs 1 – 224 of this Complaint are hereby incorporated by reference into this paragraph as if fully set forth herein.

226. Section 6-10 of the Danbury City Charter states that “[t]he Fire Department shall be responsible for the protection of life and property within the City from fire and for the enforcement of all laws, ordinances and regulations relating to fire prevention and fire safety.”

227. Furthermore, the “Chief... shall be responsible for the efficiency, discipline and good conduct of the department.”

228. In Chapter 8 of the Danbury Code of Ordinances, Article I addresses the Fire Department.

229. Section 8-1, which addresses the organization of the regular DFD, states in subparagraph (e) that the “ambulance and rescue division” shall have: “(1) One lieutenant (2) Such additional men as may be assigned to the ambulance and rescue division by the fire chief, either temporarily or on a permanent assignment.”
230. Since Plaintiff was the EMS Coordinator for the City of Danbury, one of the signatories for the Ambulance Certificate of Operations for the Danbury EMS/Division of DFD, and the only person promoted to the EMS/ Rescue Division, that means that the Lieutenant referred to in Danbury Code of Ordinances 8-1(e) is the EMS Coordinator.
231. Despite the explicit terms of the Charter and the Code of Ordinances, the Defendant City of Danbury and the DFD refused to recognize Plaintiff’s rank of Lieutenant.
232. Despite the explicit terms of the Charter and the Code of Ordinances, Defendant Local 801 also refused to recognize Plaintiff’s rank.
233. Defendants thereby breached the terms of the Charter of the City of Danbury and the provisions of the Code of Ordinances.
234. At all times relevant to this Complaint, Plaintiff fulfilled his duties as EMS Coordinator for the City.

235. As a consequence of the Defendants' breach, Plaintiff suffered emotional distress.

236. As a further consequence of the Defendants' breach, Plaintiff suffered a loss of rank which was a substantial benefit of his employment unique to the Danbury Fire Department and necessary to successfully completing his duties.

**WHEREFORE, Plaintiff claims:**

- A. Compensatory damages for emotional distress;
- B. Reasonable attorney's fees pursuant to 42 U.S.C. § 1988;
- C. Punitive damages against the Defendants in their individual capacities;
- D. Costs;
- E. Pre and post judgment interest;
- F. An order that Plaintiff be recognized as having the appropriate rank; and
- G. Such other and further relief that the Court finds just and reasonable.

**PLAINTIFF,  
Reynoldo Rodriguez**

By: \_\_\_\_\_ /S/

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