

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

SCOTT BERGANTINO,
Plaintiff,

v.

C.A. No. _____

CITY OF CRANSTON by and through its
Finance Director, Robert Strom,
CRANSTON FIREFIGHTERS LOCAL 1363, and
PAUL VALLETTA, JR., in his personal capacity and
his professional capacities as President of Local 1363
and Deputy Chief of the Cranston Fire Department,
Defendants.

COMPLAINT

I. PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Scott Bergantino is a Rhode Island resident and lieutenant in the Cranston Fire Department.
2. Defendant City of Cranston is a municipality in the State of Rhode Island.
3. Defendant Cranston Firefighters International Association of Fire Fighters, Local 1363 (“Local 1363”) is a Rhode Island non-profit corporation with a principal place of business at 63 Chambly Avenue, Warwick, RI.
4. Defendant Paul Valletta, Jr., is a Rhode Island resident, Deputy Chief of the Cranston Fire Department, and president and director of the Cranston Firefighters International Association of Fire Fighters, Local 1363.
5. Defendant Valletta did not give up his position as president or director of the Local 1363 when he was promoted to Deputy Chief by Mayor Alan Fung.

6. This Court has subject matter jurisdiction over this matter according to 28 U.S.C. § 1331 and 28 U.S.C. §1343.
7. This Court has supplemental jurisdiction over Mr. Bergantino's state law claims pursuant to 28 U.S.C. § 1337(a), because these claims form part of the same case or controversy under Article III of the U.S. Constitution.
8. This Court has personal jurisdiction over Defendants because they are domiciled in this district, and committed all the acts giving rise to Plaintiff's claims in this district.
9. Pursuant to 28 U.S.C. § 1331(b), venue is proper in this Court because (1) it is the Court for the judicial district in which all the events or omissions giving rise to the claim occurred; (2) it is a judicial district in which any defendant may be found; (3) and it is a judicial district in which all Defendants reside.

II. FACTS

10. Plaintiff incorporates by reference all allegations above and below as if restated here in full.
11. Mr. Bergantino was hired by the City of Cranston as a firefighter in August, 1994.
12. Mr. Bergantino was promoted to the position of Lieutenant in the Cranston Fire Department in 2012.
13. As Lieutenant, Mr. Bergantino is responsible for a crew and engine truck at Fire Station Six in Cranston.
14. On September 9, 2017, Mr. Bergantino was working at Station Six.
15. At approximately noon, Cranston Firefighter Michael Burke called Station Six.
16. A firefighter with the rank of private took the call.

17. Mr. Burke was calling on behalf of the Union and told the private that firefighters working at Station Six had to participate in the “Fill the Boot” union fundraising activity underway at the time in Cranston.

18. During Fill the Boot fundraisers, firefighters raise money for muscular dystrophy research by asking drivers stopped at stoplights to throw donations into a firefighter’s boot.

19. Fill the Boot fundraisers are not work, are not required by the union contract, and are not sanctioned by the City of Cranston.

20. Mr. Bergantino believed that it was in bad taste for firefighters to ask citizens for money as Hurricane Irma was bearing down on Florida— just days after Hurricane Harvey hit Texas, displacing tens of thousands of people from their homes. Also, earlier this year, the Cranston City Council passed an ordinance banning panhandling.

21. Mr. Bergantino told his crew they would not participate in the Fill the Boot collections that day.

22. At approximately 1pm, Defendant Valletta called Station Six.

23. Mr. Valletta asked Mr. Bergantino if his crew was going to participate in the Fill the Boot fundraiser.

24. Mr. Bergantino reiterated that his crew would not be participating in the fundraiser that day.

25. Mr. Valletta told Mr. Bergantino to get his men together and that he was coming to the station. Mr. Valletta hung up on Mr. Bergantino.

26. When Mr. Valletta arrived at the station, he told Mr. Bergantino’s crew that they should participate in the Fill the Boot fundraising.

27. Mr. Valletta criticized Mr. Bergantino in front of Mr. Bergantino's crew.
28. Mr. Valletta disclosed confidential health information about Mr. Bergantino to members of Mr. Bergantino's crew.
29. Mr. Bergantino asked Mr. Valletta why he recently did not give Mr. Bergantino certain overtime shifts.
30. According to the Agreement between the City of Cranston and Local 1363, according to a separate agreement between the Fire Chief and Local 1363 dated July 1, 2007, and according to Fire Department procedure and tradition, Mr. Valletta was supposed to give Mr. Bergantino an overtime shift on or about August 19, 2017.
31. Mr. Bergantino asked Mr. Valletta who he should file a union grievance with to complain about Mr. Valletta refusing to give him overtime. Mr. Valletta replied, "me!" and then laughed.
32. Mr. Valletta started provoking and yelling at Mr. Bergantino. An argument ensued.
33. Mr. Valletta lunched at Mr. Bergantino, slammed him up against a whiteboard, punched him in the head twice, then pushed him over a large chair onto the floor, slamming his head.
34. Firefighters yelled, "Chief stop, stop. Chief, come on, stop!" at Defendant Valletta.
35. Firefighters had to pull Mr. Valletta off of Mr. Bergantino.
36. On his way out, Defendant Valletta yelled at Mr. Bergantino, "Don't worry, I'll run into you again."
37. At that time, Mr. Bergantino called Chief of the Fire Department, William McKenna, to tell him that Defendant Valletta assaulted him and to tell Chief McKenna he was going to the hospital. Chief McKenna replied that he would call Defendant Valletta.

38. Mr. Bergantino drove himself to the hospital where he was treated for injuries including a concussion to the brain.
39. After criminally assaulting Mr. Bergantino, Defendant Valletta continued working an overtime shift, which he finally finished about 18 hours later.
40. The City of Cranston paid Defendant Valletta over \$1,000 for work he performed after he criminally assaulted Mr. Bergantino.
41. On or about September 10, 2017, Mr. Valletta was arrested and charged.
42. On September 11, 2017, Daniel Parrillo, Personnel Director of the City of Cranston, placed Mr. Bergantino on paid administrative leave.
43. On September 11, 2017, Mr. Parrillo placed Defendant Valletta on paid administrative leave.
44. Defendant Valletta was not to have any contact with Fire Department employees while on paid administrative leave. On the evening of September 11, 2017, Defendant Valletta ran the Local 1363 union meeting.
45. After Mr. Parrillo placed Mr. Valletta and Mr. Bergantino on paid leave, Mr. Parrillo conducted meetings with over twenty firefighters, some of whom were witnesses to Mr. Valletta's assault of Mr. Bergantino, some of whom were not.
46. Mr. Parrillo claimed that these meetings were part of his investigation into Defendant Valletta's criminal assault on Mr. Bergantino.
47. In Mr. Parrillo's meetings with firefighters, Dean Brockway, a member of Executive Board of the Union, was present.
48. Most, if not all, of Mr. Parrillo's meetings about Defendant Valletta which Mr. Brockway attended were with members of the Union.

49. In at least some of Mr. Parrillo's and Mr. Brockway's meetings with Union members, Mr. Brockway made no effort to represent the interests of the Union member being interviewed by Mr. Parrillo.

50. The Union provided no representation to Union members attending meetings with Mr. Parrillo and Mr. Brockway. Mr. Brockway was there to protect Defendant Valletta.

51. During at least one of the interviews Mr. Parrillo and Mr. Brockway conducted with witnesses to Mr. Valletta's criminal assault of Mr. Bergantino, Mr. Parrillo and Mr. Brockway encouraged the witness to change his statement to police to make Defendant Valletta and the City of Cranston look less culpable.

COUNT ONE
42 U.S.C. §1983
NEGLIGENT TRAINING
(CITY OF CRANSTON)

52. Plaintiff incorporates by reference all allegations above and below as if restated here in full.

53. In 2004, Defendant Valletta was charged with the crime of disturbing a public assembly after he aggressively yelled at, threatened, and argued with the mayor of Cranston at the time, Steven Laffey.

54. Defendant Valletta's 2004 outburst toward Mayor Laffey was videotaped and broadcast on television news. The videotape shows Defendant Valletta yelling at and out of control toward the city's highest elected official. The videotape shows Defendant Valletta advancing toward Mayor Laffey. Police and bystanders had to physically restrain Defendant Valletta from advancing toward Mayor Laffey.

55. By this time, the City of Cranston knew of Defendant Valletta's violent temper and inability to control his anger.

56. At this time, Defendant Valletta was an employee of the City of Cranston.

57. The City of Cranston had a duty to have a policy or custom in place to train employees in supervisory roles how to handle anger, stress, and a bad temper.

58. In cases where employees in supervisory positions have a known history of a violent temper or inability to control anger, the City of Cranston had a duty to train said supervisors how to control their temper and anger.

59. After August, 2004, the City of Cranston was on notice of the fact that Defendant Valletta's inability to control his anger or temper could impact employees and citizens with whom Defendant Valletta came into contact.

60. Nevertheless, at no time after August 1, 2004, did the City of Cranston establish a policy, custom, or procedure in place to train employees in supervisory roles how to handle anger, stress, or a bad temper.

61. At no time after August 1, 2004, did the City of Cranston train employees in supervisory roles how to handle anger, stress, or a bad temper.

62. At no time after August 1, 2004, did the City of Cranston train Mr. Valletta how to handle his anger, stress, or bad temper.

63. The City of Cranston's refusal and failure to establish a policy or custom in place to train employees in supervisory roles how to handle anger, stress, and a bad temper demonstrates the City of Cranston's deliberate indifference to the rights of employees and citizens with whom Defendant Valletta would come into contact.

64. The City of Cranston training employees in supervisory roles unable to control their stress or anger how to handle anger, stress, and a bad temper would have made a difference in this case.

65. The City of Cranston's refusal and failure to establish a policy or custom in place to train employees in supervisory roles how to handle anger, stress, and a bad temper was a cause of the injuries inflicted upon Mr. Bergantino by Defendant Valletta.
66. The City of Cranston's refusal and failure to establish a policy or custom in place to train employees in supervisory roles how to handle anger, stress, and a bad temper was objectively unreasonable.
67. Mr. Valletta's violent reaction to Mr. Bergantino on September 9, 2017, was objectively unreasonable.
68. The City of Cranston's deliberate disregard for a known or obvious risk of Defendant Valletta causing serious harm to another person is evidenced by the City of Cranston's failure to put a policy or custom in place to train employees in supervisory roles how to handle anger, stress, or a bad temper.
69. Mr. Bergantino has a right under federal law to be free from violence in a municipal workplace.
70. Mr. Bergantino has a right under federal law to be free from violence inflicted by a municipality through its agents.
71. Defendant Valletta's violation of Mr. Bergantino's federal right to be free from violence was a highly predictable consequence of the City of Cranston's failure to properly and adequately train Defendant Valletta.
72. The City of Cranston is liable to Mr. Bergantino for negligent supervision in violation of federal law.
73. The City of Cranston's policy or custom of not adequately training employees who cannot control their anger or temper caused Mr. Bergantino's injuries.

74. Cranston's deliberate indifference to Mr. Bergantino's well-being, firefighters' well-being, and citizens' well-being in not training and supervising Defendant Valletta caused Mr. Bergantino's injuries and emotional distress.

Mr. Bergantino asks this Honorable Court to find in his favor, award him compensatory damages, consequential damages, equitable relief, attorneys' fees, costs, interest, and all other relief this Court deems meet and just.

COUNT TWO
ASSAULT
(VALLETTA &
LOCAL 1363)

75. Plaintiff incorporates by reference all allegations above and below as if restated here in full.

76. Mr. Valletta touched, pushed, slammed, and hit Mr. Bergantino without any justification.

77. Defendant Valletta's pushing, slamming, and hitting Mr. Bergantino constitutes assault.

78. Defendant Valletta's pushing, slamming, and hitting Mr. Bergantino caused Mr. Bergantino serious injuries including a concussion.

79. Defendant Valletta is liable for assault and responsible for all injuries and damages caused by his assault of Mr. Bergantino.

80. As president and director of Local 1363, Defendant Valletta is the highest-ranking officer in Local 1363.

81. Local 1363 is responsible for all acts Defendant Valletta does in the course and scope of his work as president of Local 1363.

82. Local 1363 is liable for Defendant Valletta's assault on Mr. Bergantino, which was conducted in the course and scope of Defendant Valletta's work as president and director of Local 1363.

Mr. Bergantino asks this Honorable Court to find in his favor, award him compensatory damages, consequential damages, equitable relief, costs, interest, and all other relief this Court deems meet and just.

COUNT THREE
BREACH OF DUTY OF FAIR REPRESENTATION
(VALLETTA &
LOCAL 1363)

83. Plaintiff incorporates by reference all allegations above and below as if restated here in full.

84. Local 1363 and its President, Defendant Valetta, are under a duty to fairly and adequately represent the interests of all its members.

85. Local 1363 and Defendant Valetta have a duty to respond to members' grievances in good faith manner and not in an arbitrary manner.

86. Local 1363 and Defendant Valetta have a duty to make decisions as to the merits of particular grievances and promptly pursue all plausible grievances and not in a perfunctory manner.

87. On September 9, 2017, Mr. Bergantino asked Mr. Valletta who he should file a union grievance with to complain about Mr. Valletta refusing to give him overtime shift.

88. Mr. Valletta replied, "me!" and then laughed.

89. With this reply and attitude, Defendant Valletta showed his contempt of his duty of fair representation to Mr. Bergantino.
90. With this reply and attitude, Defendant Valletta showed his contempt of Local 1363's duty of fair representation to Mr. Bergantino.
91. Neither Defendant Valletta nor Local 1363 ever filed a grievance on Mr. Bergantino's behalf regarding the overtime shift that Defendant Valletta failed to give Mr. Bergantino.
92. Mr. Bergantino filed grievances with the City of Cranston regarding Defendant Valletta's failure to schedule Mr. Bergantino for certain overtime shift.
93. Neither Defendant Valletta nor Local 1363 ever pursued these grievances.
94. Further grievances by Mr. Bergantino would have been futile given Defendant Valletta's contempt for Mr. Bergantino.
95. Further grievances by Mr. Bergantino would have been futile given Defendant Valletta's contempt for his duty of fair representation of its members and contempt for Local 1363's duty of fair representation of its members.
96. Defendant Valletta's assault on Mr. Bergantino constituted a per se breach of Defendant Valletta's and Local 1363's duty of fair representation of Mr. Bergantino.
97. Defendant Valletta's and Local 1363's failure to pursue grievances on behalf of Mr. Bergantino constitutes a breach of their duty of fair representation of Mr. Bergantino, causing Mr. Bergantino damages, for which each is jointly and severally liable.

Mr. Bergantino asks this Honorable Court to find in his favor, award him compensatory damages, consequential damages, equitable relief, costs, interest, and all other relief this Court deems meet and just.

COUNT FOUR
NEGLIGENCE
(VALLETTA &
LOCAL 1363)

98. Plaintiff incorporates by reference all allegations above and below as if restated here in full.

99. Defendant Valletta had a duty to exercise ordinary care in his interactions with Mr. Bergantino.

100. Mr. Valletta touched, pushed, slammed, and hit Mr. Bergantino without any justification.

101. A reasonable person in like circumstances would not have touched, pushed, slammed, or hit Mr. Bergantino as Defendant Valletta did.

102. Defendant Valletta's pushing, slamming, and hitting Mr. Bergantino was grossly negligent.

103. Defendant Valletta's pushing, slamming, and hitting Mr. Bergantino caused Mr. Bergantino serious injuries including a concussion.

104. Defendant Valletta is liable for negligence and responsible for all injuries and damages caused by his negligence toward Mr. Bergantino.

105. As president and director of Local 1363, Defendant Valletta is the highest-ranking officer in Local 1363.

106. Local 1363 is liable for Defendant Valletta's negligence, which occurred in the course and scope of his work as president and director of Local 1363.

Mr. Bergantino asks this Honorable Court to find in his favor, award him compensatory damages, consequential damages, equitable relief, attorneys' fees, costs, interest, and all other relief this Court deems meet and just.

COUNT FIVE
CIVIL CONSPIRACY
(DEFENDANTS)

107. Plaintiff incorporates by reference all allegations above and below as if restated here in full.

108. Mr. Parrillo encouraged a witness to Defendant Valletta's criminal assault of Mr. Bergantino to change his story to be more favorable to the City of Cranston, more favorable to Defendant Valletta, and less favorable to Mr. Bergantino.

109. Mr. Parrillo's encouragement of the witness occurred in the presence of Mr. Brockway and with Local 1363's knowledge and encouragement.

110. Mr. Parrillo's encouragement of a witness to change his story in favor of the City of Cranston, in favor of Defendant Valletta and not in favor of Mr. Bergantino shows that all Defendants worked together to commit civil wrongs.

111. Defendants concerted illegal acts constitute civil conspiracy, causing
Mr. Bergantino damages, for which each Defendant is jointly and severally liable.

Plaintiff,
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By His Attorneys,

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