

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA**

JOSHUA L. GRANADA,

CASE NO.:

**Plaintiff,**

DIVISION:

vs.

CITY OF ORLANDO,

**Defendant.**

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**COMPLAINT FOR DAMAGES PURSUANT TO  
SECTION 440.205, FLORIDA STATUTES AND DEMAND FOR JURY TRIAL**

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The Plaintiff, Joshua L. Granada (herein afer “Granada”, “Employee” or “Plaintiff”) by and through counsel, Jeffrey E. Appel, Esquire of the Appel Law Group, P.A., and Geoffrey Bichler, Esquire, of Bichler, Oliver, Longo & Fox, PLLC, hereby demands damages from the his former Employer, Defendant, City of Orlando (hereinafter “Employer,” “the City” or “Defendant”), and hereby files this claim against the above named Defendant under the authority of Section 440.205, Florida Statutes, and in support thereof states as follows:

1. This court has jurisdiction over all parties.
2. Venue is proper in Orange County, Florida, as all events set out below occurred within Orange County, Florida.
3. At all times relevant, Plaintiff was over 18 years old and therefore an adult under Florida law and worked in Orange County, Florida.
4. At all times relevant the City was a governmental agency operating in Orlando, Orange County, Florida.

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5. City of Orlando Fire Department is a department of the City.
6. This is an action for damages in excess of \$15,000.00.

### **GENERAL ALLEGATIONS**

7. Granada was hired by the Defendant on November 4, 2007.
8. On or about June 12, 2016, Granada was on duty in his employment, working as a fire fighter/paramedic.
9. Granada was the driver of a rescue truck (ambulance), partnered with firefighter/paramedic Carlos Tavarez (“Tavarez”).
10. On this date, Granada and Tavarez delivered a patient to Orlando Regional Medical Center (“ORMC”) in the early morning hours, just blocks from the Pulse Nightclub.
11. After delivering the patient, Tavarez was talking to an off duty police officer, Jimmy Hyland (“Hyland”).
12. Tavarez heard of the shooting at the Pulse Nightclub over Jimmy Hyland’s radio.
13. Granada and Tavarez immediately responded and rushed to the incident commonly known as the Pulse Nightclub Massacre in rescue truck number 7.
14. Hyland also responded in his personal pickup truck.
15. At the scene, Granada and Tavarez could hear gunshots and they were greeted by a throng of fleeing nightclub patrons.
16. Soon thereafter, they located a victim who had been shot twice in the stomach and was in critical condition.
17. Granada and Tavarez quickly assisted the victim and transported him to ORMC where they continued to hear gunshots coming from the Pulse Nightclub.
18. Hyland subsequently transported victims to the hospital in his personal vehicle.

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19. After delivering the first victim, Granada and Tavaréz returned directly to the scene where they found more seriously wounded victims.
20. Granada and Tavaréz attempted to locate the most critically injured victims and transported as many of them as possible in a subsequent trip to ORMC.
21. During this time, the fire department had called over the radio for “all units” to stage in a certain location, some distance from the active shooter scene.
22. Granada did not report to the staging area as he was already in the midst of actively transporting victims and knew gravely wounded citizens had been left behind at the scene with no other rescue on the way.
23. Upon his return to the scene of the massacre, Granada found victims who he had left alive but who had died during his absence.
24. Granada and Tavaréz made two additional trips to the scene of the Pulse Nightclub, each time transporting gunshot victims to ORMC.
25. During these trips, Granada and Tavaréz were the only fire department personnel rescuing victims from the scene of the ongoing slaughter.
26. Meanwhile, Bryan Davis, a first level District Chief, took charge of the Fire Department response to the shootings despite the fact a higher ranking, more senior department member, Division Chief Paul Plaughter was on scene.
27. No higher ranking Fire Department official was notified of the incident until approximately 5:15 a.m. (Exhibit A).
28. After Granada and Tavaréz made a fourth transport to ORMC, command called his unit specifically by number, ordering him to report to the staging area.
29. Granada complied.

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30. By chance, Granada's unit was first to respond back to the scene after the police had breached the building and eliminated the threat, at which time he made a fifth and final trip transporting the critically injured to ORMC.
31. About two and one-half hours passed between when Granada reported to the staging area and when he was dispatched for the fifth and final trip to the Pulse Nightclub Massacre scene.
32. At about 5:30 a.m., to 6:30 a.m., Granada was released from the scene, instructed to report back to the fire station and ordered to clean up the back of his ambulance so the unit could be placed back in service for the next shift.
33. Granada was relieved at approximately 7:45 a.m., cleaned himself up and returned home about 9:00 a.m., to 10:00 a.m., and went to bed.
34. Granada was awakened at about 2:30 p.m., to 3:00 p.m., by a call from Aaron Pielin, an EMS Lieutenant, who inexplicably asked him for his written reports (ESO Reports) on the numerous victims Granada transported, most of which Granada did not even know their first names.
35. Over the next year, Granada did his best to continue working, coping with both emotional difficulties from his experience and with backlash from some of his superiors within the fire department for not following "protocol" in his response to the incident.
36. Specifically, this backlash included, but were not limited to the following:
  - a. On Friday, September 2nd, 2016, Granda was scheduled to attend the last day of the Orange County preceptor academy after having been previously asked to attend to become an OFD paramedic preceptor. This last day was

voluntary. On Granada's way to class, his wife had a car emergency and he diverted to help her. It took him about two hours. Granada resumed his trip to the academy class before 12:00 p.m.

At this point, Lt. Pielin of EMS contacted Granda at which time he relayed a direct order via Chief Hezedeane Smith not to report to the academy that day. Granada relayed to Lt. Pielin that he had a family emergency to handle and that he was already en route to academy and would be there before 12pm, in time to finish the last half of the class. Lt. Pielin reiterated Chief Hezedeane Smith had given a direct order not to attend the academy that day. After the call, Granada texted Chief Smith about what happened and why he missed the first half of class (See Exhibit B). Granada was next contacted by Chief Joe McCluan who reiterated the same thing Lt. Pielin did, that is, Chief Smith had given a direct order NOT to report to the academy. Granada obeyed the order, turned around and went home.

Next, on Tuesday September 6th, 2016, Granada was driving Engine 10 with Lt. Tim Setter. He received a call from Lt. Pielin at approximately 3:00 p.m., informing him that Chief Hezedeane Smith ordered him to initiate an Investigative Reporting and Investigative System Field Inquiry ("IRIS") because of Granada's failure to report to the last day of the OC preceptor academy. Granada informed Lt. Pielin that not only did Chief Smith give him a direct order not to attend the second half of the last day, but it was a voluntary class he was attending off duty and there were no grounds for a write up.

Lt. Pielen indicated that he agreed but relayed that he was given the order and had no choice. He also stated to Granada he was in the process of trying to figure out which violation “fit” so he could complete the IRIS. Under normal circumstances Granada’s actions would have not generated an IRIS.

- b. On Friday, January 13, 2017, at approximately 8:30 a.m. Granada received an email from District Chief Spurlin regarding a call occurring on the same shift as the Pulse Massacre. This was a call regarding a report of right ankle pain by a citizen. After responding and finding no patient, Tavarez wrote a report there was no patient found. According to a different report, written by Engineer Hair regarding the same call, Rescue 7 (Tavarez and Granada) cancelled Engine 7 from reporting to the scene in which he indicated the call resulted in a patient refusal.

In response to Chief Spurlin’s email, Engineer Hair relayed to the Chief he never made it on scene and incorrectly documented a patient refusal in his report when, in fact, the reason was because no patient was found. He asked Chief Spurlin to unlock the computer reporting system to correct his error.

At approximately 11:00 a.m., Granada was informed by Lt. Manuel Cintron that he needed to go to the EMS headquarters to talk to Chief Spurlin about an issue with a report. Once at EMS Granada was asked to sit down to be questioned about this report. Granada asked Lt. Cintron to accompany him as a witness. In attendance were Granada, Lt. Cintron, Chief Hezedeane Smith, Chief Chris Spurlin, and Chief Kevin Jeralds.

Once seated Chief Smith began interrogating Granada about the incident in question. Chief Smith pushed two pieces of paper in front of Granada, one at a time and asked him to read the narratives of both aloud. The first was the Sunpro narrative written by Engineer Hair that said “Responded emergency to medical call. E7 cancelled by R7 prior to our arrival. R7 treated patient per OCEMS protocol. Patient was not transported to hospital.” After Granada read the first narrative aloud, Chief Smith pushed the other paper in front of him and asked Granada to read it aloud as well. The second was the ESO narrative written by Tavarez that relayed there was no patient found. Chief Smith asked Granada if he saw the problem and what he could remember. Chief Smith acted rude and curt with his questioning regarding the first narrative. Chief Smith then became visibly angry when Granada was unable to recall the incident.

Granada advised Chief Smith he did not remember anything because that was the same day as the Pulse shooting and Pulse related events were all he could recall from that shift. Chief Smith became even angrier when Granada mentioned the Pulse Massacre and said “we’re not talking about the Pulse, we’re talking about this right here (pointing at the ESO report).”

At that time, Chief Spurlin took the ESO report, turned it and showed Granada the time and date of 6/11/2016 at approximately 1800 hours. Chief Spurlin stated “Josh this call is from the 11th, the Pulse was on the 12th.” Granada explained to all three chiefs that his team worked 24 hour shifts and

the shift day starting on the 11th ended on the morning of the 12th so both incidents were in fact on the same shift.

Chief Smith continued badgering Granada, relaying that regardless of the Pulse events Granada should be able to remember a call from a few hours prior. Granada could not. He asked Chief Smith why he was insistent on this as he was not the author of either report. Granada asked Chief Smith if he was holding back information trying to “catch” him in a lie about a detail of this call he already knew. Chief Smith then admitted to Granada that he spoke to the “patient’s” mother and questioned her about this incident so he knew more than he was letting on.

Considering how the meeting was handled, it was apparent it was not a fact-finding mission, but rather an inquisition into Granada’s actions for possible punishment. (See Exhibit C).

37. During the time Granada worked after the Pulse Massacre, Granada’s immediate supervisor, Lt. Gregg McLay, was aware of Granada’s emotional struggle.
38. Also during this time, Granada also spoke with his co-worker Tavarez regarding the emotional impact of the Pulse Massacre.
39. Despite his emotional difficulties and backlash from within the fire department command, Granada was promoted and continued to perform his duties for the fire department.
40. In June 2017, Granada told Lt. McLay he specifically wanted to file a workers’ compensation claim for treatment of his emotional injuries as a result of his involvement with the Pulse Massacre.

41. Thereafter, Lt. McLay went out on vacation.
42. While Lt. McLay was on vacation, Granada and Tavaréz were dually nominated, in June 2017, for Firefighter of the Year Award by the St. Cloud Fire Chief recognizing their heroism and bravery in responding to the Pulse Massacre. This award has never been awarded to two Firefighters at the same time. Due to the extreme circumstances of the Pulse Massacre and considering the heroic actions of Granada and Tavaréz, the State Fire Marshall decided both men should receive the Award.
43. Public Information Officer, Ashley Papagni contacted Granada while he was off duty. She asked Granada to report to Fire Station 1, in downtown Orlando to receive the award. When Granada arrived at Station 1, he was met by two state officials and two local news crews. There seemed to be tension amongst the department and state officials regarding the award.
44. Of the state officials, Rob Amick, described being met with hostility and disrespect from the administrative chiefs. Mr. Amick quoted Deputy Chief Fussell as saying “those two are NOT to receive that award. They have gotten enough attention already.” Tavaréz was on duty at the time and was not allowed time to come to Fire Station 1 to receive his award. Alternatively, Granada, along with Rob Amick and the other state official drove to the training site where Tavaréz was on duty to make the award followed by a short interview. (Exhibit D)
45. After Lt. McLay’s return from vacation, he wrote an email date July 19, 2017, to his superiors indicating he felt Granada needed professional counseling for his emotional issues. (Exhibit E).

46. On July 19, 2017, a Notice of Injury was completed for Granada, documenting his emotional/mental injury.
47. Lt. McLay sent a follow up email on August 17, 2017, documenting his concerns with the department's lack of response to the report of injury he filed for Granada. (Exhibit F).
48. The City did not immediately respond to Granada's request for treatment.
49. Granada sought treatment on his own through a program at UCF Restores where he was counseled by Madeline Marks.
50. Around August 15, 2017, Lt. McLay questioned his superior, District Chief Jeffrey ("JJ") White about what was going on with Granada's request for treatment.
51. On the morning of August 16, 2017, Lt. McLay mentioned an inter-office memorandum to Granada from the "3<sup>rd</sup> Floor Administration" which contained an envelope enclosing an FBI Certificate of Appreciation and Commemorative Coin for Granada's part in the Pulse Massacre. (Exhibit G). Granada later learned a special ceremony had been held at OFD by the FBI for those who were directly involved in the Pulse Massacre. However, Granada was not invited to and was excluded from participation in this ceremony.
52. Only after being prompted did the City set up an evaluation for Granada with Barry Portnoy, M.D., an occupational doctor for the fire department who immediately referred Granada to a psychiatrist.
53. Around this same time, Granada received a text from Chief Ed Griffin indicating the fire department will not support time off or light duty while Granada attended the UCF Restores program. (Exhibit H).

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54. Also, around this time, Granada emailed the deputy fire chief, Gary Fussell, questioning the department's handling of mental health issues. (Exhibit I).
55. Almost immediately thereafter, Granada was scheduled to see Dr. Herndon Harding, a psychiatric physician assigned by the City.
56. Shortly after this, Granada's email to the deputy fire chief was leaked to the press and the story was featured in the local news.
57. Lt. McLay also relayed to Granada that he had heard from District Chief J.J. White that Deputy Chief Fussell said post-traumatic stress disorder ("PTSD") was "bullshit" and that those complaining of such a condition were "pussies" who needed to "man up."
58. After making his claim for workers' compensation benefits for his emotional difficulties, the fire department systematically began retaliating against Granada and harassing him.
59. The department retaliated against Granada by assigning supervisors to keep a close eye on him, counsel him and write him up for incidents which would not normally result in disciplinary action.
60. For example, Granada was on Rescue Truck 10 and made a statement, "You can count on us" over the radio in response to being asked to move to a different location and was subsequently chastised by his superior, pursued around the station and yelled at for "excessive" radio communication by Lt. Mitch Sanders.
61. In another example, Granada was on a routine medical call where he was the senior medic and his accompanying supervisor was technically not in charge of medical decisions. However, during this call, his supervisor superseded Granada and the

patient's decision not to transport the patient to the hospital and encouraged the patient to be transported to the hospital by telling her she was at risk of death. After this call, in a meeting where Granada and Lt. McLay met with the offending supervisor, Lt. Mitch Sanders, in an act of retaliatory defiance, refused to recognize his error and acknowledge that he should have deferred to Granada's superiority in the circumstances under department protocol.

62. Around August 31, 2017, after Granada had been placed on restricted duty work. District Chief Mark Gregory wrote up Granada for not reporting to work after Hurricane Irma. However, Granada had previously explained to District Chief J.J. White that he had been stranded in a flooded neighborhood without power and without cell phone reception. Under normal circumstances, this failure to report would have been excused without reprimand but, according to Lt. McLay, Granada was under special scrutiny by Deputy Chief Fussell because of Granada's request for workers' compensation medical benefits for his psychiatric condition.
63. In October 2017, Granada took vacation days to participate on behalf of the City in an air medical transport competition in Ft. Worth, Texas. Typically, this activity would have been approved and Granada would have been granted paid time off to represent the City, but this was denied to Granada in contrast to his co-workers, Tavarez who was granted paid time off to compete.
64. Granada and Tavarez won the competition.
65. However, upon Granada's return, District Chief Gregory called Granada into his office to chastise him for taking sick time to attend the competition. In fact, Granada had taken time off during the same week as the competition to attend an actual doctor

- appointment. District Chief Gregory refused to believe Granada and stated he would investigate further, to the point of contacting Granada's doctor's office, to check the validity of his story. Deputy Chief Gregory had the doctor's note in his hand at the time he made this statement to Granada. Such action would never have been taken by a supervisor under normal circumstances.
66. In another act of retaliation, the department assigned Lt. Mitch Sanders to scrutinize Granada and who kept approximately six months of supervisory notes on Granada which were largely negative, despite it not being his place to do so.
67. Meanwhile, during the same time, the supervisory notes of Lt. McLay, Granada's actual supervisor, were favorable toward Granada's work.
68. Also, the department refused to issue Granada Basic Life Support, Advanced Cardiac Life Support and Pediatric Cardiac Life Support cards (instructor versions) after he had completed training and after his specific requests for same.
69. Granada was the lead instructor for these courses.
70. On August 27, 2017, Granada responded, along with other fire department personnel, to a call where City Commissioner Regina Hill was found to be unconscious and unclothed in a hotel room.
71. During the call, Commissioner Hill became conscious and began acting verbally abusive and combative toward the rescue team.
72. Granada, fearing the incident would become one in which his team could have been accused of wrongdoing, made a short audio recording during the encounter.
73. After returning to the station, Granada played the recording in the presence of supervisory personnel and subsequently deleted it.

74. This practice is not out of the ordinary under similar rescue situations and is in fact commonly used to document professionalism.
75. No supervisor present at the time advised Granada not to play the recording or to delete it.
76. Normally, such an action would result in no discipline.
77. At most, such action would result if minor discipline even if the recording was not made in good faith.
78. Nevertheless, the City used the incident as an excuse to terminate Granada.
79. Upon information and belief someone from the department contacted a local health department investigator who, in turn, contacted Granada indicating that his paramedic license was under review for possible revocation.
80. All these actions occurred after Granada made his claim for workers' compensation benefits, ultimately culminating in his termination on November 21, 2017.
81. Granada continues to treat for his emotional difficulties, has been prescribed medication and recommended for counseling, which he has pursued.
82. Granada has made his best effort to replace his income after losing his job with the fire department by working as a contractor doing teaching and training in his field.
83. While Granada was already being harassed after the Pulse Massacre for what department superiors termed "glamorized failure to follow protocol," the harassment and retaliation ramped up significantly after he filed a valid workers' compensation claim, culminating in his termination.
84. Prior to filing his workers' compensation claim, Granada's performance appraisals were all excellent.

85. The actions described herein occurred while Granda was pursuing a valid claim for compensation under Florida's Workers' Compensation Act.
86. These actions violate Section 440.205, Florida Statutes.
87. These actions exacerbated Granada's emotional injury and have caused him great and continuing emotional distress.
88. These actions caused Granada to lose wages and he continues to suffer lost wages.
89. These actions have caused Granada to lose his blossoming career with the fire department.
90. Furthermore, the fire department's persecution of Granada has permanently damaged his ability to obtain future work in other fields where he was qualified for employment.

**Violation of Fla. Stat. 440.205**

91. Section 440.205, Florida Statutes reads:

Coercion of employees. – No employer shall discharge, threaten to discharge, intimidate, or coerce any employee by reason of such employee's valid claim for compensation or attempt to claim compensation under the Workers' Compensation Law.

92. Accordingly, employers cannot discharge, threaten to discharge, intimidate, or coerce any employee by reason of such employee's valid claim for compensation or attempt to claim compensation under the Workers' Compensation Law.
93. Granada, by filing valid workers' compensation claims, engaged in statutorily protected activities.
94. Defendant's actions noted herein violated Section 440.205, Florida Statutes.

95. As a direct and proximate result of the Employer's violations of Section 440.205, Florida Statutes, Granada has suffered severe physical, mental emotional distress, lost wages and incurred other damages.

96. The aforementioned damages and losses are either permanent or continuing.

**WHEREFORE**, Plaintiff demands judgment against the Defendant for damages, costs, prejudgment interest and any other relief this Court deems appropriate.

**DEMAND FOR JURY TRIAL**

The Plaintiff requests a trial by jury for any and all issues so triable.

**DATED:** March 22, 2018.



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