

NO. _____

**JERAMIE CASIANO,
PLAINTIFF,**

§ IN THE DISTRICT COURT

§

§

V.

§

___ JUDICIAL DISTRICT

§

**HARRIS COUNTY EMERGENCY
SERVICES DISTRICT 48,
DEFENDANT.**

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HARRIS COUNTY, TEXAS

PLAINTIFF’S ORIGINAL PETITION AND JURY DEMAND

TO THE HONORABLE JUDGE OF THIS COURT:

Jeramie Casiano, Plaintiff, by and through undersigned counsel, complains of the Harris County Emergency Services District 48, Defendant, and for cause of action and would respectfully show this Honorable Court the following:

**I.
INTRODUCTION**

1. This suit, which arises under the Texas Whistleblower Act, Tex. Gov’t Code §§554.001, *et seq.* (“TWA” or “Act”), is brought pursuant to Rule 190.3 of the Texas Rules of Civil Procedure and is to be administered under Discovery Control Plan Level II.

**II.
PARTIES AND SERVICE**

3. Plaintiff is a resident of Waller County, Texas. At all times relevant to this cause of action, Plaintiff was a public employee of the local governmental entity, Harris County Emergency Services District 48 (“ESD 48”).

4. Defendant, Harris County Emergency Services District 48 (“ESD 48”), is a local government entity as defined by Tex. Gov’t Code §554.001 and may be served with citation by

serving Marshall Kramer, President of the Board of Commissioners of the ESD 48, at 21201 Morton Road, Katy, Texas 77450.

III.
VENUE

5. Venue of this proceeding is proper in Harris County, Texas, pursuant to Tex. Civ. Prac. & Rem. Code §150.035 and Tex. Gov't Code §554.007.

IV.
JURISDICTION

6. The District Courts of Harris County, Texas have jurisdiction over this cause of action because Plaintiff's damages are in excess of the jurisdictional minimum.

V.
JURISDICTIONAL PREREQUISITES

7. Plaintiff has exhausted all grievance and appellate procedures made known to him by ESD 48 and has timely filed this suit in accordance with Sections 554.005 and 554.006, Tex. Gov't Code.

VI.
FACTS

8. Mr. Casiano originally began his employment with ESD 48 on October 1, 2009 as a firefighter. Mr. Casiano continued his exemplary service with ESD 48 until January 26, 2018, when he was terminated by ESD 48. Mr. Casiano performed his job in a highly courageous, respectful, competent, and professional manner, as indicated by his promotion to Lieutenant, as well as media attention he received during his time of employment with ESD 48. Mr. Casiano dutifully served the District of ESD 48 for approximately eight (8) years without incident or disciplinary write-ups.

9. On or about January 24, 2017, Mr. Casiano sent an e-mail correspondence to the Board of Commissioners (“Board”) of ESD 48, including Board President, Marshall Kramer; this e-mail correspondence was also circulated to Mr. Casiano’s direct supervisors. In this correspondence, Mr. Casiano outlined what he believed to be highly concerning and illegal practices being undertaken by the leadership of ESD 48. Specifically, Mr. Casiano wanted to bring the Board’s attention to what he felt was misuse of government property and services, in violation of Tex. Penal Code Ann. §39.02(a)(2), among other issues concerning Mr. Casiano as a firefighter in a leadership position. Mr. Casiano felt that he had a duty, both to himself and to his fellow firefighters, to send communication in good faith to the Board to bring their attention to the matters that the firefighters in ESD 48 were facing daily.

10. Mr. Kramer, on behalf of the Board, responded to Mr. Casiano, informing him that the Board would investigate Mr. Casiano’s concerns, although Mr. Casiano never received any communication in regards to the investigation or the Board’s conclusion.

11. Shortly thereafter, Mr. Casiano began noticing that his superiors in ESD 48 became distant with him. Mr. Casiano felt that his supervisors were resentful over his correspondence to the Board, raising his concerns over the course of several months following his correspondence to the Board.

12. On December 16, 2017, following established procedural requirements, Mr. Casiano placed one of his shifts, scheduled for December 23, 2017 up for trade to all other qualified firefighters to pick up. This is common practice among the firefighters in ESD 48 where their schedules suddenly change and are not able to cover a shift they are assigned; in these situations, other firefighters elect to work the shift that is up for trade. This was a practice Mr. Casiano had utilized multiple times through his eight years of service to ESD 48. In this instance, however, no

firefighter elected to pick up Mr. Casiano's December 23, 2017 shift. Attempting to act proactively, because Mr. Casiano knew that he would be unable to attend this shift, Mr. Casiano sent correspondence to the ESD 48 Chief of Operations Fulgham and ESD 48 Battalion Chief Ellis to inform them that he would be unable to attend the December 23, 2017 shift, and that no other firefighter had picked up this shift. Mr. Casiano also informed another firefighter scheduled for that shift to inform him that he would be riding in place of Mr. Casiano to avoid as much disruption as possible. All relevant personnel and supervisors were made aware that Mr. Casiano would be unable to make this shift.

13. When Mr. Casiano did not arrive for his December 23, 2017 shift, as his supervisors had been previously noticed, Battalion Chief Ellis made it known to Mr. Casiano's fellow firefighters on duty that he was "Absent Without Leave." Although Mr. Casiano attempted to avoid disruption to this shift as much as possible, he understood that there could be a disciplinary write-up for failing to have another firefighter cover his shift, because Mr. Casiano had witnessed instances of other firefighters not showing up for duty without covering their shift that retained employment with ESD 48.

14. Despite Mr. Casiano's eight years of exemplary service and lack of disciplinary action, Mr. Casiano's supervisors immediately suspended Mr. Casiano for being "Absent Without Leave" until a disciplinary hearing was held on January 26, 2018. At this January 26, 2018 hearing, Mr. Casiano was terminated. Mr. Casiano was informed that his termination was entirely based on his being labeled "Absent Without Leave" on December 23, 2017.

15. In all relevant employee handbooks issued to Mr. Casiano from ESD 48, there is no description of disciplinary procedures taken for firefighters considered "Absent Without Leave." However, Mr. Casiano has personally witnessed similarly situated firefighters that were

not terminated. Given that Mr. Casiano's record is exemplary and without disciplinary write-ups, and the fact that similarly situated firefighters were not terminated, it was clear that leadership of ESD 48 took the first opportunity that presented itself to terminate Mr. Casiano as a result of his correspondence outlining the concerns he had regarding leadership and the misuse of government property.

16. Mr. Casiano attempted to appeal this termination, however he found no applicable protocol for appealing this process. Therefore, Mr. Casiano sent correspondence to Mr. Marshall Kramer, President of the Board of Commissioners of ESD 48. In this correspondence, Mr. Casiano appeals to the Board President and explains that despite his due diligence, he had found no other way to appeal his termination. Mr. Casiano has yet to receive any response from Mr. Kramer. This correspondence was sent March 2, 2018.

V.
CAUSE OF ACTION

Whistleblower Retaliation

17. The preceding facts are incorporated by reference in the following claim for relief.

18. Mr. Casiano would show that the aforementioned conduct by ESD 48 constitutes a violation of the Texas Whistleblower Act, Chapter 554, §554.001, Tex. Gov't Code, which prohibits a governmental entity from retaliating against a public employee who, in good faith, reports a violation of law to an appropriate authority.

19. Mr. Casiano's clearly established rights under the Texas Whistleblower Act were violated by ESD 48 when it terminated Mr. Casiano, an eight-year veteran of ESD 48 with no disciplinary write-ups during his term of service, in retaliation for his good faith reports of violations of law to an appropriate law enforcement authority.

Plaintiff's Original Petition

Casiano v. Harris County Emergency Services District 48

VII.
DAMAGES

20. As a direct and proximate result of Defendant's wrongful actions, Mr. Casiano he and will continue to suffer loss of pay, benefits, other monetary damages, and attorneys' fees, costs, and expenses.

VIII.
JURY DEMAND

21. Plaintiff hereby requests a trial by jury of all issues of fact in this case.

IX.
RELIEF SOUGHT

22. Plaintiff seeks prospective and/or injunctive relief against Defendant. The prospective relief sought includes reinstatement to Plaintiff's former position as Lieutenant Firefighter.

23. Plaintiff seeks monetary relief against Defendant for compensation for wages lost during the period of suspension and termination, reinstatement of fringe benefits and seniority rights lost because of the suspension and termination, and for reasonable attorneys' fees and costs associated with this suit.

X.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited and appear herein, and that upon final trial hereof, that Plaintiff recover judgment against Defendant for his damages incurred as a result of Defendant's wrongful conduct. Plaintiff additionally prays for both reasonable attorneys' fees, court costs, and for such other relief to which Plaintiff may be justly entitled by law.

Respectfully Submitted,

LEESER LAW FIRM PLLC

9800 Lorene Lane
San Antonio, TX 78216
Tel: (210) 997-2914
Fax: (210) 504-4486

By: /s/ Jenna C. Castleman

Linda Leeser
State Bar No. 24094796
Email: linda@leeserlaw.com
Jenna C. Castleman
State Bar No. 24105583
Email: jenna@leeserlaw.com
Attorneys for Plaintiff



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this May 6, 2018

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Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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