

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION**

ANTHONY GALVIN,

Plaintiff,

V.

**AUGUSTA-RICHMOND COUNTY,
GEORGIA,**

Defendant.

COMPLAINT

COMES NOW Plaintiff, Anthony Galvin, by and through undersigned counsel, and hereby files this Complaint for Damages against Augusta-Richmond County, Georgia (Defendant), and states as follows:

I. JURISDICTION AND VENUE

1. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 over Count One of this Complaint, which arises out of the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621, et seq. (ADEA).
2. This Court has jurisdiction over the parties of this action because the employment practices described herein were committed within Richmond County, Georgia.
3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.
4. Plaintiff exhausted his administrative remedies in this matter.
5. Plaintiff received his Notice of Right to Sue from the Equal Employment and Opportunity Commission (EEOC) and files this Complaint within the ninety (90) days prescribed.

II. PARTIES

6. Plaintiff is a citizen of the United States and a resident of Georgia.
7. Defendant is a government entity that may be served through its mayor, Hardie Davis, Jr., located at 535 Telfair Street, Suite 200, Augusta, GA 30901.
8. Defendant employed fifteen (15) employees or more at all times relevant to this lawsuit.
9. Defendant is subject to the requirements of the ADEA.

III. FACTUAL ALLEGATIONS

10. Plaintiff worked for the Defendant as a Lieutenant in the Augusta Fire Department (Fire Department)..
11. Plaintiff was born on January 29, 1963, making him fifty-five (55) years old.
12. Plaintiff has been employed with Defendant since September 10, 1990.
13. On or about March 4, 2018, Plaintiff's direct supervisor, Chief Chris Reid, informed Plaintiff that a Sergeant named Bob King reported that Galvin threatened him with a firearm.
14. According to Chief Reid, Sgt. King did not specify when this occurred or for what reason.
15. On or about March 7, 2018, Plaintiff met with Sgt. King, Chief Reid, and Chief Patrick Ivey.
16. During that meeting, Sgt. King retracted his accusation against Plaintiff.
17. Chief Reid asked Sgt. King if Plaintiff had ever threatened him, and Sgt. King said no.
18. On or about March 13, 2018, Chief Reid told Plaintiff he had been cleared of all allegations.
19. Chief Reid also told Plaintiff that Sgt. King had been written up for making a false report.

20. Upon information and belief, Chief Christopher James, head of the Fire Department, rescinded Sgt. King's write-up.
21. On April 21, 2018, a firefighter with the Fire Department named Russell Phelon called Plaintiff and said that Defendant pressured him to provide a false statement against Plaintiff.
22. Specifically, Phelon said that Chief Wayne Taylor told Phelon to write a statement substantiating King's accusations against Galvin.
23. When Phelon refused to write a statement, Chief Taylor drafted his own statement and order Phelon to sign it.
24. Also in April 2018, a second firefighter with the Fire Department, Jerome Ricot, told Plaintiff that Chief Taylor asked him to provide information that could be used against Plaintiff.
25. On or about April 24, 2018, Chief Taylor gave Ricot a prepared statement for him to sign.
26. Because the statement contained false allegations against Plaintiff, Ricot refused.
27. On May 24, 2018, Defendant demoted Plaintiff to the rank of Firefighter II.
28. On or around June 1, 2018, Defendant informed Plaintiff that he would be terminated if he did not retire effective August 1, 2018.
29. On or around June 22, 2018, Plaintiff retired from the Fire Department.
30. Defendant replaced Plaintiff with Lieutenant Tammy Thain.
31. Upon information and belief, Lt. Thain is in her mid-30's.
32. Prior to his demotion, Plaintiff had not received any disciplinary actions or counseling from Defendant.

IV. CLAIM FOR RELIEF

COUNT I

ADEA DISCRIMINATION

33. Plaintiff incorporates by reference paragraphs 1-32 of his Complaint as if fully set forth herein.
34. Plaintiff is in his mid-50's and therefore within a class protected by the ADEA.
35. Plaintiff was subject to the adverse actions of demotion and constructive termination.
36. The person who replaced Plaintiff is substantially younger.
37. Plaintiff was qualified for the person from which he was discharged, as evidenced by his twenty-eight (28) year career in the Fire Department and the lack of any disciplinary actions or counseling prior to the adverse action.
38. Chief Taylor's attempts to procure false statements against Plaintiff is evidence of pretext.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

- a. Trial by jury;
- b. A finding that Defendant violated Plaintiff's rights as set forth herein;
- c. Full back pay plus interest, front pay, compensatory damages, punitive damages, reasonable attorney fees, and costs in accordance with the ADEA; and
- d. Any other relief this Court deems proper and just.

Date: December 3, 2018

Respectfully submitted,

/s/James S.V. Weston

James S.V. Weston
Georgia Bar No. 750251
TROTTER JONES, LLP
3527 Walton Way Extension
Augusta, GA 30909
T: (706) 737-3138
F: (706) 738-3973
jamie@trotterjones.com

Alexander C. Kelly

(pro hac vice application pending)
THE KIRBY G. SMITH LAW FIRM, LLC
15720 Brixham Hill Avenue
Suite 300
Charlotte, NC 28277
T: (704) 729-4287
F: (877) 352-6253
ack@kirbysmith.com

JURY DEMAND

Plaintiff requests a jury trial on all questions of fact raised by this Complaint.

Respectfully submitted this 3rd day of December, 2018.

/s/James S.V. Weston

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Anthony Galvin

(b) County of Residence of First Listed Plaintiff Richmond, GA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Trotter Jones LLP
3527 Walton Way Extension, Augusta, GA 30909

DEFENDANTS

Augusta-Richmond County, Georgia

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country).

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 USC 621, ADEA

Brief description of cause: Age discrimination--employment.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE 12/03/2018 SIGNATURE OF ATTORNEY OF RECORD /s/James S.V. Weston

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.