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Attorneys for Plaintiff, Ernest Richardson  
File No. 527-006**

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER**

**ERNEST RICHARDSON,**

**PLAINTIFF,**

**VS.**

**CITY OF MOUNT VERNON, MOUNT  
VERNON FIRE DEPARTMENT,  
MAYOR RICHARD THOMAS (In his  
individual and professional  
capacities), CAPTAIN MICHAEL ST.  
JOHN (In his individual and  
professional capacities), CHIEF OF  
OPERATIONS AL FARID  
SALAHUDDIN (In his individual and  
professional capacities), JOHN  
DOES 1-10, and XYZ CORPS. 1-10,**

**DEFENDANTS.**

**INDEX NO.:**

**COMPLAINT**

Plaintiff, Ernest Richardson ("Richardson" or "Plaintiff"), who resides at 256 Summit Avenue, Mount Vernon, NY 10552 by way of this Complaint against the Defendants, the City of Mount Vernon ("City"), Mount Vernon Fire Department ("MVFD"), Mayor Richard Thomas ("Thomas"), in his individual and professional capacities, Captain Michael St. John ("St. John"), in his individual and professional capacities, Chief of Operations Al Farid Salahuddin ("Salahuddin"), in his individual and professional

capacities, John Does 1-10, and XYZ Corps. 1-10, (hereinafter collectively "Defendants") hereby says:

### I. Nature of Action, Jurisdiction, and Venue

1. This is an action seeking equitable and legal relief for: (1) violation of the New York State Human Rights Law, N.Y. Exec. Law § 290 *et seq.* ("NYSHRL") (Race Discrimination/Harassment); (2) violation of the New York State Human Rights Law, N.Y. Exec. Law § 290 *et seq.* (Race Discrimination - Retaliation); (3) violation of the New York State Human Rights Law, NY Exec L §290 (2014) (Race Discrimination/Perceived Sexual Orientation-Hostile Work Environment); (4) New York Whistleblower Law, N.Y. Labor Law §740 (Whistleblower Retaliation); (5) Breach of the implied covenant of good faith and fair dealing; and (6) breach of contract.
2. Venue is appropriate in that some of the illegal and improper acts which are the basis for the within asserted causes of action occurred in Mount Vernon, New York, Westchester County and the Defendants in this matter are entities or organizations headquartered or doing business in Mount Vernon, New York, Westchester County, or are employees acting in their individual and official capacities in in Mount Vernon, New York, Westchester County.

### II. Parties

3. Plaintiff, Ernest Richardson, ("Plaintiff" or "Richardson") resides at 256 Summit Avenue, Mount Vernon, NY 10552.
4. At all pertinent times, Richardson was employed by the City of Mount Vernon ("Mount Vernon"), in the Mount Vernon Fire Department ("MVFD").
5. Mount Vernon is an employer within the meaning of the New York State Human Rights Law ("NYSHRL") and the New York Whistleblower Law ("NYWL").
6. Mount Vernon employs at least one (1) or more employees required by the NYWL and at least four (4) or more persons required by the NYSHRL.
7. Defendant, Mayor Richard Thomas ("Thomas") was at all times relevant hereto, the Mayor of Mount Vernon and an employee of Mount Vernon, who took actions to aid or abet in the illegal conduct complained of hereunder and/or who took

actions that serve as the factual predicate for the illegal conduct complained of hereunder.

8. Defendant Captain Michael St. John ("St. John") is currently the Fire Captain of the MVFD and employee of Mount Vernon, took actions to aid or abet in the illegal conduct complained of hereunder and/or who took actions that serve as the factual predicate for the illegal conduct complained of hereunder.
9. Defendant Al Farid Salahuddin ("Salahuddin"), is currently the Chief of Operations of the MVFD and an employee of Mount Vernon, took actions to aid or abet in the illegal conduct complained of hereunder and/or who took actions that serve as the factual predicate for the illegal conduct complained of hereunder.
10. During the relevant time period, JOHN DOES 1-10 are currently unknown employees/agents/workers/contractors employed by Defendants, or were either senior management level employees who controlled Defendants' workplace, who aided and/or abetted in the commission of conduct complained of herein and/or who either acted within the scope of their employment at the workplace site during working hours, or, to the extent they went beyond the scope of their employment, Defendants ratified, embraced and added to JOHN DOES' conduct. As the parties engage in discovery, Plaintiff retains the right to amend the Complaint to add these individual employees by name.
11. During the relevant time period, XYZ Corps. 1-10 are unknown affiliated corporations or entities or other corporations of the named Defendants who have liability for the claims set forth herein. As the parties engage in discovery, Plaintiff retains the right to amend the Complaint to add these individual entities by name.
12. Thus, all Defendants are subject to suit under the statutes alleged above.
13. At all times referred to in this Complaint, employees of the Defendants, who are referred to herein, were acting within the scope of their employment at the workplace during working hours, or, to the extent that they were not so acting, the Defendants ratified, embraced and added to their conduct

### III. Factual Allegations

14. Plaintiff, Ernest Richardson, is a 41-year-old, black, male, who has an expansive career as a firefighter with the MVFD. Plaintiff started his career as a firefighter in February 2003.
15. At all times throughout Plaintiff's career, Plaintiff was an exemplary employee who's performance met and exceed his employer's expectations, which led to his promotion.
16. In January 2016, Plaintiff was appointed by Mayor Thomas to assume the role of Deputy Fire Commissioner and worked in that capacity until his constructive demotion in August 2016.
17. During his time as Deputy Fire Commissioner, Plaintiff was assigned to the MVFD Headquarters located at 470 E. Lincoln Avenue, Mount Vernon, NY 10552.
18. As Deputy Fire Commissioner, Plaintiff received the benefits of a City vehicle and received gas for his City Vehicle paid-for by the City.
19. As Deputy Fire Commissioner, Plaintiff's job duties were to oversee the entire MVFD, conduct meetings, manage/oversee/supervise over 150+ employees, managed the MVFD's annual budget, and wore a professional suit every day to work instead of a firefighter's uniform.
20. However, after August 2016 when Plaintiff was constructively demoted, Plaintiff's employment conditions were altered and he was re-assigned to Fire Station #2 under the demoted position of "Firefighter", located at 435 S. Fulton Avenue, Mount Vernon, NY 10552.
21. Plaintiff no longer oversaw the entire MVFD, conducted meetings, supervised over 150+ employees, managed the MVFD's annual budget, and now had to wear a firefighter's uniform to work every day.

#### **Plaintiff's Refusal/Objection to the Illegal Rehiring of Defendant Mayor Thomas' Brother**

22. In 2015, Defendant Mayor Thomas' brother, Henry George Thomas, was indicted and criminally charged with multiple felony counts involving possession of illegal firearms, *inter alia*.

23. Consequently, Henry Thomas was forced to resign in January 2016 from his position as a Mount Vernon firefighter.
24. In March 2016, during Plaintiff's tenure as Fire Commissioner, Defendant Mayor Thomas and his father, Henry Thomas Sr., demanded that Plaintiff re-hire Henry George Thomas back as a firefighter.
25. However, Plaintiff openly objected to their demands and refused to participate in this illegal activity, which caused a substantial danger and threat to the community at large by having such a dangerous person on the job.
26. Specifically, in March 2016, Plaintiff told Mayor Thomas and the Mayor's father that he would not agree, participate or perform such actions because he knew it was illegal, unethical, and violated numerous charter rules and regulations governing firefighters, and therefore created a substantial danger to the public to return such person to work.
27. Remarkably, Plaintiff reminded Defendants that his own brother was shot and killed in 1996 due to a felon who possessed illegal firearms on the streets of Mount Vernon.
28. Plaintiff took Mayor Thomas and the Mayor's father's illegal demands very personal, and very serious – and was adamant about his refusal to perform such an illegal and dangerous act.
29. Plaintiff stated to Mayor Thomas that felony convictions, particularly the kind Henry Thomas had at the time, were a threat to the community and therefore he reasonably believed that Henry George Thomas did not have a legal right under Civil Service Regulations to be reinstated to the position he had resigned from.
30. Plaintiff feared Henry George Thomas was a threat to the community and his hiring would have resulted in potential civil and criminal liabilities taken against him and the City.
31. Furthermore, former Public Safety Commissioner Robert (Bob) Kelly is a witness to this event and objected to this illegal activity by Mayor Thomas – and joined in Plaintiff's refusal to allow this illegal re-hiring to occur.
32. Moreover, Bob Kelly demanded an investigation of the Mayor's "fraudulent" illegal actions for independent review – and put this in an email copied to Plaintiff, Terry

O'Neil, Esq., Mayor Thomas, Mt. Vernon Corporation Counsel Lawrence Porcari, Esq., and Jerry Kremer, Esq.

33. Rather than accepting Plaintiff's ethical commands as the Fire Commissioner, Defendants began a campaign of retaliation against Plaintiff for his objections from March 2016 to the present.
34. First, Mayor Thomas and Mayor Thomas' father frequently called Plaintiff's office phone at the MVFD Headquarters and his personal phone to verbally threaten him.
35. Specifically, both stated to Plaintiff that he ***should be removed as Fire Commissioner for his refusal to follow their orders and should be replaced by someone who will follow what they need done.***
36. Plaintiff was also frequently harassed and humiliated in the workplace by his supervisors, St. John and Salahuddin, who caused this harassment at the direction and allegiance to Mayor Thomas.
37. Specifically, both St. John and Salahuddin frequently call Plaintiff to date a ***"faggot", "piece of shit", "white boy lover", "caterer to the white boys" and "fake brother"***, for refusing the Mayor's demands and Plaintiff's open support of his Caucasian male co-workers, which St. John and Salahuddin harass and intimidate Plaintiff for same as perceived homosexuality.
38. These comments and acts of retaliation have endured from January 2016 to the present.
39. Further, nearly every bi-weekly pay period between January 2016 through August 2016, Plaintiff received threatening phone calls inside the Commissioner's Office by Henry George Thomas, asking him why Plaintiff was ***paying "the white boys" such as Lt. Justin Chase and Firefighter Joseph Portocelli, instead of paying him, a black male.***
40. It was evident to Plaintiff that Mayor Thomas allowed his father, and his brother, Henry George Thomas, to make those threatening phone calls to Plaintiff and cause such retaliation.

#### **Plaintiff's Own Discrimination and Objection to Race-Based Promotions**

41. In approximately July 2016, Plaintiff was ordered by Defendant Mayor Thomas to promote, then-Captain, Jimmy Lang ("Lang") to the rank of Deputy Chief.

42. Plaintiff agreed to said promotion as the Fire Commissioner at that time and requested Lang's family to appear at City Hall the following Monday for a promotional ceremony.
43. Although Lang's family physically appeared at City Hall for the ceremony, Mayor Thomas abruptly changed his mind the day of the ceremony, cancelled the ceremony and decided not to promote Lang that day.
44. When Plaintiff confronted Mayor Thomas about his actions, Mayor Thomas responded that he wanted to promote, then-Captain Salahuddin first instead of Lang, despite Salahuddin scoring lower than Lang on the promotional test.
45. Plaintiff made it very clear to Mayor Thomas that he objected to skipping Lang, a Caucasian male, because he knew it was racially motivated due to the way previous promotions had been made under the City's policies.
46. Specifically, Mayor Thomas' decision to promote Salahuddin over Lang was a direct deviation from the MVFD's current protocol to promote from the promotional by rank order.
47. This was a policy created by Plaintiff that Mayor was directly obstruction in further retaliation against Plaintiff and his rank, and to foster a race-based promotion to the Mayor's crony Salahuddin.
48. Further, all other rank promotions from the list were for African American firefighters. Mayor Thomas only stopped promoting in the rank order of the list to skip over the promotion of Lang, the Caucasian firefighter.
49. Plaintiff openly objected to the Mayor skipping the promotion of Lang, as it would create a serious racial issue on the job.
50. Plaintiff's objections were witnessed by Jimmy Lang, Shawn Paterson (current candidate for Mayor of Mt. Vernon), and Mayor Thomas' assistant, Maria Donovan.
51. Soon after Plaintiff's open objection, he learned that both Lang and Salahuddin would be promoted to Deputy Chief 1 month later on August 8, 2016.
52. Later, on promotion day of August 8, 2016, at approximately 9:00am, Mayor Thomas swore in Salahuddin as Deputy Chief without Plaintiff's knowledge.
53. This came as a surprise to both Plaintiff and Lang, as both were under the assumption that Lang and Salahuddin were to be sworn in together, and because

Lang had never received a time from Mayor Thomas to report for the ceremony.

**(See Ex. A; Affidavit of Lang)**

54. Later that afternoon, after many attempts by the Plaintiff to speak to the Mayor about Salahuddin's secretive swearing in, Plaintiff received a call from the Mayor's office advising him to send Lang to his office to be sworn in.
55. Sometime after 12:00pm, Mayor Thomas swore in Lang as Deputy Chief.
56. As a consequence of Mayor Thomas' actions in swearing in Salahuddin hours before Lang, Lang was effectively "skipped" in the rank order of the promotional list and Salahuddin became the Senior Deputy Chief over Lang.
57. Because of Plaintiff's refusal to make race-based promotions and his objections to follow such discriminatory practices, Defendants continued their pattern of retaliation against Plaintiff with more harassment and offensive, discriminatory comments because of his race/refusal to participate in discriminatory actions.

**Plaintiff's Constructive Demotion**

58. Consequently, in approximately August 2016, the situation became so hostile and untenable for Plaintiff to remain as Fire Commissioner that he was constructively demoted and forced to resign from his position as Fire Commissioner.
59. Mayor Thomas even appointed and introduced a new Fire Commissioner with a press conference at MVFD Headquarters, while Plaintiff still sat in the Fire Commissioner's Office with no knowledge of the appointment.
60. This demotion from "Fire Commissioner" back to "Firefighter" was a clear demotion in rank and respect and altered his employment conditions from working inside the office at headquarters with a municipal vehicle, to having none of the above.
61. Soon after Plaintiff was constructively demoted from his position of Deputy Fire Commissioner, Henry George Thomas was rehired by the MVFD.
62. It was clear to Plaintiff that the Mayor's intent in having his brother rehired by the MVFD was only so that Henry George Thomas could collect 207(a) disability payment and benefits. Indeed, although Henry George Thomas was rehired, he never actually returned to work and instead applied for municipal disability benefits. He is currently retired from the MVFD.

**Continued Retaliatory, Race-Based Harassment, Discrimination & Hostile Work Environment**

63. The harassing, offensive, and discriminatory comments continued, when on the very first day of Plaintiff's demoted job title of "Firefighter", Defendant St. John told the Plaintiff, "I'm your fucking boss now", and "Your ass is mine".
64. Thereafter, on a daily basis, from July 2016 until September 2018, Defendant St. John harassed Plaintiff on the basis of his race/skin color, calling him a "white boy lover", "caterer to the white boys", "Pussy faggot" and "sell out bitch", and a host of other racial profanities.
65. On other occasions, St. John's harassment of Plaintiff was thwarted by other firefighters, such as Auphy Dixon, who verbally confronted St. John regarding his intent to harass the Plaintiff.
66. Further, in or around late August or early September 2018, St. John tried to harass and belittle the Plaintiff in front of other firefighters by making Plaintiff pump St. John's gas.
67. Raphaela Bailey, an EMT who works within the firehouse working environment, witnessed St. John bragging to another firefighter about trying to harass Plaintiff in this way. **(See Ex. B; Affidavit of Bailey)**
68. From August 2016 through August 2018, Plaintiff made multiple complaints about this ongoing harassing, discriminatory and retaliatory conduct to his supervisors, Commissioner Theodore Beale ("Beale") and Chief of Operations Everett ("Everett") by email, verbally and by text message. However, the City failed to protect Plaintiff from the constant harassment.
69. Tired of the constant harassment, on September 5, 2018, Plaintiff emailed a detailed written complaint to supervisors, Beale, Everett and Deputy Commissioner Norman. **(See Ex. C; Written Complaint by Plaintiff)**
70. In this written complaint, Plaintiff once again explained all of the above ongoing harassing, discriminatory and retaliatory conduct he was subjected to at the hands of Defendants.

71. After Plaintiff's September 2018 complaint letter, St. John and Salahuddin were given "no contact" orders by Beale.
72. However, it was clear to Plaintiff that Defendants' harassment of Plaintiff was ratified and condoned by Mayor Thomas and other supervisors in the MVFD as Plaintiff's request for investigation into the matter was left unanswered.
73. Further, Defendants St. John and Salahuddin continue to violate their "no contact" order with Plaintiff.
74. Specifically, on November 15, 2018, St. John came to the firehouse where Plaintiff was working. After waiting for the Lieutenant on duty to leave for a call, St. John engaged in a verbal altercation with the Plaintiff.
75. The following day, St. John wrote up the Plaintiff and recommended disciplinary action be taken against Plaintiff for the verbal altercation.
76. In a further attempt to antagonize the Plaintiff, on February 10, 2019, Salahuddin cornered Plaintiff in the firehouse, thereby forcing Plaintiff to salute him as a superior. Prior to being cornered, Plaintiff had already retreated to the opposite side of the firehouse in an attempt to stay away from Salahuddin.
77. Most recently, on February 11, 2019, St. John came to a CPR class that Plaintiff was attending. Although St. John stated he was there to observe the class, he chose to sit directly behind the Plaintiff, clearly in an attempt to further harass and intimidate the Plaintiff.
78. Plaintiff became so distressed by St. John's behavior that he failed the CPR test given to him. However, after St. John left the classroom, Plaintiff retook the test, and passed with a near perfect score.
79. Therefore, as a direct and proximate result of the actions of Defendants, Plaintiff has suffered and continues to suffer severe mental anguish, physical discomfort, pain and suffering, shame and embarrassment, and/or aggravation of a previously existing mental or emotional condition.
80. Further, Plaintiff has been required to retain an attorney in order to protect his rights and assert his claims.

**COUNT I****(New York State Human Rights Law, N.Y. Exec. Law § 290 et seq.)  
(Race Harassment/Discrimination)**

81. Plaintiff realleges and incorporates herein the above paragraphs.
82. Defendants are covered entities under the NYSHRL, which prohibits discrimination in places of public accommodation in the form of sex, gender, race, color, creed, age, sexual orientation, *inter alia*.
83. Plaintiff is a member of a protected class under the NYSHRL.
84. Plaintiff was subject to unwelcome race-based harassment and discrimination by Defendants.
85. Defendants harassed/discriminated Plaintiff based upon his race, black.
86. As a direct and proximate result of the actions of Defendants, Plaintiff has suffered mental anguish, physical discomfort, pain and suffering, shame and embarrassment, and/or aggravation of a previously existing mental or emotional condition. Moreover, Plaintiff has and/or may have to incur expenses for medical, psychiatric, and/or psychological counseling and care. Plaintiff's damages have been experienced in the past, and they will continue into the future.
87. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting Plaintiff's claims and protecting Plaintiff's rights.

**COUNT II****(New York State Human Rights Law, N.Y. Exec. Law § 290 et seq.)  
(Race Discrimination - Retaliation)**

88. Plaintiff realleges and incorporates herein the above paragraphs.
89. Defendants are covered entities under the NYSHRL, which prohibits discrimination in places of public accommodation in the form of sex, gender, race, color, creed, age, sexual orientation, *inter alia*.
90. Plaintiff is a member of a protected class under the NYSHRL.
91. As a result of Plaintiff's complaints of being harassed and discriminated against, Defendants took adverse action against Plaintiff in violation of the NYSHRL, including but not limited to, making harassing/offensive/discriminatory comments towards the Plaintiff and ultimately causing the Plaintiff's constructive demotion.

92. Defendants' conduct of discrimination and harassment came from the top of management, thus making the municipal Defendant vicariously liable for St. John's conduct.
93. As a direct and proximate result of the actions of Defendants, Plaintiff has suffered mental anguish, physical discomfort, pain and suffering, shame and embarrassment, emotional distress injuries, the physical manifestation of emotional distress injuries and/or physical injury. Furthermore, Plaintiff has suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiff's life. Plaintiff's damages have been experienced in the past, and they will continue into the future.
94. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting plaintiff's claims and protecting Plaintiff's rights.

### COUNT III

#### **(New York State Human Rights Law, N.Y. Exec. Law § 290 et seq.) (Race Discrimination/Perceived Sexual Orientation – Hostile Work Environment)**

95. Plaintiff re-alleges and incorporates by reference each and every allegation contained in the aforementioned paragraphs as though fully set forth herein.
96. Defendants are covered entities under the NYSHRL, which prohibits discrimination in places of public accommodation in the form of sex, gender, race, color, creed, age, sexual orientation, inter alia.
97. Plaintiff is a member of a protected class under the NYSHRL.
98. Plaintiff was subject to unwelcome race-based harassment by St. John, his superior.
99. St. John harassed Plaintiff based upon his race, black.
100. St. John's conduct had the purpose or effect of unreasonably interfering with Plaintiff's work performance or to create an intimidating, hostile, or offensive working environment for the Plaintiff.
101. Defendants' conduct of discrimination and harassment came from the top of management thus making the municipal Defendant vicariously liable for St. John's conduct.

102. Furthermore, Defendants' actions give rise to a claim of perceived sexual orientation under the NYSHRL by frequently calling him a "faggot", "whiteboy lover", "caterer to the whiteboys", because of his support to his Caucasian male co-workers under such hostile work environment.
103. As a direct and proximate result of the actions of Defendants, Plaintiff has suffered mental anguish, physical discomfort, pain and suffering, shame and embarrassment, emotional distress injuries, the physical manifestation of emotional distress injuries and/or physical injury. Furthermore, Plaintiff has suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiff's life. Plaintiff's damages have been experienced in the past, and they will continue into the future.
104. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting plaintiff's claims and protecting Plaintiff's rights.

#### COUNT IV

#### (New York Whistleblower Law, N.Y. Labor Law §740 et seq.) (Whistleblower Retaliation)

105. Plaintiff realleges and incorporates herein the above paragraphs.
106. Defendants are covered entities under the NYWL, which prohibits retaliatory personnel action against an employee.
107. Plaintiff objected to the illegal rehire of Henry George Thomas and the race based promotion of Al Farid Salahuddin, as Plaintiff reasonably believed these actions violated State and Federal anti-discrimination laws and Civil Service Regulations.
108. As a result of Plaintiff's objection to rehiring Henry George Thomas and promoting Al Farid Salahuddin, Defendants engaged in a continuous and cumulative pattern of tortious conduct against Plaintiff in violation of the NYWL, including but not limited to, making harassing/offensive/discriminatory comments towards the Plaintiff and causing the Plaintiff's constructive demotion.
109. These actions by Defendants persist to date and are ongoing, tolling, and running.
110. As a direct and proximate result of the actions of Defendants, Plaintiff has suffered mental anguish, physical discomfort, pain and suffering, shame and embarrassment, emotional distress injuries, the physical manifestation of

emotional distress injuries and/or physical injury. Furthermore, Plaintiff has suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiff's life. Plaintiff's damages have been experienced in the past, and they will continue into the future.

111. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting plaintiff's claims and protecting Plaintiff's rights.

#### **COUNT V**

#### **(Breach of the Implied Covenant of Good Faith and Fair Dealing)**

112. Plaintiff re-alleges and incorporates by reference each and every allegation contained in the aforementioned paragraphs as though fully set forth herein.
113. Defendants had contractual obligations to Plaintiff as reflected above.
114. Defendants have breached these obligations.
115. Defendants have not dealt in good faith with Plaintiff by discriminating against Plaintiff because of his race and retaliating against the Plaintiff for his complaints of discrimination and harassment.
116. Defendants failed to act in good faith to investigate, end or abate the discriminatory and retaliatory practices exhibited by Defendants that Defendants knew or should have known of.
117. Defendants' conduct of discrimination and retaliation came from the top of management, thus making the municipal Defendants vicariously liable for Defendants' conduct and refusal to prevent, end or abate such conduct.
118. Defendants' actions give rise to the claim of breach of the implied covenant of good faith and fair dealing.
119. As a direct and proximate result of the actions of Defendants, Plaintiff has suffered mental anguish, physical discomfort, pain and suffering, shame and embarrassment, emotional distress injuries, the physical manifestation of emotional distress injuries and/or physical injury. Furthermore, Plaintiff has suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiff's life. Plaintiff's damages have been experienced in the past, and they will continue into the future.

120. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting plaintiff's claims and protecting Plaintiff's rights.

**COUNT VI**  
**(Breach of Contract)**

121. Plaintiff repeats and incorporates herein the above paragraphs.
122. Defendants had contractual obligations to Plaintiff that were set forth in written contract, oral representations and/or their handbook and other employment documents.
123. Defendants' actions breached the contractual obligations set forth in these documents.
124. Defendants breached their contract by failing to ensure they were acting in compliance with local laws.
125. Defendants' actions give rise to the claim of breach of express and implied contract.
126. As a direct and proximate result of the actions of Defendants, Plaintiff has suffered mental anguish, physical discomfort, pain and suffering, shame and embarrassment, emotional distress injuries, the physical manifestation of emotional distress injuries and/or physical injury. Furthermore, Plaintiff has suffered lost wages, a diminished ability to earn a living, and a diminished capacity to enjoy Plaintiff's life. Moreover, Plaintiff has and/or may have to incur expenses for medical, psychiatric, and/or psychological counseling and care. Plaintiff's damages have been experienced in the past, and they will continue into the future.
127. Further, Plaintiff has been required to retain an attorney to assist Plaintiff in asserting Plaintiff's claims and protecting Plaintiff's rights.

**WHEREFORE**, as to each and every count, Plaintiff demands judgment on each and all of these Counts against defendants, jointly and severally, as follows:

- A. Compensatory damages;
- B. Damages for lost wages and benefits, back pay, front pay (or reinstatement);
- C. Damages for humiliation, mental and emotional distress;
- D. Statutory damages, if applicable;

- E. Punitive damages and or liquidated damages where permitted by law;
- F. Attorneys' fees and costs of suit;
- G. Lawful interest – including pre-judgment interest on lost wages;
- H. Lawful interest – including pre-judgment interest on any wages not paid in a timely manner; and
- I. Such other, further and different relief as the Court deems fitting, just and proper.

Plaintiff hereby reserves the right to amend this Complaint to supplement or modify the factual obligations and claims contained herein, based upon information received from the Defendants, witnesses, experts, and others in the course of discovery in this matter.

#### **DEMAND FOR TRIAL BY JURY**

Pursuant to the CPRL, Plaintiff respectfully demands a trial by jury on all issues in the within action so triable.

#### **DESIGNATION OF TRIAL COUNSEL**

In accordance with the CPRL, JOHN J. ZIDZIUNAS, ESQ. is hereby designated as trial counsel on behalf of Plaintiff.

#### **CERTIFICATION OF NO OTHER ACTIONS OR PARTIES**

I hereby certify that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, that no other action or arbitration proceeding is contemplated, and that there are no other parties known to me at this time who should be joined as parties to this action.

#### **DEMAND FOR PRODUCTION OF INSURANCE AGREEMENTS**

Pursuant to the CPRL, demand is hereby made that you disclose to the undersigned whether there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy all or part of a judgment which may be entered in the action or to indemnify or reimburse for payment made to satisfy the judgment.

If so, please attach a copy of each, or in the alternative state, under oath and certification: (A) policy number; (b) name and address of insurer; (c) inception and expiration date; (d) names and addresses of all persons insured thereunder; (e) personal injury limits; (f) property damage limits; and (g) medical payment limits

DATED: March 5, 2019

**JOHN J. ZIDZIUNAS & ASSOCIATES**  
*Attorneys for Plaintiff, Ernest Richardson*

By: 

\_\_\_\_\_  
**JOHN J. ZIDZIUNAS, ESQ.**  
**For the Firm**

**EXHIBIT**  
**A**

**JOHN J. ZIDZIUNAS & ASSOCIATES, LLC**  
**JOHN J. ZIDZIUNAS, ESQ.**  
**33 Plymouth Street, Suite 202A**  
**Montclair, New Jersey 07042**  
**973-509-8500**  
**Attorneys for Plaintiff, Ernest Richardson**  
**File No. 527-006**

**AFFIDAVIT OF JAMES LANG**

**I, James Lang, being of full age hereby affirm and certify as follows:**

1. I am a white male, currently employed as the Deputy Fire Chief of the City of Mount Vernon. I have been employed in this capacity since August 2016. Prior to being promoted to Deputy Chief, I served as a Captain for approximately eleven (11) years. Prior to being promoted to Captain, I served as Lieutenant for approximately fifteen (15) years. Prior to being promoted to Lieutenant, I served as a firefighter for five (5) years.
2. I submit this Affidavit, drafted by Plaintiff's attorney, John J. Zidziunas, Esq., and have ensured its accuracy.
3. I have been promised nothing for providing this affidavit, and I am receiving nothing for this affidavit.
4. I have been given an opportunity to correct this affidavit to ensure its truthfulness.
5. In or around July 2016, I was told my Chief of Operations, Thomas Duffy, that I was going to be promoted to Deputy Chief because I was ranked first on the promotional list and there was an opening for promotion for this rank due to a recent retirement. Therefore, it is my understanding I was next to be promoted due to my #1 rank and the opening, and promotions at that time were being done down the line under that current administration.
6. However, after waiting around City Hall with my family and friends for 2 hours on the date of the promotion of July 17, 2016, I was informed by the Mayor's office that my promotion was being cancelled and that Mayor Thomas wanted to meet with me the following day by myself at a scheduled time.
7. Later that day I was informed that the Mayor now suddenly wanted to conduct interviews for the position of Deputy Chief for the following week, which I did attend.
8. I recall at that time Acting Commissioner Ernie Richardson telling me that he clearly believed my promotion was cancelled and delayed because Mayor Thomas desired to promote Captain Salahuddin specifically because he wanted to promote someone who is African American, while knowing that I was at the top of the list and able to be promoted to this rank. I further recall Ernie telling me that he told

the Mayor that by skipping Jimmy Lang he was breaking the rank and order agreement and that everyone who was being promoted at that time was African American. So by skipping Lang he was putting the City in jeopardy of potentially being sued for illegally promoting on the basis of race.

- 9. On August 6, 2016, I learned by an Order issued by the Deputy Chief Al Everett, that me and firefighter Salahuddin would be promoted to Deputy Chief on August 8, 2016 but there was no scheduled time given which I found very odd.
- 10. At around 11:00am on August 8, 2016, I learned from my brother, who happened to be at City Hall at that time, that Mayor Thomas swore in Salahuddin as Deputy Chief.
- 11. I was very surprised to learn that Salahuddin was sworn in before me because the Order issued by Deputy Chief Al Everett did not indicate a time which was to my dismay, and that I had been waiting at the firehouse for over 4 hours to be sworn in together with Salahuddin.
- 12. At around 12:00pm on August 8, 2016, I recall Ernie Richardson receiving a phone call advising him to send me to the Mayor's office.
- 13. It is my understanding that, at that time, Mr. Richardson objected to the Mayor about this because he strongly believed it was wrong and illegal to promote, or deny or delay promotion, any employee from the City on the basis of their race and skin color.
- 14. Later that day on August 8, 2016 at approximately noon time, Mayor Thomas then swore me in as Deputy Chief with my brother present.
- 15. Because Salahuddin was sworn in before me, Salahuddin is therefore now senior to me within this rank as Deputy Chief.
- 16. I will testify to these events in deposition and trial if subpoenaed.

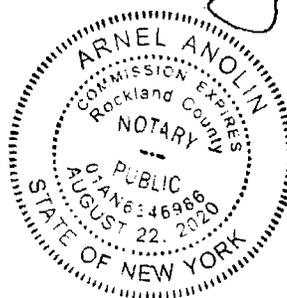
I hereby affirm that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

By: James Lang  
JAMES LANG

DATED: January 23rd, 2019  
Sworn to before me on the

23rd day of January, 2019.

[Signature]  
NOTARY PUBLIC



***EXHIBIT***  
***B***

**JOHN J. ZIDZIUNAS & ASSOCIATES, LLC**  
**JOHN J. ZIDZIUNAS, ESQ.**  
**33 Plymouth Street, Suite 202A**  
**Montclair, New Jersey 07042**  
**973-509-8500**  
**Attorneys for Plaintiff, Ernest Richardson**  
**File No. 527-006**

**Re: Affidavit of Raphaela Bailey**  
**Docket No.: N/A**  
**Our File No.: 527-006**

**I, Raphaela Bailey, being of full age hereby affirm and certify as follows:**

1. I am currently employed as a Emergency Medical Technicians in the City of Mount Vernon, by Empress Medical Services. I have been employed in this capacity since March 2014. As an EMT, I work directly in the firehouse on a daily basis and am present in the work environment of Mr. Ernie Richardson and his co-workers, and I am able to see and hear the daily interactions of that work environment.
2. I submit this Affidavit, drafted by Plaintiff's attorney, John J. Zidziunas, Esq., and have reviewed it carefully.
3. I have been promised nothing for providing this affidavit, and I am receiving nothing for this affidavit.
4. I have been given an opportunity to correct this affidavit to ensure its truthfulness.
5. In or around August or early September 2018, while on duty in the city of Mount Vernon I overheard a conversation between St. John ("St. John") and Dixon in the watch desk area.
6. Specifically, during their conversation I heard Dixon telling St. John that he was going to harass Ernie and tell him to pump his gas in St. John's City vehicle. It was obvious to me and Dixon that this was not a work obligation but rather a superior officer abusing his power to harass Ernie and make his do chores to belittle him.
7. I overheard Dixon tell St. John that's not a good idea, and I'm the watchman today so if any should be pumping gas it should be me. That's not Ernie's job, so it's not right and that's out of line.
8. Further, during their conversation Dixon also told St John what he was doing was not a smart thing to do.

- 9. I then personally heard St John yell to Ernie downstairs "Yo pump my gas". I then heard Ernie said to St. John "you're not the Chief of Operations, Commissioner or Deputy" and that he's not doing it, and you're harassing me.
- 10. I then heard St. John say "you're going to do it or else". When Ernie said "or else what?" I heard St. John say "what are you going to do, sue me?"
- 11. As Ernie spoke he walked outside with St. John following him. I heard both Ernie and St. John talking outside but couldn't make out anymore of their conversation.
- 12. I will testify to these events in deposition and trial if subpoenaed.

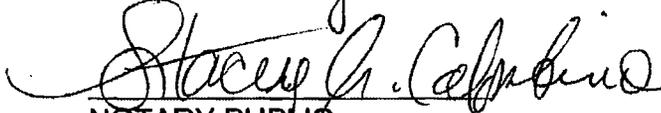
I hereby affirm that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

By:   
RAPHAELA BAILEY

DATED: January 23, 2019

Sworn to before me on the

23<sup>rd</sup> day of January, 2019.

  
NOTARY PUBLIC

STACEY A COLOMBINO  
Notary Public, State of New York  
No. 01CO6107410  
Qualified in Westchester County  
Commission Expires March 29, 2020

***EXHIBIT***  
***C***



City of Mount Vernon

CONFIDENTIAL HARASSMENT COMPLAINT FORM

NAME: Ernest Richardson

DEPARTMENT: Fire

JOB TITLE OR POSITION: Firefighter

ADDRESS: 470E Lincoln Ave PHONE# 914-665-2626

TIME PERIOD COVERED BY COMPLAINT: Two years

INDIVIDUALS WHO ALLEGEDLY COMMITTED HARASSMENT: (List Below)

NAME	JOB TITLE	DEPARTMENT
Mike St. John	Captain	Fire Department

DESCRIBE THE NATURE AND THE DATES OF THE HARASSMENT ALLEGEDLY COMMITTED BY EACH IDENTIFIED INDIVIDUAL. (Use additional pages if necessary)

See Attached memo

IDENTIFY ALL EMPLOYEES OR OTHERS WITH KNOWLEDGE OF THE COMPLAINED OF CONDUCT

Chief Al Everett, Com. Beale, Lt. Jean Jerome, Lt. Trippato, Capt. Trippato, FF Shimenti

ARE THERE ANY DOCUMENTS OR PHYSICAL EVIDENCE SUPPORTING THE OCCURENCES DESCRIBED ABOVE?

Yes

WHAT FORM OF HARASSMENT ARE YOU ALLEDGING? (Please Circle)

- ❖ AGE
- ❖ BULLYING
- ❖ GENDER
- ❖ MENTAL DISABILITY
- ❖ PERSONAL HARASSMENT
- ❖ PHYSICAL
- ❖ RACE
- ❖ RELIGION
- ❖ SEXUAL ORIENTATION
- ❖ SEXUAL
- ❖ SKIN COLOR
- ❖ STALKING
- ❖ VERBAL

HAVE YOU MISSED ANY WORK TIME AS THE RESULT OF THE ALLEDGED HARASSMENT? IF "YES", IDENTIFY THE OCCASIONS.

Yes, I wake up some days for work and start thinking about dealing with St. John and it scares me and at that point I want call out sick. I'm afraid of the constant harassment and emotionally I can't deal with it anymore.

IF YOU PREVIOUSLY COMPLAINED ABOUT THIS OR RELATED ACTS OF HARASSMENT TO A SUPERVISOR OR OFFICIAL, PLEASE IDENTIFY THE INDIVIDUAL TO WHOM YOU COMPLAINED, THE DATE OF THE COMPLAINT AND THE RESOLUTION OF YOUR COMPLAINT:

I did complain several times to the Commissioner and chief of operations. My 1st complaint was Aug 2016 and my last complaint was late Aug 2018. There have been several complaints over a two year period.

WHAT IS YOUR REQUESTED REMEDY IN THIS COMPLAINT?

\_\_\_\_\_

ACKNOWLEDGMENTS

THE INFORMATION PROVIDED HEREIN IS TRUE AND CORRECT.

IN ORDER TO INVESTIGATE YOUR COMPLAINT, IT WILL BE NECESSARY TO INTERVIEW YOU, THE ALLEDGED HARASSER(S), AND ANY WITNESS WITH KNOWLEDGE OF THE ALLEGATIONS OR DEFENSES. THE CITY WILL NOTIFY ALL PERSONS INVOLVED IN THE INVESTIGATION THAT IS NECESSARY. ALL COMPLAINTS WILL BE HANDLED DISCREETLY.

I AM WILLING TO COOPERATE FULLY IN THE INVESTIGATION OF MY COMPLAINT AND TO PROVIDE WHATEVER EVIDENCE THE CITY DEEMS RELEVANT.

BY: 

DATE: 9-26-18

I PREFER TO BE CONTACTED: AT HOME # \_\_\_\_\_ AT WORK # \_\_\_\_\_ CELL # 914-490-8028

THIS FORM TAKEN BY:

NAME	TITLE	DATE



City of Mount Vernon  
Department of Human Resources  
City Hall - One Roosevelt Square  
Mount Vernon, New York 10550-2060  
(914) 840-4008 Fax (914) 465-2987

Richard Thomas  
Mayor

*Never Received  
or Signed this Document*

To: All City of Mount Vernon Employees

Re: Harassment Policy

As an employee of the City of Mount Vernon, I have received training, read and understand the following documents:

- 1) Equal Employment Opportunity Statement/Anti-Harassment Policy Statement;
- 2) Mount Vernon City Code Article VI entitled Harassment;
- 3) Harassment Complaint Procedure; and
- 4) Harassment Complaint Form
- 5) Training Attendance Class

\_\_\_\_\_  
(Employee's Applicant Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Department)

\_\_\_\_\_  
Commissioner/Deputy Commissioner

A COPY OF THIS PAGE MUST BE SIGNED AND RETURNED TO THE  
DEPARTMENT OF HUMAN RESOURCES

Commissioner Beale

Deputy Commissioner Norman

Chief of Operations Everett

9/14/2018

I am writing to request an investigation into the retaliation and harassment I have been suffering on a consistent basis from Captain Michael St. John. I have complained in writing and verbally to the fire administration on several occasions and nothing seems to stop the constant harassment by Captain St. John. I personally feel this harassment is due to my refusal to act illegally and unethically in his favor and in favor of others. As you know, I am a 15-year veteran firefighter dedicated to my job and the community which I love. However, my world as a firefighter has been changed drastically since 2016 when I resigned from the position of Deputy Fire Commissioner. Yes, I was asked to do some illegal and unethical things which I refused to do.

As you are aware, in 2015 Henry George Thomas, was charged with several felony counts involving illegal firearms and as a result, he chose to resign from the fire department on January 8, 2016 to avoid termination. I was appointed three days later on January 11, 2016. After Henry George Thomas cut his plea deal, I was asked as Fire Commissioner to rehire him back to the department. I said at that time that I could not, nor would I do so because it is illegal to hire firefighters who have been indicted with felonies such as gun charges. Nepotism is not a crime, but this act unquestionably violates the City's Charter. Not only is it illegal, but I also made it clear on a personal note that my brother died at the hands of illegal guns on the street and this was the worst kind of charge someone could have in a city that has way too many illegal guns in the hands of our young people. At that time, I point blank said I would not rehire him. In my honest opinion I strongly feel me not rehiring Henry George complicated the mayor's relationship with me. Unfortunately for me, this caused serious animosity and issues between the mayor's family and I. Especially the mayor's father who made it very clear he was going to get me out of there and put someone in that would rehire Henry George Thomas. I had no problem with that because I wasn't going to change my mind and I was very comfortable in turnout gear.

After all that I've done for the mayor, the late nights, the fighting, putting his needs and campaign first, the very person that was there during the primary standing side by side with him in the trenches when we had nothing is now being treated as disloyal for refusing to participate in something that is clearly wrong, illegal and unethical, even though I understood who's brother it was, it still didn't make it right.

Because of this, I began getting retaliated against by then a Fire Captain. Each day, he would call me a "piece of shit" for not rehiring Henry George, and "white boy lover". He told many firefighters who are witnesses to this he was openly angry at me for not hiring Henry George Thomas back, but I was pushing to hire a white firefighter back. The situation and harassment at work got so bad that I resigned as Fire Commissioner in August 2016 down to the rank of firefighter, but the harassment and retaliation did not stop there....

In July 2016 I was ordered to promote a black captain to the rank of Deputy Chief. I was asked to make that promotion over a white captain. I was told all though the white captain tested better on his exam

and the white captain was clearly a much more qualified officer than the black captain, that I should not promote the white captain over the black captain. As you know, I refused that order to make that promotion based on race and skin color- which we all know is wrong. No man should ever be judged by the color of his skin, and no man should ever be promoted or demoted because of the color of his skin. I made it my business as commissioner to treat all firefighters and officers under my command fair and just regardless of the color of one's skin. I chose to go down the line for all promotions as fire Commissioner. I promoted the #1 and #2 firefighters to the rank of Lieutenant. No one had a problem because they both were black. I was told to reclassify the Fire Dispatch Superintendent position to promote a black fire lieutenant to the rank of captain who also sat at the top of the promotional list but as soon as it was time to promote the #1 captain to the rank of Deputy Chief, there were problems for me. I refused to promote the black captain first so in return I was treated as if I was wrong for my action and again labelled a reverse racist. All I wanted to do was create a system where no firefighter or officer ever had to worry about being skipped by anyone under them. When firefighters and officers are skipped no matter the color of their skin it creates separation, animosity and anger amongst the ranks, especially if race is involved. There are race issues on this job but only created by moves like the one I tried to prevent. Again, something that I wanted to eliminate from this job to boost morale. As a result, I have suffered more retaliation.

Every tour I worked, Captain Mike St. John made it his business to come down to station #2 to harass me. It almost felt like he was being sent by some higher ups outside of the fire department. I feel this way because I followed every rule in reporting the harassment and Captain St. John kept on coming. Captain St. John made it his business to come to the firehouse on my first day back to let me know he was "my fucking boss now and I would be seeing him on a regular basis." Almost every tour I worked Captain St. John would come to the firehouse just to tell me to tuck in my shirt, go pump my gas, your ass in mine now, get involved in everyday operations pertaining to our work schedule just to create a hostile work environment for me. He called me "fake brother", "white boy lover", and said things like "you put that white motherfucker back on but you wouldn't put HG (Henry George) back." So, I did fire back to let him know I wasn't hiring anybody that sold guns in this city, bottom line. These comments he made to me are illegal, discriminatory, harassing, and MUST stop. Every day I come to work, it makes me sick to my stomach to have to endure this harassment for doing the right thing. I cannot let this go on any longer because it's jeopardizing my health, my safety and my family's wellbeing. When I came back to the fire line all I wanted was to be left alone and allowed to do the job but I was put on the back of the rescue company, a position mainly for new firefighters and told I needed to be trained again even though I was off the fire line for 8 months. In some cases firefighters are off the line for over a year and not treated like that. I was also moved out of my original group because the deputy chief felt he couldn't discipline me the way he wanted to. I was trained to fight fires, not be judged by my peers as an appointed fire commissioner. I was hired to run interference for the mayor, not his family. I was willing to protect the mayor but not sell my soul. I made a choice in April 2016 to walk out of that job as commissioner on my own two feet and not crawl out of there on my hands and knees begging for mercy. I just wanted to be left alone and no one seems to want that to happen.

With all that being said, I am requesting a formal investigation into these issues that I want exposed and dealt with properly. Again, I've made several complaints both written and verbal to my superiors and it seems to fall upon deaf ears. This retaliation and harassment must end by Captain St. John, and who ever else is giving him the green light to do so. Captain St. John was even caught and chased away by

the Chief of Operations once because I called the chief to let him know he was at station #2 harassing me during one of my works tours. Additionally, as recent as September 12, 2018, I was informed by another firefighter that Captain St. John was looking for me at my firehouse while I was on vacation. I am available, at any time to discuss this matter in detail. I can be reached on my cell at 914-490-8028.

Sincerely

Ernest Richardson,

#248

**JOHN J. ZIDZIUNAS & ASSOCIATION, LLC  
JOHN J. ZIDZIUNAS, ESQ, NY BAR I.D.: 940704  
33 Plymouth Street, Suite 202A  
Montclair, New Jersey 07042  
973-509-8500**

--  
**NY Office:  
14 Murray St., Ste. 235  
New York, NY 10007  
Attorneys for Plaintiff, Ernest Richardson  
File No. 527-006**

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER**

**ERNEST RICHARDSON,**

**PLAINTIFF,**

**VS.**

**CITY OF MOUNT VERNON, MOUNT  
VERNON FIRE DEPARTMENT,  
MAYOR RICHARD THOMAS (In his  
individual and professional  
capacities), CAPTAIN MICHAEL ST.  
JOHN (In his individual and  
professional capacities), CHIEF OF  
OPERATIONS AL FARID  
SALAHUDDIN (In his individual and  
professional capacities), JOHN  
DOES 1-10, and XYZ CORPS. 1-10,**

**DEFENDANTS.**

**Index No.:**

**SUMMONS**

**Date Index No. Purchased:**

**FROM THE STATE OF NEW YORK, WESTCHESTER COUNTY**

**TO THE DEFENDANT(S) NAMED ABOVE: CITY OF MOUNT VERNON, MOUNT  
VERNON FIRE DEPARTMENT, MAYOR RICHARD THOMAS, CAPTAIN MICHAEL  
ST. JOHN, and CHIEF OF OPERATIONS AL FARID SALAHUDDIN**

To the above named Defendant(s) You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney

within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is Westchester County Court, because of Plaintiff's residence in Mt. Vernon, New York, Westchester County, NY, which Complaint is dated and filed: March 5, 2019, by JOHN J. ZIDZIUNAS & ASSOCIATES, LLC, Attorneys for Plaintiff, Ernest Richardson.

**JOHN J. ZIDZIUNAS & ASSOCIATES**  
***Attorneys for Plaintiff, Ernest Richardson***

By: 

\_\_\_\_\_  
**JOHN J. ZIDZIUNAS, ESQ.**  
**For the Firm**

DATED: March 5, 2019