

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

THOMAS BRIDGEMAN,

Plaintiff,

v.

CITY OF MILLEDGEVILLE, GEORGIA

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Thomas Bridgeman (“Plaintiff”) files this complaint against Defendant City of Milledgeville, Georgia (“Defendant”), alleging violations of the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. § 4301 (“USERRA”). Defendant violated USERRA by (1) denying Plaintiff promotions because of his active military service with the United States Army Reserve; (2) denying Plaintiff raises because of his active military service; and (3) retaliating against Plaintiff for exercising his rights under USERRA, which retaliation included again denying Plaintiff promotions. Plaintiff shows the Court as follows:

INTRODUCTION

1. Plaintiff has been enlisted in the United States Army Reserve for approximately 18 years. In approximately 2006, Plaintiff started working for Defendant as a Firefighter with the City of Milledgeville Fire Department. His current rank is Sergeant. Defendant has denied Plaintiff a promotion to Lieutenant on at least six separate occasions, which, in turn, has prevented Plaintiff from being promoted to higher positions within the Fire Department. The first two times that Plaintiff was denied promotions, in November 2015 and March 2018, he was specifically asked during the interview process when he would next be deploying for Army

service. In one instance, former Battalion Chief Miller Rogers told Plaintiff expressly that he did not promote him because Plaintiff might have to deploy again. When Plaintiff was again denied a promotion to Lieutenant in September 2018, Plaintiff complained expressly that he had not received promotions because of his military service and that, by denying him promotions because of his military service, Defendant had violated USERRA. In approximately late-January 2019, Plaintiff interviewed for a Senior Sergeant position, attending an in-person interview that included Chief Collier. After Plaintiff left the room, Chief Collier informed the other interviewers that Plaintiff would not be getting the promotion “because he can’t be trusted,” or words to that effect. Plaintiff has additionally been denied raises to which he was entitled, and which his colleagues received, because of Plaintiff’s military service.

2. Plaintiff seeks all available relief under USERRA, including (i) reinstatement to the denied positions; (ii) elevation of his compensation to the proper level; (iii) lost wages; (iv) lost benefits; (v) liquidated damages; (vi) interest; and (vii) attorneys’ fees and costs.

JURISDICTION AND VENUE

3. This action is brought under USERRA. Pursuant to 28 U.S.C. § 1331, this Court has federal question jurisdiction over this Complaint.

4. Pursuant to 28 U.S.C. § 1391, 20 C.F.R. § 1002.307(b) and Local Rule 3.4, venue is proper in this Court because the unlawful employment practices described herein were committed within the Macon Division of the Middle District of Georgia.

PARTIES

5. Plaintiff is a citizen of the United States of America and a resident of the State of Georgia; he submits himself to the jurisdiction of this Court.

6. Defendant is a city organized under the laws of the State of Georgia, with its primary address at 119 E. Hancock St. Milledgeville, Georgia 31061.

7. The City of Milledgeville Fire Department is a department of the Defendant. Within the organizational hierarchy of Defendant, the Fire Chief reports to the City Manager for the City of Milledgeville.

8. Defendant may be served with process through its agent, City Manager Hank Griffeth.

9. Defendant is governed by and subject to USERRA, 38 U.S.C. § 4301 *et seq.*

STATEMENT OF FACTS

10. Plaintiff has been enlisted in the United States Army Reserve for approximately 18 years. He has had multiple deployments, including in Afghanistan. Plaintiff's current rank in the United States Army Reserve is Warrant Officer 1.

11. In 2006, Plaintiff started his employment with Defendant as a Firefighter.

12. In approximately March 2009, Defendant promoted Plaintiff to Sergeant.

13. In approximately November 2015, Plaintiff applied for a promotion to Lieutenant, a position for which Plaintiff was qualified.

14. After Plaintiff applied for the Lieutenant position in November 2015, Battalion Chief Miller Rodgers asked Plaintiff when he was next scheduled to be deployed.

15. In approximately November 2015, Defendant denied Plaintiff the promotion and instead promoted then-Sergeant Keith Meeks.

16. On information and belief, then-Sergeant Meeks has no military background and was not on active duty at the time he was awarded the promotion.

17. Defendant denied Plaintiff the promotion to Lieutenant in November 2015 because of Plaintiff's active military service.

18. In approximately March 2018, Plaintiff – still a Sergeant – applied again for a promotion to Lieutenant, a position for which he was qualified. Plaintiff was again asked, by Battalion Chief Rogers, when he was next scheduled to deploy.

19. In approximately March 2018, Defendant again rejected Plaintiff for the position of Lieutenant.

20. Instead, Defendant promoted then-Sergeant David Ussery. At the time that then-Sergeant Ussery was promoted, Plaintiff had held the rank of Sergeant longer than then-Sergeant Ussery.

21. On information and belief, then-Sergeant Ussery has no military background and was not on active duty at the time he was awarded the promotion.

22. Defendant denied Plaintiff the promotion to Lieutenant in approximately March 2018 because of Plaintiff's active military service.

23. Then-Battalion Chief Miller Rogers told Plaintiff expressly that he did not want to promote Plaintiff because Plaintiff may have to deploy again because of his military service.

24. In approximately September 2018, Plaintiff was informed that then-Sergeant Corienthesus Dennis, Sr. would be promoted to the Lieutenant. At the time of then-Sergeant Dennis's promotion, Plaintiff had held the rank of Sergeant longer than then-Sergeant Davis and had worked for the Fire Department for a longer period of time.

25. On information and belief, then-Sergeant Davis had previously served in the United States Navy but was not on active military service at the time of the promotion.

26. Although there were two vacancies at the Lieutenant position, Plaintiff was not given an opportunity to apply for the positions. In fact, there was no application process – individuals were simply selected for the open Lieutenant positions.

27. The second Lieutenant position was given to Barney Young who was promoted, but then demoted within a day.

28. Plaintiff is, and has been, highly qualified for the Lieutenant position. He has years of experience as a Sergeant, has received positive performance reviews, has earned an Associate's degree, is certified to drive all vehicles in the department, and has successfully fulfilled the duties of a Lieutenant when necessary.

29. Plaintiff was not selected for the Lieutenant positions in September 2018 because of his active military service.

30. On or about September 5, 2018, Plaintiff filed a grievance with Defendant, in which he complained expressly that he had been denied promotions based on his military service, and cited USERRA.

31. On or about September 20, 2018, Chief Collier responded to Plaintiff via a letter which contained Defendant's purported justifications for not selecting Plaintiff for the Lieutenant position. Defendant took no further action.

32. In approximately late-January 2019, Plaintiff interviewed for an open Senior Sergeant position. On the interview panel were Chief Collier and two other interviewers. After Plaintiff left the interview room, on information and belief, Chief Collier stated that Plaintiff would not receive the promotion because "because he can't be trusted" or words to that effect.

33. In declaring that Plaintiff “can’t be trusted,” Chief Collier was referring to Plaintiff’s protected activity of opposing Defendant’s USERRA violations and expressing his retaliatory intent against Plaintiff for same.

34. Defendant did not promote Plaintiff to Senior Sergeant following the interview.

35. Defendant denied Plaintiff the Senior Sergeant position in January 2019 because of his protected activity of complaining about USERRA violations and/or because of Plaintiff’s active military service.

36. Defendant denied Plaintiff the Senior Sergeant position notwithstanding that he passed tests which had been administered for the position.

37. Notwithstanding that Plaintiff passed the tests and was more than qualified for the Senior Sergeant position, Defendant promoted other individuals, including two individuals who failed the tests.

38. Defendant denied Plaintiff the Senior Sergeant position in approximately January 2019 because of his protected activity of complaining about USERRA violations and/or because of Plaintiff’s active military service.

39. Defendant has continued to refuse to promote Plaintiff to the position of Senior Sergeant and Lieutenant. Defendant has denied these promotions to Plaintiff because of his protected activity of complaining about USERRA violations and/or because of Plaintiff’s active military service.

40. By rejecting Plaintiff for promotion to the positions of Lieutenant and Senior Sergeant, Defendant has prevented him from achieving additional promotions within the department and moving up the ranks.

41. Over the course of his career, Defendant has failed to raise Plaintiff's pay commensurate with his peers whenever raises occurred during periods in which Plaintiff was deployed. In one such instance, Plaintiff was told expressly that he did not receive a raise because he was deployed for his military service.

42. As a result of Defendant's discrimination and retaliation against Plaintiff, he has suffered damages, which include lost wages and benefits.

COUNT ONE
Discrimination in Violation of USERRA – Denial of Promotions

43. Plaintiff reasserts and incorporates by reference all preceding paragraphs of the Complaint.

44. USERRA was enacted in part "to prohibit discrimination against persons because of their service in the uniformed services." 38 U.S.C. § 4301(a)(3).

45. USERRA prohibits employers such as Defendant from discriminating in employment against any person because of, *inter alia*, their service in the uniformed services.

46. Plaintiff has served in the United States Army Reserve for approximately 18 years.

47. Defendant repeatedly did not promote Plaintiff to the Lieutenant position because of Plaintiff's active service in the United States Army Reserve.

48. Defendant denied Plaintiff promotions to Lieutenant in approximately November 2015, March 2018 and September 2018 because of Plaintiff's military service.

49. Defendant additionally denied Plaintiff a promotion to Senior Sergeant in approximately January 2019, and has thereafter continued to deny a promotion because of Plaintiff's military service.

50. The foregoing conduct constitutes a willful violation of USERRA because Defendant either knew or showed reckless disregard for whether its conduct was prohibited by USERRA.

51. Due to Defendant's willful USERRA violations, Plaintiff is entitled to (i) reinstatement to denied position; (ii) lost wages; (iii) lost benefits; (iv) liquidated damages; (v) interest; and (vi) attorneys' fees and costs.

COUNT TWO
Discrimination in Violation of USERRA – Denial of Raises

52. Plaintiff reasserts and incorporates by reference all preceding paragraphs of the Complaint.

53. USERRA was enacted in part "to prohibit discrimination against persons because of their service in the uniformed services." 38 U.S.C. § 4301(a)(3).

54. USERRA prohibits employers such as Defendant from discriminating in employment against any person because of, *inter alia*, their service in the uniformed services.

55. Plaintiff has served in the United States Army Reserve for approximately 18 years.

56. Defendant repeatedly denied Plaintiff raises that his colleagues received because of Plaintiff's active service in the military.

57. The foregoing conduct constitutes a willful violation of USERRA because Defendant either knew or showed reckless disregard for whether its conduct was prohibited by USERRA.

58. Due to Defendant's willful USERRA violations, Plaintiff is entitled to (i) immediate elevation of his pay to the proper rate; (ii) lost wages; (iii) lost benefits; (iv) liquidated damages; (v) interest; and (vi) attorneys' fees and costs.

COUNT THREE
Retaliation in Violation of USERRA – Denial of Promotion

59. Plaintiff reasserts and incorporates by reference all preceding paragraphs of the Complaint.

60. USERRA prohibits employers such as Defendant from retaliating against any person for engaging in protected activity under USERRA, which includes (1) taking any action to enforce a protection afforded any person by USERRA, (2) testifying or otherwise making a statement in or in connection with any USERRA proceeding, (3) assisting or otherwise participating in a USERRA investigation, or (4) exercising a right provided by USERRA. 38 U.S.C. § 4311(b).

61. Plaintiff engaged in protected activity under USERRA by, *inter alia*, filing a grievance with Defendant and specifically alleging discrimination in violation of USERRA.

62. Defendant retaliated against Plaintiff for engaging in protected activity by, *inter alia*, denying him a promotion Senior Sergeant in approximately January 2019, and continuing thereafter to deny him promotions to positions for which he is more than qualified.

63. The foregoing conduct, as alleged, constitutes a willful violation of USERRA because Defendant either knew or showed reckless disregard for whether its conduct was prohibited by USERRA.

64. Due to Defendant's willful USERRA violations, Plaintiff is entitled to (i) reinstatement to the denied position; (ii) lost wages; (iii) lost benefits; (iv) liquidated damages; (v) interest; and (vi) attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands a **TRIAL BY JURY** and the following relief:

- (a) A declaratory judgment that the Defendant's practices complained of herein are unlawful under USERRA;
- (b) Instatement to the denied positions;
- (c) Elevation of his compensation to the proper rate;
- (d) Lost wages;
- (e) Lost benefits;
- (f) An award of liquidated damages as a result of Defendant's willful violation of USERRA;
- (g) An award of prejudgment and post-judgment interest; and
- (h) An award of costs and expenses of this action, including reasonable attorneys' and expert fees.

Dated this 14th day of October 2019.

Respectfully submitted,

/s/ Justin M. Scott

Justin M. Scott

Georgia Bar No. 557463

SCOTT EMPLOYMENT LAW, P.C.

246 Sycamore Street

Suite 150

Decatur, Georgia 30030

Telephone: 678.780.4880

Facsimile: 478.575.2590

jscott@scottemploymentlaw.com

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

Thomas Bridgeman

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Justin M. Scott, Scott Employment Law, P.C. 246 Sycamore Street, Suite 150, Decatur, Georgia 30030 Telephone: (678) 780-4880

DEFENDANTS

City of Milledgeville, 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: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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): 38 U.S.C. 4301. Brief description of cause: Discrimination and retaliation in violation of the Uniformed Services Employment and Reemployment Rights Act

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 10/14/2019 SIGNATURE OF ATTORNEY OF RECORD /s/ Justin M. Scott

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Middle District of Georgia

THOMAS BRIDGEMAN

Plaintiff(s)

v.

CITY OF MILLEDGEVILLE, GEORGIA

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) City of Milledgeville (via Hank Griffeth, City Manager)
119 E. Hancock Street
Milledgeville, Georgia 31061

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Justin M. Scott
Scott Employment Law, P.C.
246 Sycamore Street
Suite 150
Decatur, Georgia 30030
Telephone: (678) 780-4880

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: