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**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR LAKE COUNTY, FLORIDA**

CHRIS MERRELL,

CASE NO.:

Plaintiff,

v.

CITY OF CLERMONT FIRE DEPARTMENT,

Defendant.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, CHRIS MERRELL (“Mr. Merrell” or “Plaintiff”), files this Complaint against Defendant, CITY OF CLERMONT FIRE DEPARTMENT (“CCFD” or “Defendant”), and states as follows:

JURISDICTION

1. These claims are brought pursuant to the Uniformed Services Employment and Re-employment Rights Act of 1994, as amended (38 U.S.C. §4301, *et seq.*, hereinafter called “USERRA”) and the Florida Uniformed Servicemembers Protection Act (“FUSPA”), Fla. Stat. § 250.80, *et seq.*, to recover benefits with interest, front pay and back pay with interest, benefits with interest, an additional equal amount as liquidated damages, compensatory damages, declaratory relief, and reasonable attorney’s fees, costs, and expenses.

2. Plaintiff is seeking in excess of \$15,000.00 exclusive of attorneys’ fees and costs.

PARTIES

3. At all times material hereto, Plaintiff was a resident of Orlando, Florida.

4. At all times material hereto, Defendant was, continues to be, engaged in operations in Lake County, Florida.

5. At all times material hereto, Defendant was an “employer” within the meaning of USERRA and FUSPA.

STATEMENT OF FACTS

6. Mr. Merrell, a proud member of the United States Marine Corps reserves, worked for CCFD as a Firefighter from January 8, 2018, until his termination on September 12, 2018.

7. Due to his military obligations, Mr. Merrell had to miss several large-scale training events during his time with CCFD.

8. In August 2018, as a result of missing out on the training events, etc., and as a result of inadequate training by his Lieutenant, Mr. Merrell unfortunately (and unsurprisingly, in light of missing the prior training events) failed a skills test.

9. Around this same time, one of CCFD’s supervisors, and Engineer, pulled Mr. Merrell aside.

10. CCFD’s supervisor asked Mr. Merrell, “how serious are you about the fire service? You are missing a great deal of work to go train with your Marine Corps Reserve Unit.”

11. In response, Mr. Merrell told CCFD’s supervisor that he was serious about the job, and reminded this individual that there are laws in place to prevent him

from being punished for missing work because of his military commitments.

12. Nevertheless, shortly thereafter, on September 12, 2018, rather than provide Mr. Merrell a make-up skills test or an extension of his so-called “probationary period” or any other sort of remediation or mitigation, CCFD abruptly terminated Mr. Merrell’s employment.

13. CCFD’s rash and adverse employment action was taken in retaliation for Mr. Merrell missing days at work in order to serve our country and its citizens as a member of the United States Marine Corps reserves, as evidenced by the troubling and unlawful statements and inquiries put to him by CCFD’s supervisor shortly before the unlawful termination.

14. USERRA/FUSPA prohibit employment discrimination based on past, current, or future military service.

15. CCFD’s unlawful termination of Mr. Merrell was unquestionably based on his military service, and violative of this important protective legislation.

16. Such retaliatory and unlawful conduct is exactly the kind of adverse employment action the provisions of USERRA/FUSPA were intended to prevent.

17. Plaintiff has suffered damages as a result of his illegal firing in this regard.

COUNT I- USERRA

18. Plaintiff re-alleges and reavers paragraphs 1 through 17 of the Complaint, as if fully set forth herein.

19. During Plaintiff's employment with Defendant, Plaintiff was a military reservist who was called to duty and therefore, protected by USERRA.

20. Defendant violated Plaintiff's rights under USERRA by discriminating, retaliating against, and ultimately terminating his employment because of his need for protected leave.

21. Further, Defendant treated Plaintiff in a disparate manner with regard to its leave policies solely because of Plaintiff's exercise of his USERRA rights.

22. Defendant's violations of USERRA were willful.

23. As a result of the above-described discriminatory acts, Plaintiff has been made to suffer lost pay and benefits.

WHEREFORE, Plaintiff respectfully requests that judgment be entered in his favor against Defendant:

- a. Declaring, pursuant to 29 U.S.C. §§2201 and 2202, that the acts and practices complained of herein are in violation of USERRA;
- b. Awarding Plaintiff front pay; providing back pay and benefits with interest; and ordering Defendant to pay compensatory damages;
- c. Awarding Plaintiff liquidated damages in an amount equal to the award of front pay and back pay;
- d. Awarding Plaintiff reasonable attorney's fees and costs and expenses of the litigation;
- e. Awarding Plaintiff pre-judgment interest;
- f. Ordering any other further relief the Court deems just and proper.

COUNT II- FUSPA

24. Plaintiff re-alleges and reavers paragraphs 1 through 17 of the Complaint, as if fully set forth herein.

25. During Plaintiff's employment with Defendant, Plaintiff was a military reservist who was called to duty and therefore, protected by FUSPA.

26. Defendant violated Plaintiff's rights under FUSPA by discriminating, retaliating against, and ultimately terminating her employment because of his need for protected leave.

27. Further, Defendant treated Plaintiff in a disparate manner with regard to its leave policies solely because of Plaintiff's exercise of his FUSPA rights.

28. Defendant's violations of FUSPA were willful.

29. As a result of the above-described discriminatory acts, Plaintiff has been made to suffer lost pay and benefits.

WHEREFORE, Plaintiff respectfully requests that judgment be entered in his favor against Defendant:

- a. Awarding Plaintiff front pay; providing back pay and benefits with interest; and ordering Defendant to pay compensatory damages;
- b. Awarding Plaintiff liquidated damages in an amount equal to the award of front pay and back pay;
- c. Awarding Plaintiff reasonable attorney's fees and costs and expenses of the litigation;
- d. Awarding Plaintiff pre-judgment interest;

- e. Ordering any other further relief the Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff demands trial by jury on all issues so triable.

Dated: January 15, 2020.

Respectfully submitted,

By: /s/Cortney Walters

Cortney Walters, Esq.

Florida Bar No. 125159

Noah E. Storch, Esq.

Florida Bar No. 0085476

RICHARD CELLER LEGAL, P.A.

10368 W. SR 84, Suite 103

Davie, Florida 33324

Telephone: (866) 344-9243

Facsimile: (954) 337-2771

E-mail: noah@floridaovertimelawyer.com

E-mail: cortney@floridaovertimelawyer.com

Trial Counsel for Plaintiff