

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

DANNY JAMES FEBO,

Plaintiff,

v.

**NEGOCIADO DEL CUERPO DE BOMBEROS
DE PUERTO RICO, COMMISSIONER
ALBERTO CRUZ ALBARRAN IN HIS
PERSONAL CAPACITY;
DEPARTAMENTO DE SEGURIDAD
PUBLICA, ALEXIS TORRES RIOS IN HIS
OFFICIAL CAPACITY;
COMMONWEALTH OF PUERTO RICO,
SECRETARY OF JUSTICE DOMINGO
EMMANUELI HERNANDEZ IN HIS
OFFICIAL CAPACITY; CAPTAIN CELIA
FEIJOO-NIEVES, IN HER PERSONAL
CAPACITY; CAPTAIN TANIA MEDINA-
FIGUEROA, IN HER PERSONAL CAPACITY;
COMMANDER FRANCISCO PETERSON
MONTIJO, IN HIS PERSONAL CAPACITY;
LIEUTENANT ARIEL COLON-RODRIGUEZ,
IN HIS PERSONAL CAPACITY; SANDRA
TOLEDO-PEREZ, IN HER PERSONAL
CAPACITY**

Defendant.

CIVIL. NO. 21-1595

**Religious Discrimination;
Retaliation**

Jury Trial Demanded

COMPLAINT

(Religious Discrimination and Retaliation in Puerto Rico Fire Department Employment)

Introduction

Plaintiff Danny James-Febo, through the undersigned counsel, brings this action pursuant to Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. §§ 2000e et seq.; Puerto Rico's Anti-discrimination Law 100-1959, as amended; and Puerto Rico's Retaliation Discrimination

Law, Act 115-1991, to remedy acts of employment discrimination and retaliation perpetrated against him by the Puerto Rico Fire Department officials.

Plaintiff contends that Puerto Rico Fire Department officials discriminated against him by ignoring his religious reasonable accommodation requests. Plaintiff further asserts that supervisory officials retaliated against him for having complained about such discrimination, created a hostile working environment for him, caused him to suffer major depression, failed to provide reasonable accommodation.

JURISDICTION AND VENUE

This Court has jurisdiction over the subject matter of this civil action pursuant to Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. §§ 2000e et seq.; 28 U.S.C. 1331, and pursuant to 28 U.S.C. §1367, plaintiff invokes the pendent jurisdiction of this Court with respect to any and all causes of action arising under the Laws and Constitution of Puerto Rico insofar as they stem from the same nucleus of operative facts as their federal counterparts. Plaintiff hereby demands trial by jury.

THE PARTIES

A. PLAINTIFF

Plaintiff Danny James-Febo (“James”) is a citizen of the United States and a resident of Urb. Ciudad Central 2, #731 Calle Roberto Alberti Torres, Carolina Puerto Rico. At all times relevant to this suit, Plaintiff is employed with the Negociado del Cuerpo de Bomberos de Puerto Rico (“Puerto Rico Fire Department” or “Fire Department”).

B. DEFENDANTS

The Commonwealth of Puerto Rico, for all intents and purposes the Commonwealth of Puerto Rico is the Plaintiff James’ employer and is being sued in its official capacity.

The Secretary of Justice, who oversees all agencies under the Departmente of Public Security (Departamento de Seguridad Publica), Domingo Emmanuelli Hernandez is being sued in his official capacity only.

The **Negociado del Cuerpo de Bomberos de Puerto Rico** (“Fire Department”) is an agency of the Commonwealth of Puerto Rico (“the Commonwealth”). Since the Fire Department has no independent capacity, for all intents and purposes the Commonwealth of Puerto Rico is James’ employer under Title VII and Puerto Rico’s Law 100, which has had more than 15 employees during any work week from October 23, 1996 until today.

Departamento de Seguridad Publica is the department which oversees the Puerto Rico Fire Department, whose current Commissioner is Alexis Torres-Rios. He is being sued in his official capacity only.

Alberto Cruz-Albarran is currently the commissioner of the Puerto Rico Fire Department and is being sued in his official capacity as well as his personal capacity since at the time of the discriminatory acts, he ignored Plaintiff James’ request for reasonable accommodation.

Captain Celia Feijoo-Nieves is a member of the Puerto Rico Fire Department and at all times relevant was Plaintiff’s supervisor who ignored Plaintiff’s accommodation requests. She is being sued in her personal capacity.

Captain Tania Medina-Figueroa is a member of the Puerto Rico Fire Department and at all times relevant was one of the supervisors who ignored Plaintiff’s accommodation requests. She is being sued in her personal capacity.

Commander Francisco Peterson-Montijo is a member of the Puerto Rico Fire Department and at all times relevant was one of the supervisors who ignored Plaintiff’s accommodation requests. He is being sued in her personal capacity.

Lieutenant Ariel Colon-Rodriguez is a member of the Puerto Rico Fire Department and at all times relevant was one of the supervisors who ignored Plaintiff's accommodation requests.

He is being sued in her personal capacity.

Sandra Toledo-Perez is the Director of the Human Resources division of the Fire Department.

She is being sued in her personal capacity.

Statement of Facts

1. Plaintiff James has been an employee of the Puerto Rico Fire Department since October 23, 1996 when he was hired as a "Fireman" in the extinguishing division.
2. During his employment with the Fire Department, James was promoted to sergeant in 2003 and throughout the years held various job titles such as Administrative Investigator, Ethics Liaison, Fire Marshall, and Health and Security Officer (Oficial de Salud y Seguridad), among others.
3. James is a devout Christian with sincerely held religious beliefs, practices and observances and is an ordained minister and pastor of a church. Prior to accepting his pastorate position, James sought approval from Commander Rafael Santaella-Diaz, who granted the approval and stated that James could "count on him".

Reasonable Accomodation Request/Religion

4. In order to fulfill his ministerial duties, James would use his accrued compensatory time from work when his assigned rotating shift conflicted with the church services, which were conducted on Sundays 10:00 a.m. thru 12:00 p.m.
5. On or about January 26, 2017, Plaintiff James was designated to the position of Health and Security Committee (Comite de Salud y Seguridad) by then Commander Alberto Cruz-Albarran. This is an administrative position which is also known as Special Assistant to the Chief. This position carried the possibility of being assigned to administrative work hours of Monday thru Friday, 7:00 a.m. thru 4:00 a.m.

6. On or about June 26, 2017 Plaintiff James met with supervisor Captain Celia Feijoo-Nieves to request a reasonable accommodation for his religious practices, since he was close to exhausting all his accrued compensatory time. The request consisted of a change of hours and/or shift so he may conduct his pastoral duties on Sunday mornings without having to exhaust his accrued compensatory time. His request went ignored by Captain Celia Feijoo-Nieves.

7. Plaintiff James then went to Commander Francisco Peterson Montijo, Chief of the Carolina Zone, seeking an answer to his reasonable accommodation request. Commander Peterson informed Plaintiff James that he never received James' accommodation request he submitted to Captain Celia Feijoo-Nieves but that "he would look into it". Plaintiff James never received an answer from Commander Peterson.

8. On or about July 21, 2017, Plaintiff James, following the chain of command, met with Lieutenant Ariel Colon-Rodriguez concerning his religious accommodation request. Plaintiff James never received an answer from Lieutenant Colon-Rodriguez.

9. On or about August 8, 2017, Plaintiff James submitted his accommodation request to Mr. Alberto Cruz-Albarran, then Chief of the Fire Department. Plaintiff James request went ignored.

10. On or about December 11, 2017 Plaintiff James contacted Ms. Sandra Toledo-Perez, Director of Fire Department Human Resources, notifying her of all the steps he had taken in order to receive an answer as to his religious accommodation requests, including that Plaintiff James had followed the chain of command in relaying his accommodation request and that he never received an answer from Captain Feijoo, Commander Francisco Peterson, Lieutenant Ariel Colon Rodriguez, and Commander Albarran. Plaintiff James informed Ms. Sandra Toledo-Perez that he felt discriminated against since all his requests went unanswered and / or ignored.

11. Despite the above, Ms. Sandra Toledo-Perez did not answer Plaintiff James' complaint nor his accommodation request.

E.E.O.C Complaint

12. On January 23, 2018 James timely filed complaint number 515-2018-00111 with the Equal Employment Opportunity Commission (EEOC), San Juan Local office alleging religious discrimination. After James filed his EEOC complaint, his supervisors treatment of James became hostile, including being ignored at work, not inviting him to work related meetings, and making him report to work right after a work related injury consisting of a fractured meniscus of the knee, instead of allowing him to receive further medical treatment.

13. On May 16, 2019 the EEOC notified a "Letter of Determination", indicating that "Evidence obtained does establish a violation under Title VII. Specifically, Charging Party has been discriminated against because of his religion, when Respondent failed to engage in the interactive process to secure the accommodation".

14. Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e et seq., requires that if the Commission determines that that there is reason to believe that a violation has occurred, it shall endeavor to eliminate the alleged unlawful practice by informal methods of conciliation.

15. During the proceedings before the Antidiscrimination Unit, Defendant Fire Department denied it had failed to provide Plaintiff James with reasonable accommodation and never acted on his reasonable accommodation request.

16. On September 20, 2021, the DOJ notified James with a Notice of Right to Sue Letter, advising him of his right to file a civil action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e et seq.

FIRST CAUSE OF ACTION
(Religious Discrimination in Violation of Title VII of the
Civil Rights Act of 1964, 42 USC 2000e. et seq.)

17. Plaintiff reiterates the allegations included in paragraphs 1-16 of this complaint.

18. The Fire Department failed to consider James' religious accommodation needs.

19. Furthermore, the Fire Department never intended to comply with any accommodation toward James. The Fire Department never expressed any undue hardship or direct threat as the reason for ignoring and not complying with Plaintiff's reasonable accommodation needs.

20. The Fire Department's inaction on Plaintiff's reasonable accommodation is a violation of the Title VII and a gross failure to comply with its obligations under the Act.

21. James has suffered emotional damages, mental anguish and moral damages as a result of Defendant's failure to accommodate him.

22. James's emotional and economic damages are calculated in an amount not less than \$ 300,000.00.

23. Defendants' actions are a violation to Puerto Rico Law 100-1959 as amended.

SECOND CAUSE OF ACTION

(Reprisal/Retaliation for Engaging in Protected Activities)

24. Plaintiff reiterates the allegations included in paragraphs 1-23 of this complaint.

25. It is Plaintiff's contention that Defendants retaliated against him for filing a complaint with E.E.O.C.

26. After the filing of the E.E.O.C complaint, Plaintiff James was not made part of important meetings at the fire station workplace and was often ignored.

27. In 2019, Captain Tania Medina-Figueroa, who had participated in the E.E.O.C. conciliatory negotiations, ordered Plaintiff James to report to the fire station house right after a fire extinguishing intervention, instead of allowing James to receive medical attention for having suffered a fracture to his right knee meniscus.

28. These retaliatory acts are also in violation to Title VII and Puerto Rico Law 115-1991.

29. James has suffered emotional damages, mental anguish moral damages as well as the physical pain he suffered before receiving medical attention because of Defendants retaliatory acts.

30. James' emotional and economic damages are calculated in an amount not less than \$300,000.00.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests from this Honorable Court to issue the following relief, jointly and severally against all Defendants:

- a. Award James compensatory damages suffered because of the discrimination and retaliation in the amount of \$600,000.00
- b. Award plaintiff the costs of this action, including reasonable attorney's fees, costs, and expenses.
- c. Grant Plaintiff any such further relief as this Honorable Court may deem just, proper and equitable.
- d. Trial by jury is demanded.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 9th day of December, 2021.

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