

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

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JERROD JONES,

Plaintiff,

NOTICE OF CLAIM

v.

THE CITY OF ROCHESTER, NEW YORK and
THE ROCHESTER FIRE DEPARTMENT

Defendant.

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CITY OF ROCHESTER
LAW DEPARTMENT

JERROD JONES, by his undersigned counsel, alleges as follows:

PARTIES

1. Plaintiff, Jerrod Jones (of 52 Bakerdale Road, Rochester, New York, 14616) is a 14-year veteran of the City of Rochester Fire Department, where he has served with honor and distinction. Through his direct actions Jones has protected and saved the lives of citizens in the City of Rochester.

2. The Defendants are the City of Rochester and Rochester Fire Department (“RFD”) with an address of 185 Exchange Blvd, # 665, Rochester, NY 14614.

SUMMARY OF FACTS

3. On July 7, 2022, Jones was working his regular shift on Truck 4, located at 977 University Avenue, with three other fire fighters: McKenzie (“Mack”) Neal, Aurelio (“Angel”) Perez, and their Captain: Jeffrey Krywy.

4. Krywy, as the officer in charge, informed Jones, Neal, and Perez that he wanted to take the firetruck or “rig” to attend a party located in the district.

5. It was not uncommon for on-duty firefighters to attend community events, but Jones felt concerned that it was a private party.

6. Krywy assured the firefighters under his command that it was outdoors and in their district—leaving no reasonable chance for the firefighters under his control to stay behind. As a team they always traveled together.

7. Krywy was dressed in his button-up uniform (a button-up shirt rather than an RFD t-shirt). Jones suggested before they departed in the rig that all the firefighters should put on their button-up uniforms because they will be before the public eye. All four men put on their button-up RFD uniforms.

8. In uniform and driving the rig they arrived at their destination: 1286 East Avenue in Rochester—a large private home in one of the city’s most affluent communities.

9. Jones felt immediately uneasy, and his uneasiness intensified as he walked up the driveway and noticed a large cut out of former President Donald Trump. Turning the corner at the end of the driveway and viewing the backyard he became completely shocked.

10. Two large Juneteenth celebration flags decorated the lawn. Near the flags he saw buckets of Kentucky Fried Chicken prominently displayed—an apparent use of the racist trope recycled by bigots to mock Black Americans.

11. A woman in a red wig was performing for seated attendees at the party. She was referring to herself as “Rachel” and the crowd was calling her “Rachel” in an apparent reference to Democratic County Legislator Rachel Barnhart.

12. The crowd was yelling at the Barnhart impersonator, “Show us your tits!” and other sexually explicit comments. The woman danced in a mocking, but sexual, manner to please the attendees.

13. Upon seeing Jones and the other firefighters standing before her in uniform the Barnhart impersonator became immediately embarrassed and ripped off her wig.

14. When the crowd saw Jones and the other firefighters in uniform, they also appeared immediately nervous until they recognize Krywy.

15. Relieved, several members of the crowd got up from their seats and walked towards Krywy to welcome him.

16. Jones never ventured farther into the yard than the first table near the driveway—understandably nervous about traveling into the yard further. Even from that vantage point he could see pictures of local democratic politicians on stakes across the grass and around the backyard, including members of the Rochester Police Accountability Board and a picture of Councilman Mitch Gruber among many others.

17. Immediately, firefighter McKenzie Neal looked at Jones and expressed his regret stating, “We shouldn’t be here. This is bullshit.” Neal was concerned about not only about the racist materials but also the political content. It is against RFD rules to attend partisan political events, let alone events that advocate for prejudice that hatred or otherwise disparage the RFD.

18. Perez, a relatively new firefighter, stayed quiet—as is the custom and culture for less senior members of the RFD—but also appeared uneasy.

19. At this time, the Barnhart impersonator finished her performance and was going about the crowd handing out bags of party favors.

20. The owner or co-owner of the house—who upon information and belief is Nicholas Nicosia—then approached a visibly distraught Jones. The conversation was strained,

and the houseowner or co-houseowner seemed intent on neutralizing any potential negative fallout from Jones's presence.

21. Several feet away, Krywy was standing with the Barnhart impersonator. She handed him one of the party favor bags. Seeing Krywy's open bag of party favors Jones—who once owned and operated a liquor store—recognized a small bottle of Cognac in the bag. He could readily notice the cap and shouted over mockingly, "I didn't know the captain [Krywy] was a Cognac man." The consumption of Cognac among some is another racist trope used to demean Black Americans. When Krywy opened the bag fully, Jones noticed that it contained a Juneteenth commemorative cup.

22. Krywy then looked at Jones, Neal, and Perez and ordered firmly, "No pictures!"

23. The homeowner then walked over to Krywy and the two walked away as they chatted nervously.

24. Unable to leave and unsure of how to react, Jones stood at the back of the party. He was contemplating what to do next, having served with Krywy for years. Jones was both confused and disheartened, expressing to Neal and Perez that he felt like he was in the film "Get Out."

25. A woman then came up to Jones seemingly intent on addressing his potential concerns. She was highly intoxicated and only identified herself as "Char" because she was drinking Chardonnay. None of the party goers gave their real names to Jones.

26. "Char" told Jones that he shouldn't take the party seriously and that they were just "having fun." She also told him that they were all Trump supporters, and that Joe Biden was destroying the country. She said that this justified their party antics.

27. Scanning the attendees, Jones recognized the faces—but not the names—of several attendees at the party from his time working for the RFD—including a man who Jones

once worked with at the Public Safety Building who Jones believes was a senior member of the Rochester Police Department (“RPD”).

28. Jones asked “Char” who the man was. She refused to answer. The intoxicated woman then became amorous towards Jones, hugging him and clinging to him, to the point that Jones and Neal were both bemused by the woman’s over the top behavior.

29. After rebuffing the woman, Jones approached Krywy to try and identify the man he recognized from the Public Safety Building who Jones believes was a senior member of the RPD.

30. Krywy answered Jones by saying only, “Leo,” which is a generic named used to refer to police officers, as in “law enforcement officer.” Jones took this reply to mean, don’t ask.

31. Jones, Neal, and Perez were eager to leave, and started to move towards the rig. At this time, the woman Jones also believed to be the homeowner or co-homeowner—who upon information and belief is Mary Znidarsic-Nicosia—approached Jones. The woman asked Jones if he wanted to take home the chicken.

32. Jones refused the chicken. As Jones tried to walk away, however, the woman continued to hassle Jones saying, “You sure? It’s KFC!”

33. She offered other foods as well, which Jones also refused because, among other reasons, he was worried that something may have been tampered with.

34. To his credit, Neal interrupted and said that he would take the chicken to the firehouse if she would pack it up. Perez helped Neal carry the chicken to the rig, as Jones walked empty handed and silent. They waited for Krywy in the rig as he continued to gladhand the crowd.

35. Eventually, Krywy emerged. The total time of these events was approximately 40 minutes.

36. One the ride back to the fire station no one mentioned events of the party as they were nervous about Krywy's reaction. That night, however, when Krywy left momentarily to put—perhaps hide—his party favors in his truck. Jones, Neal, and Perez seized that moment to vent, with Neal breaking the ice by saying, “How fucked up was that?”

37. After a difficult night's sleep, the next morning, July 8, 2022, Jones contacted acting battalion Chief George Smith to complain about the incident. Smith was someone Jones trusted and believed to be a person of integrity.

38. Smith was shocked by the account and promised immediate action

39. Jones wanted the matter to go no further, hoping that it could be handled internally, among the RFD, which he loved and served so proudly.

40. To his disbelief, however, Jones was assigned to work with Krywy again his following shift—four full days following his report to Smith. Neither Fire Chief Felipe Hernandez Jr. nor any other senior member of the RFD reached out to Jones to check on his status or to personally investigate the events outlined herein.

41. Jones is currently on leave, suffering emotional distress and fear of retaliation from Krywy and others. He has been pressured by several firefighters including elected officials, to remain silent.

42. Still, many of the rank-and-file firefighters Jones has spoken to support Jones—encouraging him to act and call out the intolerable behavior listed herein. Since the incident, Krywy has reportedly earned the nickname “Ku Klux Krywy” among some of his RFD colleagues. Further, upon information and belief, numerous other incidents by Krywy have been ignored or covered up by the RFD.

AS AND FOR FIRST CAUSE OF ACTION

(N.Y. State Human Rights Law – All Defendants)

43. By their actions described above, Defendants have discriminated against, harassed, and subjected Plaintiff to a hostile work environment because of his race, in violation of in violation of New York State Human Rights Law, New York Executive Law §296.

1. As a result of the Defendants' discriminatory actions, Plaintiff has been injured, suffered, and will continue to suffer lost wages, reputational injury, and emotional distress.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court enter judgment:


- a. Awarding Plaintiff emotional distress damages in an amount to be determined at trial but in no event less than \$3,000,000;
- b. Awarding compensatory damages to Plaintiff in an amount to be determined at trial but in no event less than \$1,000,000;
- c. Awarding Plaintiff attorneys' fees and costs, and such other relief as the Court its actions described above.

JURY DEMAND

d. Plaintiff demands a trial by jury.

Dated: Rochester, New York
August 11, 2022

ADVOCATES FOR JUSTICE,
CHARTERED ATTORNEYS
Attorneys for Plaintiff

By: 
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HENRIETTA HERRIOTT
Notary Public, State of New York
No. 01HE6173849
Qualified in Monroe County
Commission Expires Sept. 4, 2023

Henrietta Herriott