

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

Robert Pappas,

*Plaintiff,*

v.

The City of Peekskill; The Fire Department  
of the City of Peekskill; Paid Fireman's  
Association of Peekskill, NY Inc.  
Local 2343 IAFF, AFL-CIO; and Fire Chief  
James E Seymour, IV in his individual and  
official capacity,

*Defendants.*

**Civ. No. 23-cv-8464**

**COMPLAINT**

**JURY TRIAL  
DEMANDED**

Plaintiff Robert Pappas, by and through his attorneys Robert McCreanor, Law Office of Robert D. McCreanor, P.L.L.C., and Patricia Kakalec, Kakalec Law PLLC, as and for his Complaint, alleges as follows:

Preliminary Statement

1. Plaintiff Robert Pappas, a professional firefighter of Middle Eastern ethnicity and a 19-year veteran of the Peekskill Fire Department with an exemplary performance record, brings these racial discrimination claims against (1) the City of Peekskill, (2) the Fire Department of the City of Peekskill, (3) the Paid Fireman's Association of Peekskill, NY Inc. Local 2343 IAFF, AFL-CIO, and (4) Fire Chief James E Seymour, IV (collectively, "Defendants") for their

- discriminatory treatment of him based upon his race, ethnicity, national origin, color and ancestry. Specifically, Defendants together denied Firefighter Pappas promotion to a Lieutenant position on three separate occasions despite him having the most seniority and the highest-ranking score on the civil service promoting exam. In each instance, Firefighter Pappas was passed over in favor of objectively less qualified non-Middle Eastern candidates, all of whom are White, Irish-American individuals whose skin complexions are lighter than that of Plaintiff.
2. These denials of promotion are part of an ongoing course of discriminatory conduct which has also included denying Plaintiff performance-based recognition and awards while according such recognition and awards to White non-Middle Eastern employees whose performance was equal or inferior to his; denying Plaintiff's requests to serve on various workplace committees while awarding such positions to White non-Middle Eastern employees with equal or less experience than him; regularly assigning to Plaintiff the least desirable tasks despite his seniority while rarely if ever assigning such tasks to White non-Middle Eastern employees with less seniority; and denying Plaintiff's requests for access to information including but not limited to a copy of the collective bargaining agreement while giving such information to White non-Middle Eastern employees.
  3. When Plaintiff served on the City of Peekskill a formal, written complaint about this discrimination, the City of Peekskill, the Peekskill Fire Department, and Fire Chief James Seymour IV retaliated against him by denying his request for benefits related to a workplace injury despite overwhelming evidence, including

the report of the City's own medical expert, that Plaintiff's injury was caused by work-related activities and that he otherwise qualified for the benefits. The Paid Fireman's Association of Peekskill also retaliated against Plaintiff by failing to respond to numerous requests for information and assistance related to his contractual rights.

4. To remedy these legal violations, Plaintiff brings this action under 42 U.S.C. § 1981 ("Section 1981"); 42 U.S.C. § 1983 ("Section 1983"), and the New York State Human Rights Law, NY Exec. Law § 290 *et seq.* ("NYSHRL").

#### Jurisdiction and Venue

5. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction).
6. The Court has jurisdiction over Plaintiff's pendant state law claims under 28 U.S.C. § 1367 (supplemental jurisdiction). Plaintiff's state law claims are parts of the same case or controversy as Plaintiff's federal claim.
7. Venue is proper in this district pursuant to 28 U.S.C. §1391. A substantial part of the acts and/or omissions giving rise to the claims alleged in this Complaint occurred within this district.
8. Defendants reside and/or do business in this district.

#### Parties

9. Plaintiff Robert Pappas is a resident of New York State who has been employed by Defendants City of Peekskill and Peekskill Fire Department since 2004. At all times relevant to this action, Plaintiff has been an "employee" of the

Defendants City of Peekskill and Peekskill Fire Department within the meaning of Section 1981, Section 1983, and the NYSHRL.

10. Plaintiff Robert Pappas has been an “employee” of Defendant Fire Chief James E Seymour, IV (“Seymour”), since Seymour’s installation as Peekskill Fire Chief in January 2022, within the meaning of Section 1981, Section 1983, and the NYSHRL.
11. At all times relevant to this action, Plaintiff has been a member of the Paid Fireman's Association of Peekskill, NY Inc. Local 2343 IAFF, AFL-CIO (the “Fireman’s Association”).
12. Defendant City of Peekskill (“City”) is a municipal corporation duly organized and existing under the laws of the State of New York. Defendant City is an employer within the meaning of Section 1981, Section 1983, and the NYHRL. Defendant City is a “person” for purposes of enforcement of the rights guaranteed under 42 U.S.C. §§ 1981 and 1983.
13. Defendant City was or is the employer of Defendant Seymour.
14. At all times relevant to this action, the City has been an “employer” of Plaintiff within the meaning of Section 1981, Section 1983, and the NYSHRL.
15. Defendant City of Peekskill maintains a fire department, the Peekskill Fire Department, and employs firefighters who, among other things, are responsible for protecting individuals and property in the City of Peekskill.
16. Defendant Peekskill Fire Department is a department, agency, bureau and/or subdivision of the City.

17. Defendant Peekskill Fire Department is a local government agency of the City and is the employer of Plaintiff Robert Pappas and Defendant Seymour.
18. Defendant Seymour has been the Fire Chief of the City of Peekskill from January 2022 through the present. He is an employee of the City and is the principal administrator of Defendant Peekskill Fire Department. He is responsible for the institution and application of the Peekskill Fire Department's hiring and promotion policies and for ensuring that the actions of the Peekskill Fire Department do not deprive any individual of the rights secured by the Constitution and laws of the United States, as well as the Constitution and laws of the State of New York and County of Westchester. Defendant Seymour knew or should have known of the discriminatory practices and wrongful acts of the Defendants described in this Complaint, and condoned, ratified and/or authorized such conduct and recklessly disregarded the resulting unlawful consequences. He is sued in both his individual and official capacities.
19. Upon information and belief, Defendant Seymour is a resident of the State of New York.
20. Since January 2022, Defendant Seymour has been an "employer" of Plaintiff within the meaning of Section 1981, Section 1983, and the NYSHRL.
21. Defendant Seymour also actively and knowingly engaged in acts or omissions that aided and abetted the Defendants' discriminatory actions against Plaintiff.
22. Defendant Fireman's Association is a labor organization whose membership is comprised of non-volunteer employees of the Peekskill Fire Department.

23. Plaintiff Robert Pappas has been a member of the Fireman's Association since beginning his employment with the Peekskill Fire Department.

Factual Allegations

24. Plaintiff Robert Pappas is a lifelong resident of Peekskill and dedicated public servant.
25. Firefighter Pappas's career with the Peekskill Fire Department has been distinguished by a consistently excellent performance record and he has been recognized for his professional achievements.
26. For example, in 2019, he was named Hudson Valley Firefighter of the Year.
27. Of his own initiative, Plaintiff has pursued multiple funding opportunities for the Peekskill Fire Department, helping to secure a grant to replace outdated equipment.
28. Plaintiff has served as a municipal fire instructor since 2018 and has volunteered as a firefighter and emergency medical technician in other townships.
29. Plaintiff holds a Bachelor degree in Emergency Service Administration and Fire Science with near a 4.0 grade point average. Plaintiff is currently enrolled in a Master of Science Program in Emergency Management and again maintains a very high grade point average.

***First Denial of Promotion***

30. On or about November 2019, Plaintiff applied for a Lieutenant position in the Peekskill Fire Department.

31. From among the eligible candidates for this position, Plaintiff had the most seniority and the highest score on the most recently administered promoting examination.
32. Prior to any determination on Plaintiff's application, Plaintiff was informed by the then volunteer Fire Chief that a controlling faction within the Fireman's Association and its leadership were working to deny Plaintiff the promotion in favor of a less qualified Irish-American candidate. The then Fire Chief told Plaintiff that the Fireman's Association leaders Gary Horne, Kevin Ferris and Pat McLennon were going to City Hall to meet with the City's Corporation Counsel and City Manager to discuss how they could get around Plaintiff to place their preferred candidate in the position. Their preferred candidate was White, Irish-American, and non-Middle Eastern.
33. Shortly before Plaintiff's scheduled interview for the position, Plaintiff was called into a meeting with the Fireman's Association President Gary Horne and Lieutenant Kevin McGovern. Horne stated that Plaintiff's canvass letter – the document announcing the availability of a civil service position for which Plaintiff had taken the qualifying examination – had been rescinded and that the Fire Department would be “going off of an old list” to select candidates for the job. Plaintiff was thereby eliminated from consideration and a White, Irish-American, and non-Middle Eastern individual, Ryne Sheridan, who has less seniority and a lower score on the promoting examination, was hired.

34. Prior to Plaintiff being passed over for promotion in 2019, since the initial creation of full-time Lieutenant positions within the Peekskill Fire Department in 2013, all promotions had been given to the applicant with the most seniority.
35. From before the time that the Fireman's Association first informed Plaintiff that he was being eliminated from consideration for the Lieutenant's position, the City, the Fire Department and the leadership of the Fireman's Association have continually treated Plaintiff differently than White, Irish-American, and non-Middle Eastern employees.
36. For example, in January 2019 while performing his job duties Plaintiff rescued the life of an individual who was caught in a building fire but Plaintiff never received the customary recognition from the City or its Fire Department. Typically, a Fire Department employee who, in the course of his or her employment, rescues the life of someone will receive a certificate and special "bar" for his or her uniform. Plaintiff was given no such recognition. When he asked Horne about this, Horne told Plaintiff that he had spoken with the City's Corporation Counsel and City Manager and they said simply, in sum and substance, "wouldn't it be nice if we were all given an award for just doing our job."
37. On or around January 2022, Plaintiff was informed by outgoing Fire Chief John Rose that on or about June 2019 the City had received an award for Plaintiff from the New York State Volunteer Firefighters Association but the City had neglected to tell him or anyone about this for nearly two and a half years.
38. By contrast, when White, Irish-American, non-Middle Eastern employees of the Fire Department performed rescues that did not even involve life-threatening



circumstances, the City conducted public ceremonies and bestowed awards on these individuals.

39. During the course of his employment, Plaintiff repeatedly asked the Fireman's Association Union President Gary Horne to provide him with a copy of the collective bargaining agreement. He repeatedly refused Plaintiff's requests saying "I don't have it" and "it's not ready" despite the fact that White Irish-American non-Middle Eastern employees already had copies of it.
40. In January 2022, the City of Peekskill hired Seymour to serve as full-time Fire Chief.
41. Seymour is Irish-American and is closely linked, socially and otherwise, to the coterie of Irish-American Lieutenants and firefighters within the Peekskill Fire Department, all of whom reside within close proximity of each other and outside of Peekskill.
42. Upon Seymour's hire, Plaintiff was informed that another Lieutenant position was going to be created within the Department. Plaintiff then had the most seniority of any potential internal applicant, and determined to apply for that position. He told other members of the Fire Department that he would like to be hired for the Lieutenant position. But within weeks of learning this information, Plaintiff observed sudden and unprecedented changes in the way he was treated by his supervisors.
43. For example, upon Seymour's hire Plaintiff was consistently assigned to work the Basic Life Support (BLS) engine, requiring him to respond to all medical calls

throughout his shift, despite the fact that this assignment was determined by seniority on all other shifts.

44. Upon his arrival in Peekskill, Seymour created various workplace committees (equipment, gym, standard operating procedures, etc.) and invited all employees to apply to lead up a committee. Plaintiff applied for each committee leadership position. Plaintiff was not selected for any of them. To the best of Plaintiff's knowledge, the leadership positions were filled entirely by White Irish-American non-Middle Eastern employees.
45. Seymour also purposefully frustrated Plaintiff's efforts to pursue funding opportunities for the Peekskill Fire Department. In part due to his enrollment in graduate school related to emergency management, Plaintiff was privy to information and networks that help to identify grants available to support such work. However, Seymour did not take well to Plaintiff's efforts. After being unable to submit grant applications, including one for a million-dollar firetruck, because of Seymour's failure to respond to Plaintiff's inquiries, Plaintiff asked Seymour why he would not respond to or sign any of his grant applications. Seymour said flatly that he didn't read any of Plaintiff's emails. Seymour also ignored Plaintiff's phone calls and texts, despite maintaining communication with all the other White, Irish-American, non-Middle Eastern department members.

***Second Denial of Promotion***

46. On or about November 8, 2022, Plaintiff received a canvass letter for the newly created Lieutenant position. Again, Plaintiff had the highest score obtained within

the history of the promoting examination and the first-place score among all eligible candidates.

47. Plaintiff was also the most senior candidate for the position, the next most senior candidate having approximately 8 fewer years of employment with the Peekskill Fire Department.
48. Plaintiff was interviewed for the position by Seymour and two individuals not employed by the City of Peekskill. During the course of the interview, the interviewers made several references to the dark skin color of Plaintiff's brother, a firefighter employed by another municipality. "Your brother looks like he tans every weekend," they stated while inquiring about Plaintiff's Middle Eastern origins. Seymour laughed at these remarks along with the other interviewers.
49. Subsequently, Seymour stated to Plaintiff: "you did so well on the interview, it makes it hard from me to get around you." Plaintiff then asked Seymour why he was trying "get around [him]." Seymour refused to explain his statement.
50. On or about December 8, 2022, Plaintiff was notified that he had not been selected for the Lieutenant position. Subsequently, Seymour announced that he had selected Kevin Ferris. Ferris is an Irish-American individual with approximately 11 years of employment in the Peekskill Fire Department. Ferris' record of performance and qualifications are inferior to Plaintiff's by all objective measures. He frequently missed work and failed to arrive on time for his shifts. Moreover, Section 1041 of the National Fire Protection Association guidelines for professional qualifications recommends a college degree which Mr. Ferris does not possess.

***Continued Discrimination***

51. On or about November 9, 2022, Plaintiff suffered a serious injury to his back while performing his job. While on a BLS call, Plaintiff slipped and was taken to the hospital by ambulance for emergency medical treatment.
52. Seymour was present at the time of Plaintiff's injury and witnessed him being transported to the hospital.
53. Plaintiff subsequently completed and submitted the necessary paperwork for Workers' Compensation and Section 207-a benefits.
54. The physician treating Plaintiff concluded unequivocally that his injury was directly caused by work-related activities.
55. Nonetheless, the City denied Plaintiff's applications for benefits. On or about December 12, 2022, Seymour personally stated in writing that the injury was not "in the causal performance" of Plaintiff's duty.
56. The City's denial forced Plaintiff to use his accumulated sick leave while he recuperated and awaited a medical procedure necessary to address his injury.
57. Again, the City's and its Fire Department's treatment of Plaintiff in this regard had been markedly different than the treatment received by White non-Middle Eastern employees. For example, Gary Horn, a White non-Middle Eastern employee, was less severely injured on the job two weeks before Plaintiff. His claim for benefits was immediately approved.

***Retaliation***

58. On or about January 5, 2023, Plaintiff served on the City and Seymour a notice of claim explaining much of the above discrimination and his intention to bring a legal action under anti-discrimination laws.

59. On or about January 11, 2023, an independent medical analysis of Plaintiff's injury was conducted by the City's selected physician who unequivocally concluded that the injury was caused by work-related activities.
60. After having received this information, Seymore inexplicably persisted in denying Plaintiff's application for Workers' Compensation and Section 207(a) benefits.
61. During this same time period, Seymour escalated his demands for documentation of Plaintiff's injury and prognosis, to the point that Plaintiff's physician became exasperated and personally communicated his frustration to Seymour because the physician had repeatedly explained the need to perform a medical procedure before he could determine when Plaintiff would be able to return to work. The needed medical procedure was delayed because of the City's persistent and baseless opposition to Plaintiff's Workers' Compensation claim.
62. On or about January 24, 2023, Seymour issued an apparently new Fire Department Order stating in substance that any employee using sick leave is required to provide a new doctor's note after three days of sick leave regardless of the nature of his/her condition or doctor's prognosis. This policy is effectively a continuation of Seymour's harassment of Pappas and is in retaliation for his exercise of his rights under anti-discrimination laws.
63. From the date of Plaintiff's accident through approximately April 4, 2023 when he was notified that the City had reversed its position and withdrawn its denial of his 207(a) benefits, Plaintiff repeatedly sought information and assistance from the Firefighters Association. Plaintiff attempted to communicate with the Union leadership through phone calls, text messages and e-mails inquiring as to the status

of his claim and how he could prepare for an appeal hearing. Plaintiff received no response to most of his communications, only ever getting sparse text messages from the union and never being told how to prepare for the appeal hearing.

64. For example, when he asked the Union how his appeal could be denied given that the City's own medical examiner found that his injury was caused by performance of my job duties, the Union president simply wrote "I wouldn't rely on that" and refused to give Plaintiff any further explanation or guidance.

***Third Denial of Promotion***

65. On or about June 28, 2023, Plaintiff was again passed over for a Lieutenant position within the Peekskill Fire Department.
66. Upon information and belief, this Lieutenant position was filled using the same test results and interviews that had been conducted to fill the immediately previous Lieutenant position.
67. Patrick MacClenan, a White Irish-American employee of the Peekskill Fire Department with less seniority and a lower test score was selected for this position.
68. Defendants undertook all of the actions and omissions alleged above either directly, or through their agents who were authorized to undertake such actions and omissions.
69. The actions and omissions alleged hereinabove were willful.
70. As a result of Defendants' discriminatory conduct toward Plaintiff, Plaintiff has suffered economic harm including loss of past and future income, mental anguish and emotional distress.

71. Because of Defendants' malicious, willful and outrageous conduct, which was undertaken with full knowledge that such actions were illegal, Plaintiff seeks, and is entitled to, punitive damages from the Defendants.

FIRST CAUSE OF ACTION  
(Section 1981)  
Against All Defendants

72. Plaintiff realleges and incorporates by reference the foregoing allegations as if set forth fully here.
73. By the actions set forth above, among others, Defendants have discriminated against the Plaintiff of his race, ethnicity, national origin, color, and ancestry in violation of Section 1981.
74. As a result of Defendants' illegal actions, Plaintiff has suffered, and continues to suffer, economic harm including loss of past and future income, mental anguish, and emotional distress for which he is entitled to damages.
75. Defendants' actions were malicious, willful, and wanton violations of Section 1981 for which he is entitled to an award of punitive damages.

SECOND CAUSE OF ACTION  
(Retaliation in Violation of Section 1981)  
Against All Defendants

76. Plaintiff realleges and incorporates by reference the foregoing allegations as if set forth fully here.
77. Defendants retaliated against Plaintiff for his complaints of discrimination based upon his race, ethnicity, national origin, color, and ancestry.

78. As a result of Defendants' illegal retaliation, Plaintiff has suffered, and continues to suffer, economic harm including loss of past and future income, mental anguish, and emotional distress for which he is entitled to damages.

79. Defendants' retaliatory actions were malicious, willful, and wanton violations of Section 1981 for which Plaintiff is entitled to an award of punitive damages.

THIRD CAUSE OF ACTION

(Section 1983)

Against Defendants City of Peekskill, Peekskill Fire Department and Fire Chief James Seymour, IV only

80. Plaintiff realleges and incorporates by reference the foregoing allegations as if set forth fully here.

81. By the actions set forth above, among others, Defendants have discriminated against the Plaintiff on the basis of his race, ethnicity, national origin, color, and ancestry in violation of Section 1983.

82. As a result of Defendants' illegal actions, Plaintiff has suffered, and continues to suffer, economic harm including loss of past and future income, mental anguish, and emotional distress for which he is entitled to damages.

83. Defendants' actions were malicious, willful, and wanton violations of Section 1983 for which he is entitled to an award of punitive damages.

FOURTH CAUSE OF ACTION

(Retaliation in Violation of Section 1983)

Against Defendants City of Peekskill, Peekskill Fire Department and Fire Chief James Seymour, IV only

84. Plaintiff realleges and incorporates by reference the foregoing allegations as if set forth fully here.



85. Defendants retaliated against Plaintiff for his complaints of discrimination based upon his race, ethnicity, national origin, color, and ancestry.
86. As a result of Defendants' illegal retaliation, Plaintiff has suffered, and continues to suffer, economic harm including loss of past and future income, mental anguish, and emotional distress for which he is entitled to damages.
87. Defendants' retaliatory actions were malicious, willful, and wanton violations of Section 1983 for which Plaintiff is entitled to an award of punitive damages.

FIFTH CAUSE OF ACTION  
(New York State Human Rights Law)  
Against All Defendants

88. Plaintiff realleges and incorporates by reference the foregoing allegations as if set forth fully here.
89. By the actions set forth above, among others, Defendants have discriminated against the Plaintiff in violation of the New York State Human Rights Law. Defendants discriminated against the Plaintiff because of race, ethnicity, national origin, color, and ancestry.
90. Defendants' actions were in direct violation of the New York State Human Rights Law, Executive Law § 290 et. seq.
91. As a result of Defendants' willful and illegal actions, Plaintiff has suffered, and continues to suffer, economic harm including loss of past and future income, mental anguish, and emotional distress for which he is entitled to damages.

SIXTH CAUSE OF ACTION  
(Retaliation in Violation of New York Human Rights Law)  
Against All Defendants

92. Plaintiff realleges and incorporates by reference the foregoing allegations as if set forth fully here.
93. Defendants retaliated against Plaintiff for his complaints of discrimination based upon his race, ethnicity, national origin, color, and ancestry.
94. As a result of Defendants' illegal retaliation, Plaintiff has suffered, and continues to suffer, economic harm including loss of past and future income, mental anguish, and emotional distress for which he is entitled to damages.

Demand for Jury Trial

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff demands a trial by jury as to all issues so triable.

WHEREFORE, Plaintiff requests that this Court enter an Order:

- a. assuming jurisdiction over this action;
- b. declaring Defendants violated Section 1981, Section 1983, and the NYHRL;
- c. permanently enjoining Defendants from further violations of Section 1981, Section 1983, and the NYHRL;
- d. enjoining Defendants City of Peekskill, Peekskill Fire Department and Fire Chief James Seymour, IV to instate Plaintiff into the Lieutenant position retroactive to the time of their first denial of his application for promotion;
- e. granting judgment to Plaintiff on his Section 1981, Section 1983, and the NYHRL claims against Defendants in amounts to be determined at trial;
- f. awarding Plaintiff punitive damages;
- g. awarding Plaintiff prejudgment and postjudgment interest as allowed by law;

- h. awarding Plaintiff his costs and reasonable attorneys' fees; and
- i. granting such further relief as the Court deems just and proper.

DATED: Hawthorne, NY  
September 26, 2023

/s/ Robert McCreanor  
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