

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No:

JENNIFER SOKOL,

Plaintiff,

v.

LOS PINOS FIRE PROTECTION DISTRICT,

Defendant.

COMPLAINT AND JURY DEMAND

Plaintiff, Jennifer Sokol, (“Plaintiff” or “Ms. Sokol”) by and through her undersigned attorneys Albrechta & Albrechta, LLC, respectfully submits the following as her Complaint and Jury Demand in the above-captioned case.

INTRODUCTION

1. Plaintiff was employed by Los Pinos Fire Protection District (“Defendant” or “District”) as a firefighter/medic from March 2020 until she was abruptly terminated on March 14, 2023. Plaintiff was the victim of domestic violence by a previous boyfriend, Matt Misquez, who was also her co-worker at the District. After a particularly vicious attack, Ms. Sokol ended her relationship with Misquez. She was diagnosed with Post Traumatic Stress Disorder (PTSD) as a result of the attack. After a year of therapy and healing, Plaintiff gained the courage to file criminal charges and reported the assault to LPFPD. Plaintiff also voiced her concerns for her safety as her assailant was still her coworker. Plaintiff had reasonable concerns that after reporting the attack her abuser may retaliate by physically hurting her again or tamper with her equipment that keeps her safe in the line of duty. The District did nothing in response to Plaintiff’s concerns and

requests. Plaintiff submitted a request for accommodations. The next day Defendant suspended Plaintiff. The District terminated Plaintiff's employment less than week after Misquez pled guilty to the criminal charges. The District never engaged in the interactive process with Plaintiff. Defendant relied upon performance deficiencies that had never previously been disclosed or discussed to terminate Plaintiff's employment.

PARTIES

2. Plaintiff Jennifer Sokol is an adult legal resident of and domiciled in La Plata County, Colorado.

3. At all relevant times, Ms. Sokol was an "employee" of the Defendant as defined by the PHEW Act, the Colorado Anti-Discrimination Act, The Americans with Disabilities Act, as amended, and Title VII of the 1964 Civil Rights Act.

4. Defendant Los Pinos Fire Protection District is a special district organized pursuant to the Colorado Special District Act, C.R.S. 32-1-101, *et seq.* The District's main office is located at 275 Browning Ave, Ignacio, La Plata County, Colorado, and it provides its services in La Plata and Archuleta Counties, State of Colorado.

5. At all relevant times, Defendant was an "employer" of Plaintiff as defined by the PHEW Act, the Colorado Anti-Discrimination Act, The Americans with Disabilities Act, as amended, and Title VII of the 1964 Civil Rights Act.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over the federal causes of action in this Complaint pursuant to 28 U.S.C. § 1331, and supplemental jurisdiction over Plaintiff's state claims pursuant to 28 U.S.C. § 1367.

7. The matter in controversy exceeds the sum of \$75,000.00, excluding interest and costs.

8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(a)(2) because Defendant employed and terminated Plaintiff in this district and the events which led to this cause of action occurred in La Plata County, Colorado.

ADMINISTRATIVE PROCEDURES

9. Plaintiff filed a complaint with the Colorado Civil Rights Division (CCRD) on March 31, 2023, which was dually filed with the Equal Employment Opportunity Commission (EEOC).

10. Plaintiff also filed a complaint for violation of Colorado's Protected Health/Safety Expression and Whistleblowing law (PHEW) with the Colorado Department of Labor and Employment (CDLE) on March 31, 2023.

11. The CDLE exercised its discretion and chose not to investigate Plaintiff's charge.

12. The CDLE sent Plaintiff her Notice of Right to Sue and Exhaustion of Administrative Remedies pursuant to the Colorado Whistleblower, Anti-Retaliation, Non-Interference, and Notice-Giving Rules (WARNING Rules) on September 5, 2023.

13. The CCRD sent Plaintiff her Notice of Right to Sue on October 11, 2023 as 180 days had passed since the filing of her charge.

14. All administrative remedies and conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF FACTS

15. Defendant hired Ms. Sokol as a firefighter/medic on or about March 2020.

16. Plaintiff was qualified for her position and performed her job to the satisfaction of her employer at all times.

17. Defendant never gave Plaintiff any formal or informal disciplinary action or negative reviews prior to the termination of her employment.

18. Plaintiff received multiple positive annual reviews.

19. Plaintiff repeatedly was told by Captain Kevin Griego and Chief Tony Harwig that she was being considered and trained for a promotion to Captain prior to filing her complaint against a co-worker.

20. Upon her termination Ms. Sokol was in the midst of completing a Fire 2 Certification and Blue Card under the direction of Captain Griego and Chief Harwig, both of which are required to become Captain.

21. Prior to the domestic violence attack, Plaintiff and Misquez had disclosed to their employer that they were romantically involved. Defendant allowed them to continue working but told them that it would no longer schedule them to work during the same shift. This policy predated the attack and Plaintiff's concerns, complaints and requests detailed below.

22. On or about August 1, 2021, Plaintiff's then significant other and co-worker, Matt Misquez, violently attacked her at her home in an act of domestic violence.

23. Misquez threw glassware at Ms. Sokol, verbally assaulted her, caused physical destruction throughout her home, grabbed Plaintiff's arms and shoved her against a wall multiple times, punched multiple holes in two doors, and threw pots and pans in addition to other objects.

24. Plaintiff attempted to call 911 believing that her life was in danger. However, Misquez wrestled the phone out of her hands and threw it down the drain of her kitchen sink and turned on the garbage disposal, destroying her phone.

25. Ms. Sokol then ran outside and contacted a friend for help through messaging on her laptop. Misquez then grabbed her computer and broke it over his knee.

26. Plaintiff ended her relationship with Mr. Misqueze shortly after this incident and sought assistance to recover from the physical, mental, and emotional damage from Misqueze's violent assault.

27. Plaintiff was diagnosed with PTSD by her mental health counselor after the incident.

28. Throughout this time Misqueze was still her coworker at LPFPD, further complicating Plaintiff's mental health struggles and recovery.

29. Plaintiff was scared of what actions Misqueze might take if she ever reported his assault to authorities or their employer.

30. After more than a year of therapy and recovery, Plaintiff gained the courage to report the assault to Defendant on December 7, 2022 and discuss her concerns about her safety with her supervisors following this report.

31. Plaintiff then filed criminal charges against Misqueze on December 26, 2022.

32. Plaintiff was terrified about how Misqueze, who she knew had violent tendencies, would react to the criminal charges, his arrest, and being reported at his workplace.

33. A firehouse is a unique workplace as it serves as the on-duty firefighters' home during their consecutive day shifts. Firefighters eat, sleep, and live at the firehouse during their shifts.

34. The firehouse becomes their home during their shifts.

35. As a firefighter, Ms. Sokol lived at the LPFPD's fire house for multiple days per week.

36. As her co-worker, Plaintiff's perpetrator had 24/7 access to the fire house during her shifts, he had the codes for its access system, and he had real time access to Plaintiff's schedule.

37. Misqueze's access meant that Ms. Sokol's perpetrator could come to the firehouse anytime when Ms. Sokol was living and sleeping at work. He could enter without anyone knowing his presence.

38. Misquezu also had complete access to the life-sustaining equipment Plaintiff used to keep herself safe on the job.

39. The thought of her perpetrator's access to her was terrifying and triggering for Plaintiff.

40. After her report and Misquezu's arrest, Plaintiff developed high levels of anxiety because of her PTSD when coming to work, which was triggered by the fact that her abuser had full access to her person, her personal belongings, her safety equipment, and her bedroom for multiple days per week.

41. Plaintiff was hopeful this could be resolved informally through discussions with their employer, but Defendant refused to take any additional steps to address her safety concerns.

42. Plaintiff had meetings and conversations with Captain Griego and Chief Harwig from December 2022 through February 2023 about her safety concerns related to Misquezu. For example:

43. On January 6, Plaintiff emailed Chief Harwig and the District's human resources representative, Laura Rodriguez, that the situation was having a profound negative impact on her mental health.

44. On January 9, 2023 Chief Harwig, Captain Griego, and Laura Rodriguez met with Ms. Sokol at her request.

45. Chief Harwig began the meeting by asking what Ms. Sokol wanted to achieve in this meeting.

46. Ms. Sokol stated that she did not feel safe from her assailant. She also told them that she wanted the District to understand the danger that she is in and to create a safety plan to address her concerns.

47. A lengthy conversation followed wherein Ms. Sokol explained her significant concerns about her safety and the affect it was having on her mental health.

48. She repeatedly stated that her goal simply was to have a safe place to work.

49. During these meetings she requested a safety plan and accommodations to protect her from Mr. Misquez if he became angry and retaliated or attacked her following the filing of criminal charges.

50. . Defendant took no new action to address Ms. Sokol's concerns. It merely continued its existing policy of not scheduling Plaintiff or Misquez to work at the same time.

51. After criminal charges were filed, a Criminal Protection Order was also put in place. However, rather than force Misquez to bear the burden of that order, the District required that Ms. Sokol miss parts of her shift to avoid contact.

52. Furthermore, the District instructed Plaintiff that she was not allowed to be at the fire station except on her normally scheduled shifts. This forced Ms. Sokol to lose out on extra shifts and the ability to attend trainings if Misquez was scheduled, directly impacting her pay and efforts to advance her career.

53. Not only did Defendant's limited actions negatively impact Plaintiff and her career, but it also did nothing to address Ms. Sokol's primary safety concerns about Misquez's access to her while at work.

54. Plaintiff also raised the fact that she lives in the District and that if she had an emergency she did not feel safe if Misquez was on shift and responded. Defendant did not respond to this concern at all.

55. Due to Defendant's inaction through the informal process Plaintiff decided to follow the LPFPD policy manual and submit a formal written report and complaint on the following topics:

1) a formal complaint against Misqueze in accordance with LPFPD Policy 1018.3.1 regarding his violations of LPFPD policies; 2) concerns about significant workplace threats to her health and safety; 3) a request for reasonable accommodations; and 4) a report of the disparate impacts that she was subjected to after reporting her concerns.

LPFPD Policy 1018.3 Complaint

56. LPFPD Policy 1018.3 states “Personnel complaints consist of any allegation of misconduct or improper job performance by any employee that, if true, would constitute a violation of district policy or rule of federal, state, or local law.”

57. Under this section of her complaint, Plaintiff alleged that “Misqueze’s assault on me violated multiple District policies, including: 1016.1, 1016.3, 1016.5, 1016.6, 1016.13, 1017.2 (fighting or threats of physical violence), and 1026 (based on my ongoing reports of “potential workplace violence.)”

58. In this section of her complaint, Ms. Sokol also requested that Misqueze be placed “on administrative leave during the course of the investigation in accordance with Policy 1018.6.4.

Concerns About Significant Workplace Threats to Health and Safety

59. In this section of her formal complaint Plaintiff clearly outlined the level of access that Misqueze had to her workplace when it served as her home.

60. She pointed out that Misqueze had access to all six entry points to the building, none of which alarm anyone that someone has entered.

61. He also has real time access to Plaintiff’s schedule, which included whether she had taken a day off.

62. She concluded by stating that she had raised these concerns repeatedly without any progress and so she now was doing so in accordance with the PHEW act because she did not feel safe at work.

Request for Accommodations

63. In the request for accommodation section of her complaint, Plaintiff provided three options for accommodations including:

- a. Option I: LPFPD should end Misquez's employment based on the fact that a fire department should not employ someone with a criminal history, especially committing a crime against his coworker.
- b. Option II: LPFPD limiting Misquez's access to schedules and building codes so that he did not know when Plaintiff is at the firehouse and could enter the building without his presence being made known.
- c. Option III: LPFPD to provide other safety precautions to include a locking storage container for Sokol's life-sustaining gear to prevent tampering, ensuring that she will not be at work alone, an alarm button for her to trigger in the event of an attack, a written safety plan outlining protocols for Sokol and her co-workers if Misquez were to show up while Plaintiff was at work, and/or a camera/alarm system on the firehouse doors.

64. Defendant never engaged in the interactive process with Ms. Sokol to determine which if any of the accommodations were reasonable.

Report of Discriminatory Impacts of LPFPD's Only Action

65. Finally, Plaintiff formally reported the impacts that the District's action had caused her.

66. She outlined two categories of harm. One is financial because she could no longer pick up extra shifts.

67. Second was her ability to advance up the chain of command.

68. The District's decision to only avoid overlap in Ms. Sokol's and Misquez's schedules resulted in Plaintiff being unable to come to the workplace to give or take trainings.

69. Under this arrangement, it would be impossible for her to step into a leadership role as she had been told she was being trained for.

70. Plaintiff concluded this section by requesting that her scheduling preferences and trainings be accommodated rather than the other way around.

71. Plaintiff never received a response to her complaint.

72. Pursuant to the District's Policy 1018.6, "All allegations of misconduct *will* be investigated." [Emphasis added.]

73. The District told Plaintiff that it did not commence any investigation of Misquez's misconduct as reported by Ms. Sokol.

74. Instead, on February 25, 2023, the day after she submitted her complaint, Chief Tony Harwig summoned Ms. Sokol to a meeting with him and Captain Griego.

75. At that meeting, Chief Harwig hand delivered a letter to Ms. Sokol placing her on paid leave so that LPFPD could "analyze the information" that was to be provided by her medical professional.

76. Attached to the letter was a Medical Questionnaire that Ms. Sokol was required to have completed by a medical professional.

77. During this meeting Ms. Sokol also reported that she had been facing discrimination every week from B shift (Misquez's shift) that was so apparent that her crew had mentioned it to her.

78. She further explained that she felt the department had done things to alienate her even further, such as making her show up late to work after shift change pass down and sending her home in the middle of the shift.

79. At the end of the meeting Chief Harwig aggressively told Ms. Sokol, “you did this.”

80. Ms. Sokol countered that all she did was report an attack, and that Misqueuz did this when he assaulted her, and that she felt the District’s inaction and suspension of her was validating her assailant.

81. Ms. Sokol completed and returned the medical questionnaire on March 7, 2023.

82. Ms. Sokol’s medical professional, Jill Fierro, CNP, repeatedly stated that Plaintiff was able to perform all essential functions of her job if she was protected from Misqueuz. A couple of examples of Fierro’s statements to this effect include, but are not limited to:

- a. “My patient has no limitations to do her job functions as long as she is not exposed to her accused assailant.”
- b. “Her PTSD symptoms are triggered by exposure to assailant or risk of exposure.”
- c. “All functions can be completed as long as pt. does not feel her safety is at risk.”
- d. “My patient is able to return to a safe work environment @ anytime.”

83. On March 7, 2023 Misqueuz pled guilty to assault with deferred judgment and probationary period of 18 months during which time he was to complete a domestic violence evaluation, probationary review hearings with a 10 day suspended jail sentence, protection order to not come within 100 yards of Plaintiff, and to not work for the same fire department as the victim at any time during the period of the deferred judgment and sentence, including not engaging in negotiations contemplating his employment at LPFPD after the expiration of the deferred judgment period, and that he would not have access codes to LPFPD.

84. On or about March 9, 2023 Plaintiff's medical provider submitted a supplement to her medical questionnaire stating, "With the accused assailant acceptance of a plea deal, which removes him from the fire department, no additional accommodations for my patients PTSD will be necessary. His presence and access to her workplace has been the trigger to her PTSD. No longer having her accused assailant working at her place of employment will allow her to complete all essential and non-essential job duties without further accommodations being necessary to be implemented." [sic]

85. Plaintiff was never contacted by Defendant after she submitted her medical questionnaire or the supplement.

86. On March 14, 2023 Chief Harwig terminated Plaintiff's employment citing professional conduct, courtesy, and disciplinary rules.

87. In the 3 years of Plaintiff's employment, she had never received any informal or formal disciplinary action or reprimand.

88. Prior to the termination letter, Defendant never communicated that Ms. Sokol's job performance was anything less than positive.

89. Her termination letter was the first time Plaintiff had ever heard any negative feedback about her performance.

90. On March 31, 2023 Plaintiff submitted a "Grievance for Wrongful Termination, Retaliation, Discrimination, and Failure to Accommodate in accordance with the LPPFD Grievance Procedure 9.20."

91. No one from the District ever followed up with Plaintiff regarding her grievance.

92. As a result, Defendant denied Plaintiff any ability to challenge the District's decision, in violation of its own policies.

93. Ultimately, a male employee who violated a significant number of the District's policies by engaging in acts of domestic violence and pleading guilty to criminal charges related to that incident was never investigated, reprimanded, or disciplined, contrary to the District's own policies, until the court ordered the District to end his employment. On the other hand, the female employee who was the victim of the male employee's domestic violence bravely reported the incident and immediately was suspended and terminated for performance issues that she disputes and that the District had never raised prior to her termination letter.

94. Defendant unlawfully retaliated and discriminated against Plaintiff and terminated her employment because she reported her reasonable workplace safety concerns, requested accommodations, complained about discriminatory treatment, of her gender and disability, and reported Misquez's criminal behavior.

95. Plaintiff was treated differently than similarly situated male coworkers who were not disabled and had not engaged in the protected activity of complaining about discrimination.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Discrimination and Wrongful Termination in Violation of the PHEW Act for Raising Concerns Protected by the Act – C.R.S. § 8-14.4-102(2))

96. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

97. Following her initial report to Defendant on December 7, 2022, Plaintiff raised reasonable concerns about her workplace safety related Mr. Misquez's potential violent reaction and his constant access to Ms. Sokol and her equipment.

98. Defendant at all relevant times, knew that Plaintiff had raised concerns protected under the PHEW Act.

99. Defendant treated Plaintiff less favorably than similarly situated employees who had not reported a coworker for violent assault.

100. Defendant's conduct was intentional, willful, wanton, and malicious.

101. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered injury and damage for which she is entitled to compensation pursuant to the PHEW Act.

102. Because of Defendant's unlawful conduct, Plaintiff is entitled to judgment in her favor, and substantial economic, non-economic and punitive damages, in an amount to be proven at trial.

SECOND CAUSE OF ACTION
(Retaliation in Violation of the PHEW Act for Raising Concerns Protected by the Act
– C.R.S. § 8-14.4-102(2))

103. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

104. Plaintiff engaged in protected activity by making numerous complaints to Defendant that she did not feel safe at work and requested accommodations and an action plan should her abuser attempt to attack her while at work.

105. Plaintiff reasonably believed that this term and condition of her employment was unlawful.

106. As a result of Plaintiff's complaints, Defendant took materially adverse actions against Plaintiff, including but not limited to, suspending her employment.

107. Defendant's retaliatory actions would deter a reasonable employee from engaging in protected activity under PHEW.

108. Defendant terminated Plaintiff within days of the Court's ruling against Mr. Misquez which required LPFPD to terminate Misquez's employment. Plaintiff had been clear at all times that she did not need any accommodations if Mr. Misquez was not employed by LPFPD.

109. As a direct, legal, and proximate result of the discrimination, Plaintiff has sustained economic and emotional injuries, resulting in damages in excess of \$75,000 to be proven at trial.

110. Defendant's unlawful actions were intentional, willful, malicious, and/or done with reckless disregard to Plaintiff's right to be free from retaliation.

111. Because of Defendant's unlawful retaliatory conduct, Plaintiff is entitled to judgment in her favor, and substantial economic, non-economic and punitive damages, in an amount to be proven at trial.

THIRD CAUSE OF ACTION

(Workplace Policy that Limited or Prevented Disclosures of Information about Workplace Health and Safety Practices in Violation of the PHEW Act – C.R.S. § 8-14.4-102)

112. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

113. Plaintiff raised her concerns up through Defendant's chain of command and was told that her suspension was "your doing."

114. Defendant did not follow any of its own policies in response to Plaintiff's informal or formal complaints or her written grievance, further showing that a policy existed to limit or prevent employees from raising concerns about workplace health and safety.

115. Defendant intentionally enforced a policy that prevented or limited Plaintiff's disclosure of information about workplace health and safety concerns.

116. By retaliating against and terminating Plaintiff, Defendant made this policy clear to all of its employees that concerns about workplace health and safety were not welcomed or permitted.

FOURTH CAUSE OF ACTION

(Discrimination and Wrongful Termination because of disability in violation of ADA and ADAAA – 42 U.S.C. §§ 12101, *et seq.* and in violation of CADA – C.R.S. §§ 24-34-401, *et seq.*)

117. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

118. Plaintiff is diagnosed with Post Traumatic Stress Disorder (PTSD), a mental disability as defined by law.

119. At all relevant times, Plaintiff was qualified for her position.

120. At all relevant times, Defendant knew or should have known of Plaintiff's disability.

121. Defendant's conduct as alleged above constitutes wrongful discharge because of disability in violation of CADA, the ADA and the ADAAA.

122. Defendant's conduct and actions were intentional, willful, wanton, or malicious.

123. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has suffered and continues to suffer injury and damage for which she is entitled to compensation pursuant to CADA, the ADA and ADAA.

124. Because of Defendant's unlawful conduct, Plaintiff is entitled to judgment in her favor, and substantial economic, non-economic and punitive damages, in an amount to be proven at trial.

FIFTH CAUSE OF ACTION

(Retaliation in violation of the ADA and ADAAA – 42 U.S.C. §§ 12101, *et seq.* and CADA – C.R.S. §§ 24-34-401, *et seq.*)

125. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

126. Defendant terminated Plaintiff's employment shortly after it learned of Plaintiff's mental health diagnoses.

127. Defendant never accommodated or even responded to Plaintiff's request for accommodations.

128. Plaintiff suffered adverse employment actions because of her protected activity of making a request through her physician for accommodations related to her disability and related restrictions.

129. Defendant's conduct was intentional, willful, wanton, or malicious.

130. As a direct and proximate cause of Defendant's unlawful retaliation, Plaintiff has suffered and continues to suffer injury and damage for which she is entitled to compensation pursuant to the ADA and ADAAA and CADA.

SIXTH CAUSE OF ACTION
(Failure to accommodate in violation of ADA and ADAAA – 42 U.S.C. §§ 12101, *et seq.* and CADA – C.R.S. §§ 24-34-401, *et seq.*)

131. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

132. Plaintiff is diagnosed with Post Traumatic Stress Disorder, a mental disability as defined by law.

133. At all relevant times, Plaintiff was qualified for her position.

134. At all relevant times, Defendant knew or should have known of Plaintiff's mental disability.

135. Defendant did not engage in the interactive process with Plaintiff as there were no conversations, written or verbal, between Defendant and Plaintiff.

136. Defendant's conduct and actions were intentional, willful, wanton, or malicious.

137. As a direct result of Defendant's actions, Plaintiff suffered and continues to suffer injuries, damages, and losses in an amount to be determined at trial.

SEVENTH CAUSE OF ACTION

(Unlawful interference and denial of exercise of rights of victim of domestic violence in violation of CADA – C.R.S. §§ 24-34-401, *et seq.*)

138. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

139. Plaintiff is a victim of domestic violence to which her assailant has pled guilty.

140. At all relevant times, Plaintiff was qualified for her position.

141. At all relevant times, Defendant knew or should have known that Plaintiff was a victim of domestic violence.

142. The workplace served as Plaintiff's home for multiple days and nights of every week.

143. Plaintiff made efforts to attempt to make the firehouse secure from the perpetrator of the act of domestic abuse when it served as her home.

144. Defendant interfered and denied Plaintiff's right to exercise her rights to secure her home (the firehouse) from her perpetrator.

145. Defendant's conduct and actions were intentional, willful, wanton, or malicious.

146. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has suffered and continues to suffer injury and damage for which he is entitled to compensation pursuant to CADA, the ADA and ADAA.

147. Because of Defendant's unlawful conduct, Plaintiff is entitled to judgment in her favor, and substantial economic, non-economic and punitive damages, in an amount to be proven at trial.

EIGHTH CAUSE OF ACTION

(Wrongful discharge for exercising rights as a victim of domestic violence in violation of the CADA – C.R.S. §§ 24-34-401, *et seq.*)

148. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

149. Plaintiff is a victim of domestic violence to which her assailant has pled guilty.

150. At all relevant times, Plaintiff was qualified for her position.

151. At all relevant times, Defendant knew or should have known that Plaintiff was a victim of domestic violence.

152. The workplace served as Plaintiff's home for multiple days and nights of every week.

153. Plaintiff made efforts to attempt to make the fire house secure from the perpetrator of the act of domestic abuse when it served as her home.

154. Defendant discharged Plaintiff's employment because she attempted to exercise her rights to secure her home (the fire house) from her perpetrator.

155. Defendant's conduct and actions were intentional, willful, wanton, or malicious.

156. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has suffered and continues to suffer injury and damage for which she is entitled to compensation pursuant to CADA.

157. Because of Defendant's unlawful conduct, Plaintiff is entitled to judgment in her favor, and substantial economic, non-economic and punitive damages, in an amount to be proven at trial.

NINTH CAUSE OF ACTION

(Discrimination and Wrongful Termination because of gender in violation of CADA – C.R.S. §§ 24-34-401, *et seq.*, and Title VII of the 1964 Civil Rights Act)

158. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

159. Plaintiff is a female.

160. At all relevant times, Plaintiff was qualified for her position.

161. At all relevant times, Defendant knew or should have known of Plaintiff's gender.

162. Plaintiff's assailant and co-worker was a male and was treated significantly more favorably than Plaintiff because of her gender.

163. Defendant's conduct as alleged above constitutes wrongful discharge because of gender in violation of CADA and Title VII of the 1964 Civil Rights Act.

164. Defendant's conduct and actions were intentional, willful, wanton, or malicious.

165. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has suffered and continues to suffer injury and damage for which she is entitled to compensation pursuant to CADA and Title VII of the 1964 Civil Rights Act.

166. Because of Defendant's unlawful conduct, Plaintiff is entitled to judgment in her favor, and substantial economic, non-economic and punitive damages, in an amount to be proven at trial.

TENTH CAUSE OF ACTION

(Disparate impact of employment practice because of gender in violation of CADA – C.R.S. §§ 24-34-401, *et seq.*, and Title VII of the 1964 Civil Rights Act)

167. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

168. Plaintiff is a female.

169. Her assailant, all of her supervisors, and a majority of her co-workers are male.

170. At all relevant times, Plaintiff was qualified for her position.

171. At all relevant times, Defendant knew or should have known of Plaintiff's gender.

172. Plaintiff's assailant and co-worker was a male and was treated significantly more favorably than Plaintiff because of her gender.

173. Defendant's specific practice on handling a female victim of domestic violence is to apply all written and unwritten policies to the reporting victim, while the male assailant is exempt from any and all of the Defendant's policies related to such misconduct.

174. Defendant's specific practice in regards to domestic violence caused a disparate impact to Plaintiff as Defendant forced her to change her schedule to accommodate her assailant's schedule, required her to forgo taking or teaching trainings, required her to forgo overtime hours, suspended and terminated her employment for reporting the attack, requesting a safety plan, reporting her PTSD, and requesting accommodations on the basis of Plaintiff's gender.

175. This practice, as stated by Defendant, included the fact that Plaintiff's male assailant and men on his shift were exempt from all of Defendant's policies unless Defendant was ordered by a court to act differently.

176. Defendant's conduct as alleged above constitutes disparate impact because of gender in violation of CADA and Title VII of the 1964 Civil Rights Act.

177. Defendant's conduct and actions were intentional, willful, wanton, or malicious.

178. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has suffered and continues to suffer injury and damage for which she is entitled to compensation pursuant to CADA and Title VII of the 1964 Civil Rights Act.

179. Because of Defendant's unlawful conduct, Plaintiff is entitled to judgment in her favor, and substantial economic, non-economic and punitive damages, in an amount to be proven at trial.

**ELEVENTH CAUSE OF ACTION
(Retaliation for engaging in activity protected by CADA and Title VII – C.R.S. §§ 24-34-401, *et seq.*, and Title VII of the 1964 Civil Rights Act)**

180. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

181. Plaintiff is a female.

182. At all relevant times, Plaintiff was qualified for her position.

183. At all relevant times, Defendant knew that Plaintiff was complaining in writing and orally of discriminatory treatment.

184. Plaintiff's assailant and co-worker was a male and was treated significantly more favorably than Plaintiff.

185. Defendant's conduct as alleged above constitutes retaliation because Plaintiff engaged in the protected activity of complaining of discriminatory treatment protected by CADA and Title VII of the 1964 Civil Rights Act.

186. Defendant's conduct and actions were intentional, willful, wanton, or malicious.

187. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has suffered and continues to suffer injury and damage for which she is entitled to compensation pursuant to CADA and Title VII of the 1964 Civil Rights Act.

188. Because of Defendant's unlawful conduct, Plaintiff is entitled to judgment in her favor, and substantial economic, non-economic and punitive damages, in an amount to be proven at trial.

**TWELFTH CAUSE OF ACTION
(Wrongful Discharge in Violation of Colorado Public Policy)**

189. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

190. Defendant terminated Plaintiff's employment, in whole or in part, because of her report of actual violence against her by a co-worker and the threat of workplace violence.

191. Defendant’s termination of Plaintiff’s employment undermines clearly expressed public policies (see below) relating to Plaintiff’s basic responsibility as a citizen or her rights or privileges as an employee.

192. Defendant, at all times, was aware, or reasonably should have been aware, that Plaintiff’s activities were protected as important public duties, her rights as a citizen, or her job-related rights or privileges.

193. Defendant’s conduct was willful and wanton and attended by circumstances of malice and reckless disregard for the rights of Plaintiff and was done to chill other employees’ future exercise of their public and job-related duties and rights.

194. As a direct result of Defendant’s actions, Plaintiff suffered and continues to suffer injuries, damages, and losses in an amount to be determined at trial.

SOURCES ESTABLISHING PUBLIC POLICY

195. The legislative declaration of the Colorado Special Districts Act states that special districts are to be created to “serve a public use and will promote the health, safety, prosperity, security, and general welfare of the inhabitants of such districts and of the people of the state of Colorado.” C.R.S. § 32-1-102(1).

196. The Colorado Firefighter Safety Act exists to protect the safety of Firefighters and the communities they serve. C.R.S. § 29-5-201, *et seq.* The legislative declaration of the Colorado Firefighter Safety Act states, “the people of Colorado have a fundamental interest in the development of harmonious and cooperative relationships between public employers and firefighters, particularly related to safety issues [...]” C.R.S. § 29-5-202(1).

197. The following sections of the Colorado Firefighter Safety Act further outline the public policy adopted by the Colorado General Assembly:

198. Section 202(2) of the Colorado Firefighter Safety Act states that “[i]t is also the policy of this state to obligate public employers to meet and confer with their firefighters, upon request, to discuss safety, equipment, and noncompensatory matters.”

199. On October 7, 2009, Governor Bill Ritter, Jr. issued an Executive Order stating in relevant part that “[w]orkplace violence, including domestic violence that affects the workplace, is a serious public health, safety, and policy concern of the State of Colorado. Domestic violence can have a significant impact on workplace safety[...].” *October 7, 2009 Executive Order D 023 09, See also Universal Policy Pursuant to Executive Order D 023 09 Establishing a Policy to Address Workplace Violence, Including Domestic Violence Affecting the Workplace.*

200. On August 13, 1996, Governor Roy Romer issued an Executive Order acknowledging that “the incidence and prevalence of workplace violence have increased in recent years...” *August 13, 1996 Executive Order.*

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant and prays for the following damages which exceed \$75,000.00:

- A. Compensation for the loss of all the income, benefits, and privileges incurred from on or about March 14, 2023 through the date of reinstatement or trial, as well as reasonable front pay, which amount cannot yet be ascertained;
- B. Regarding PHEW Act violation, the greater of \$10,000.00 or lost income as described above;
- C. Other compensatory damages, including but not limited to compensation for damage to

Plaintiff's reputation, emotional distress suffered because of Defendant's unlawful conduct, and all other noneconomic damages to which Plaintiff is entitled;

- D. Punitive damages;
- E. Prejudgment interest and post-judgment interest;
- F. Liquidated damages;
- G. Reasonable attorney fees incurred in this action, pursuant to state law;
- H. The costs of this action; and,
- I. Any further relief provided by statute or law and that the Court deems just or equitable.

JURY TRIAL DEMAND

Plaintiff requests a trial by jury.

Dated this 3rd day of December 2023.

By: s/ David T. Albrehta
David T. Albrehta, esq
Eleni K. Albrehta, esq.
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Telephone: (970) 422-3288
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eleni@albrechtalaw.com

Attorneys for Plaintiff Jennifer Sokol

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.)

<p>I. (a) PLAINTIFFS</p> <p>JENNIFER SOKOL</p> <p>(b) County of Residence of First Listed Plaintiff <u>LA PLATA</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) David T. Albrechta and Eleni K. Albrechta, ALBRECHTA & ALBRECHTA, LLC 530 MAIN AVENUE, Suite D3 DURANGO, COLORADO 81301 970-422-3288</p>	<p>DEFENDANTS</p> <p style="text-align: center;">LOS PINOS FIRE PROTECTION DISTRICT</p> <p>County of Residence of First Listed Defendant <u>LA PLATA</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;"></td> <td style="width: 10%; text-align: center;">PTF</td> <td style="width: 10%; text-align: center;">DEF</td> <td style="width: 40%;"></td> <td style="width: 10%; text-align: center;">PTF</td> <td style="width: 10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input checked="" type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input checked="" type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p>IMMIGRATION</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
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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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. §§ 12101, 42, U.S.C. §§ 2000e-2, C.R.S. §§ 24-34-401, C.R.S. §§ 8-14.4-102

Brief description of cause: Discrimination and retaliation based on disability, gender, reporting safety concerns, etc.. AP Docket

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: 12/3/2023 SIGNATURE OF ATTORNEY OF RECORD:

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

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