

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
KEY WEST DIVISION**

CASE NO.:

Michael Samuels,

Plaintiff,

vs.

Key Largo Volunteer Fire Department, Inc.,

Defendant.

_____ /

COMPLAINT

Plaintiff, Michael Samuels (“Plaintiff”), by and through the undersigned counsel, and hereby sues Defendant Key Largo Volunteer Fire Department, Inc. (“Defendant”), and alleges as follows:

1. This is an action for declaratory and injunctive relief and damages pursuant to the American with Disabilities Act ("ADA") and Florida Statute 440.205, to redress injuries resulting from Defendant’s unlawful termination and disability-based discriminatory treatment of Plaintiff.
2. At all times material hereto, Plaintiff was a resident of Miami Dade County, Florida.
3. Defendant is a Florida Profit Corporation authorized to conduct business in the State of Florida, where Plaintiff worked for Defendant.
4. Venue is proper because the employment practices hereafter alleged to be unlawful were committed within the jurisdiction of this Court.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

5. Mr. Samuels started working for the Fire Department on February 14, 2017, as a firefighter paramedic.

6. On February 23, 2023, he was rushed to the emergency room due to chest pain and heart palpitations.
7. While he was still in the hospital his wife called Don Bock to advise him about his medical situation.
8. Mr. Bock told her to send an email to him and to Mr. Mumper.
9. Mr. Samuels sent the email later that day as instructed.
10. Approximately a week later he received a response from Mr. Mumper informing him that he had been removed from the department.
11. Mr. Mumper also added that Mr. Samuels needed to ask for reinstatement to be presented to the corporate board at the next meeting that would take place around a month or so later.
12. Mr. Samuels did it as they instructed him to do it.
13. On or around March 21, 2023, Mr. Samuels received a letter denying his petition for reinstatement.
14. They perceived Mr. Samuels as a disabled employee who had diminished use of his heart which is the reason why they terminated his employment.
15. Additionally due to Florida Statute 112.18 Defendant knew that any medical condition of the heart suffered by Plaintiff is considered accidental and suffered in the line of duty causing it to become a workers compensation issue.
16. Plaintiff was also terminated due to have a work place accident.
17. All administrative prerequisites are complete as a Right to sue letter was issued by the EEOC on January 11, 2024.

COUNT I
Disability Discrimination in Violation of the ADA
Wrongful Termination

18. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1 through 17 of this Complaint as if set out in full herein.
19. Plaintiff is a member of a protected class under the ADA.
20. By Defendant's conduct described above, Defendant has engaged in discrimination against Plaintiff because of Plaintiff's disability and chronic conditions and subjected the Plaintiff to animosity based on his disability and chronic conditions.
21. Such discrimination was based upon the Plaintiff's disability in that Plaintiff would not have been the object of discrimination but for the fact that Plaintiff is disabled.
22. Defendant's conduct complained of herein was willful and in disregard of Plaintiff's protected rights. Defendant and its supervisory personnel were aware that discrimination on the basis of his disability was unlawful but acted in reckless disregard of the law.
23. At all times material hereto, the employees exhibiting discriminatory conduct towards Plaintiff possessed the authority to affect the terms, conditions, and privileges of Plaintiff's employment with the Defendant.
24. Defendant retained all employees who exhibited discriminatory conduct toward the Plaintiff and did so despite the knowledge of said employees engaging in discriminatory actions.
25. As a result of Defendant's actions, as alleged herein, Plaintiff has been deprived of rights, has been exposed to ridicule and embarrassment, and has suffered emotional distress and damage.
26. The conduct of Defendant, by and through the conduct of its agents, employees, and/or

representatives, and the Defendant's failure to make prompt remedial action to prevent continued discrimination against the Plaintiff, deprived the Plaintiff of statutory rights under state law.

27. The actions of the Defendant and/or its agents were willful, wanton, and intentional, and with malice or reckless indifference to the Plaintiff's statutorily protected rights, thus entitling Plaintiff to damages in the form of compensatory and punitive damages pursuant to federal law, to punish the Defendant for its actions and to deter it, and others, from such action in the future.

28. Plaintiff has suffered and will continue to suffer both irreparable injury and compensable damages as a result of Defendant's discriminatory practices unless and until this Honorable Court grants relief.

WHEREFORE, Plaintiffs respectfully prays for the following relief against Defendant:

A. Adjudge and decree that Defendant has violated the ADA, and has done so willfully, intentionally, and with reckless disregard for Plaintiff's rights;

B. Enter a judgment requiring that Defendant pay Plaintiff appropriate back pay, benefits' adjustment, at amounts to be proved at trial for the unlawful employment practices described herein;

C. Enter an award against Defendant and award Plaintiff compensatory damages for mental anguish, personal suffering, and loss of enjoyment of life;

D. Require Defendant to reinstate Plaintiff to the position at the rate of pay and with the full benefits Plaintiff would have had Plaintiff not been discriminated against by

E. Defendant, or in lieu of reinstatement, award front pay;

F. Award Plaintiff the costs of this action, together with a reasonable attorney fees; and

Grant Plaintiff such additional relief as the Court deems just and proper under the circumstances.

COUNT II

Failure to Accommodate in Violation of the ADA.

29. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-17 above as if set out in full herein.
30. Plaintiff is a member of a protected class under the ADA.
31. By the conduct describe above, Defendants have engaged in discrimination against Plaintiff because of Plaintiff's disability and subjected the Plaintiff to disability-based animosity.
32. Such discrimination was based upon the Plaintiff's disability in that Plaintiff would not have been the object of discrimination but for the fact that Plaintiff is disabled.
33. Defendants' conduct complained of herein was willful and in disregard of Plaintiff's protected rights. Defendants and their supervisory personnel were aware that discrimination on the basis of Plaintiff's disability was unlawful but acted in reckless disregard of the law.
34. At all times material hereto, the employees exhibiting discriminatory conduct towards Plaintiff possessed the authority to affect the terms, conditions, and privileges of Plaintiff's employment with the Defendants.
35. Defendants retained all employees who exhibited discriminatory conduct toward the Plaintiff and did so despite the knowledge of said employees engaging in discriminatory actions.

36. As a result of Defendants' actions, as alleged herein, Plaintiff has been deprived of rights, has been exposed to ridicule and embarrassment, and has suffered emotional distress and damage.

37. The conduct of Defendants, by and through the conduct of their agents, employees, and/or representatives, and the Defendants' failure to make prompt remedial action to prevent continued discrimination against the Plaintiff, deprived the Plaintiff of statutory rights under state and/or federal law.

38. The actions of the Defendants and/or their agents were willful, wanton, and intentional, and with malice or reckless indifference to the Plaintiff's statutorily protected rights, thus entitling Plaintiff to damages in the form of compensatory and punitive damages pursuant to state and/or federal law, to punish the Defendants for its actions and to deter it, and others, from such action in the future.

39. Plaintiff has suffered and will continue to suffer both irreparable injury and compensable damages as a result of Defendants' discriminatory practices unless and until this Honorable Court grants relief.

WHEREFORE, Plaintiff respectfully prays for the following relief against Defendants:

- A. Adjudge and decree that Defendants have violated the ADA, and has done so willfully, intentionally, and with reckless disregard for Plaintiff's rights;
- B. Enter a judgment requiring that Defendants pay Plaintiff appropriate back pay, benefits' adjustment, and at amounts to be proved at trial for the unlawful employment practices described herein;
- C. Enter an award against Defendants and award Plaintiff compensatory damages for mental anguish, personal suffering, and loss of enjoyment of life;

- D. Require Defendants to reinstate Plaintiff to the position at the rate of pay and with the full benefits Plaintiff would have had Plaintiff not been discriminated against by Defendants, or in lieu of reinstatement, award front pay;
- E. Award Plaintiff the costs of this action, together with a reasonable attorneys' fees; and Grant Plaintiff such additional relief as the Court deems just and proper under the circumstances.

COUNT III
Retaliatory Discharge under §440.205, Florida Statutes

- 36. Plaintiff re-alleges and reincorporates paragraphs 1-17 as fully alleged therein.
- 37. This is an action for wrongful, retaliatory discharge of an employee in violation of Section 440.205 of the Florida Statutes.
- 38. Florida Statute 440.205 states the following:
 - Coercion of employees – No employer shall discharge, threaten to discharge, intimidate, or coerce any employee by reason of such employee's valid claim for compensation or attempt to claim compensation under the Workers' Compensation Law.
- 39. At all times relevant, Plaintiff was employed by the Defendant as a driver.
- 40. On or about July 25, 2022, Plaintiff suffered a work-related injury.
- 41. The above injury required medical treatment.
- 42. As a result of Plaintiff's work-related injuries, Plaintiff sought or attempted to seek compensation under Florida Workers Compensation Law, as Plaintiff was entitled to do.
- 43. The Defendant was aware that the Plaintiff was an employee who had gotten hurt on the job and/or developed a medical condition on the job and had sought medical treatment for his work-related injuries.

44. Defendant took an adverse action against Plaintiff by disciplining and terminating his employment because of his valid workers' compensation claim contrary to the requirements of Fla. Stat. 440.205.

45. The Defendant's decision to terminate the Plaintiff was causally related to the Plaintiff's injury and medical treatment because the termination occurred during a close proximal time from the date the Plaintiff sought medical treatment. The Plaintiff brought the medical records to the supervisor where he had been taken off of work by the doctor and shortly thereafter the Defendant terminated the Plaintiff.

46. The termination only occurred because the Plaintiff engaged in the statutory protected activity of seeking medical treatment after developing his work-related injuries/condition.

47. As a direct and proximate result of the Defendant's unlawful and willful actions, as set forth above, the Plaintiff has suffered damages and will continue to suffer damages in the future including, but not limited to:

- a. Loss of past and future income;
- b. Loss of future earning capacity;
- c. Loss of other fringe benefits;
- d. Stress, mental anguish, anxiety, and emotional distress;
- e. Loss of capacity for the enjoyment of life;
- f. Medical care and treatment; and
- g. Other financial losses.

WHEREFORE, the Plaintiff demands judgment against the Defendant as follows:

- a. Awarding the Plaintiff actual and consequential damages, plus interest.
- b. Awarding the Plaintiff compensatory damages for pain, suffering and humiliation;

- c. Awarding the Plaintiff back pay, prejudgment interest, post-judgment interest and damages for all employment and retirement benefits he would have received but for the Defendant's actions and/or omissions.

Any and other further relief as this Court may deem just and appropriate under the circumstances.

JURY DEMAND

Plaintiff demands trial by jury of all issues triable as of right by jury.

Date: 3/29/24

Respectfully submitted

By: /s/ Elvis J. Adan

Elvis J. Adan, Esq.

Fla. Bar No.: 24223

GALLARDO LAW OFFICE, P.A.

8492 SW 8th Street

Miami, Florida 33144

Telephone: (305) 261-7000

Facsimile: (305) 261-0088

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
KEY WEST DIVISION**

CASE NO.:

Michael Samuels,

Plaintiff,

vs.

Key Largo Volunteer Fire Department, Inc.,

Defendant.

SUMMONS IN A CIVIL CASE

TO: Key Largo Volunteer Fire Department, Inc. through its Registered Agent:

Donald Bock
1 East Dr.
Key Largo, FL 33037

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY

Elvis J. Adan, Esq.
Fla. Bar No.: 24223
GALLARDO LAW OFFICE, P.A.
8492 SW 8th Street
Miami, Florida 33144
Telephone: (305) 261-7000

an answer to the complaint which is herewith served upon you, within **21 days** after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK

DATE

(BY) DEPUTY CLERK

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.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS

Michael Samuels

DEFENDANTS

Key Largo Volunteer Fire Department, Inc.

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) Elvis J. Adan, Esq., 8492 SW 8th Street Miami, Florida 33144

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

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

CONTRACT TORTS REAL PROPERTY CIVIL RIGHTS PRISONER PETITIONS LABOR SOCIAL SECURITY IMMIGRATION FEDERAL TAX SUITS
110 Insurance
120 Marine
130 Miller Act
140 Negotiable Instrument
150 Recovery of Overpayment & Enforcement of Judgment
151 Medicare Act
152 Recovery of Defaulted Student Loans (Excl. Veterans)
153 Recovery of Overpayment of Veteran's Benefits
160 Stockholders' Suits
190 Other Contract
195 Contract Product Liability
196 Franchise
PERSONAL INJURY
310 Airplane
315 Airplane Product Liability
320 Assault, Libel & Slander
330 Federal Employers' Liability
340 Marine
345 Marine Product Liability
350 Motor Vehicle
355 Motor Vehicle Product Liability
360 Other Personal Injury
362 Personal Injury - Med. Malpractice
440 Other Civil Rights
441 Voting
442 Employment
443 Housing/Accommodations
445 Amer. w/Disabilities - Employment
446 Amer. w/Disabilities - Other
448 Education
PERSONAL INJURY
365 Personal Injury - Product Liability
367 Health Care/Pharmaceutical Personal Injury Product Liability
368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY
370 Other Fraud
371 Truth in Lending
380 Other Personal Property Damage
385 Property Damage Product Liability
463 Alien Detainee
510 Motions to Vacate Sentence
530 General
535 Death Penalty
540 Mandamus & Other
550 Civil Rights
555 Prison Condition
560 Civil Detainee - Conditions of Confinement
625 Drug Related Seizure of Property 21 USC 881
690 Other
710 Fair Labor Standards Acts
720 Labor/Mgmt. Relations
740 Railway Labor Act
751 Family and Medical Leave Act
790 Other Labor Litigation
791 Employee Retirement Income Security Act
422 Appeal 28 USC 158
423 Withdrawal 28 USC 157
820 Copyrights
830 Patent
835 Patent - Abbreviated New Drug Application
840 Trademark
880 Defend Trade Secrets Act of 2016
861 HIA (1395ff)
862 Black Lung (923)
863 DIWC/DIWW (405(g))
864 SSID Title XVI
865 RSI (405(g))
462 Naturalization Application
465 Other Immigration Actions
375 False Claims Act
376 Qui Tam (31 USC 3729)
400 State Reapportionment
410 Antitrust
430 Banks and Banking
450 Commerce
460 Deportation
470 Racketeer Influenced and Corrupt Organizations
480 Consumer Credit (15 USC 1681 or 1692)
485 Telephone Consumer Protection Act (TCPA)
490 Cable/Sat TV
850 Securities/Commodities Exchange
890 Other Statutory Actions
891 Agricultural Acts
893 Environmental Matters
895 Freedom of Information
896 Arbitration
899 Administrative Procedure Act/Review or Appeal of Agency Decision
950 Constitutionality of State Statutes

V. ORIGIN

- 1 Original Proceeding
2 Removed from State Court
3 Re-filed (See VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation Transfer
7 Appeal to District Judge from Magistrate Judgment
8 Multidistrict Litigation - Direct File
9 Remanded from Appellate Court

VI. RELATED/RE-FILED CASE(S)

(See instructions): a) Re-filed Case YES NO b) Related Cases YES NO JUDGE: DOCKET NUMBER:

VII. CAUSE OF ACTION ADA

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE SIGNATURE OF ATTORNEY OF RECORD

3/29/24

Bar #115578 for