

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Christopher R. Golomb,

Plaintiff

v.

City of Concord, NH

Defendant

Civil Action No. -----

NOTICE OF REMOVAL
AND DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§1441 and 1446, DEFENDANT CITY OF CONCORD, by and through its attorneys, JACKSON LEWIS P.C., hereby removes this action from the Superior Court of the State of New Hampshire, Merrimack County, to the United States District Court for the District of New Hampshire.

In support of this Notice of Removal, Defendant states as follows:

1. By Complaint filed on or about March 8, 2024, Plaintiff Christopher R. Golomb instituted claims against Defendant in the Merrimack County Superior Court alleging discrimination, hostile work environment, and retaliation on the basis of sex in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq., and NH RSA 354-A, et seq. In accordance with 28 U.S.C. § 1446(a), true and correct copies of the Summons and Complaint are attached hereto as Exhibit 1, certified copies of which will be forwarded upon receipt of the state court record from the Carroll County Superior Court.

2. Pursuant to 28 U.S.C. § 1446(a), this notice of removal is timely filed within thirty (30) days of March 8, 2024, the date on which counsel for Defendant received the Complaint with

a request to waive service from Plaintiff's counsel, and April 3, 2024, the date on which Defendant received the Summons from Plaintiff's counsel.

3. Defendant has not served any answer or responsive pleading to the Complaint.

4. This Court has original jurisdiction over this action by virtue of federal question jurisdiction pursuant to 28 U.S.C. §1331. Specifically, Plaintiff alleges alleging discrimination, hostile work environment, and retaliation on the basis of sex in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq., and NH RSA 354-A, et seq.

5. Defendant submits this Notice without waiving any defenses to the claims asserted by Plaintiff or conceding that Plaintiff has pled claims upon which relief can be granted.

6. As this action could have been commenced in this Court, removal is proper. 28 U.S.C. §1441(a). Furthermore, this Court may exercise supplemental jurisdiction over the Plaintiff's state law claims. See 28 U.S.C. §1367(a).

Respectfully Submitted,

City of Concord

By its attorneys,

JACKSON LEWIS P.C.,

Date: April 7, 2024

By: /s/ Ashley R. Theodore
Ashley R. Theodore (NH Bar No. 268090)
100 International Drive, Suite 363
Portsmouth, NH 03801
Direct - 603.559.2706
Ashley.theodore@jacksonlewis.com

Certificate of Service

I hereby certify that a copy of the foregoing was this day served via email on Heather Burns, Esq. and Brooke Lovett Shilo, counsel for Plaintiff, and via the state court's electronic filing system on Jennifer L. Uhouse, Clerk, Merrimack Superior Court, 5 Court Street, Concord, NH 03301.

Date: April 7, 2024

By: /s/ Ashley R. Theodore
Ashley R. Theodore

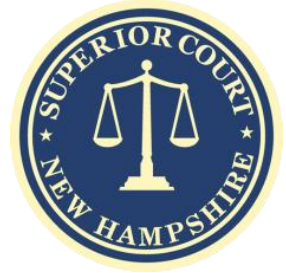
4858-7280-9652, v. 1

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Merrimack Superior Court
5 Court Street
Concord NH 03301

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<https://www.courts.nh.gov>

SUMMONS IN A CIVIL ACTION



Case Name: **Christopher R. Golomb v City of Concord**
Case Number: **217-2024-CV-00145**

Date Complaint Filed: March 08, 2024

A Complaint has been filed against City of Concord in this Court. A copy of the Complaint is attached.

The Court ORDERS that ON OR BEFORE:

- May 04, 2024 Christopher R. Golomb shall have this Summons and the attached Complaint served upon City of Concord by in hand or by leaving a copy at his/her abode, or by such other service as is allowed by law.
- May 25, 2024 Christopher R. Golomb shall electronically file the return(s) of service with this Court. Failure to do so may result in this action being dismissed without further notice.
- 30 days after Defendant is served City of Concord must electronically file an Appearance and Answer or other responsive pleading form with this Court. A copy of the Appearance and Answer or other responsive pleading must be sent electronically to the party/parties listed below.

Notice to City of Concord: If you do not comply with these requirements you will be considered in default and the Court may issue orders that affect you without your input.

Send copies to:

Heather M. Burns, ESQ
Brooke Lois Lovett Shilo, ESQ
City of Concord

Upton & Hatfield LLP 10 Centre St Concord NH 03301
Upton & Hatfield LLP 10 Centre St Concord NH 03301
41 Green Street Concord NH 03301

BY ORDER OF THE COURT

March 20, 2024

Jennifer L. Uhouse
Clerk of Court

(126849)

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Merrimack Superior Court
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**CHRISTOPHER R. GOLOMB
INSTRUCTIONS FOR SERVICE
BY THE SHERIFF'S DEPARTMENT**

Case Name: **Christopher R. Golomb v City of Concord**
Case Number: **217-2024-CV-00145**

Instructions for: Christopher R. Golomb

The attached Summons must be sent to the Sheriff's Department for service. Service must be completed on or before **May 04, 2024**.

Further action is required by you

You must:

- **Print two copies of the Summons per defendant**
- **Print two copies of the Notice to Defendant per defendant**
- **Print two copies of the Complaint filed with the Court per defendant**
- **Make two packets for service. Each packet should contain:**
 - **One Summons**
 - **Once Notice for Defendant**
 - **One Complaint filed with the Court**
- **Mail or hand deliver the packets to the Sheriff's Department in the county where each defendant resides.**

Sheriff Departments in New Hampshire:

[Belknap County Sheriff's Department:](#)

[Hillsborough County Sheriff's Department:](#)

[Carroll County Sheriff's Department:](#)

[Merrimack County Sheriff's Department:](#)

[Cheshire County Sheriff's Department:](#)

[Rockingham County Sheriff's Department:](#)

[Coos County Sheriff's Department:](#)

[Strafford County Sheriff's Department:](#)

[Grafton County Sheriff's Department:](#)

[Sullivan County Sheriff's Department:](#)

If one or more of the parties resides out of state, please click [here](#) for the requirements

Service must be made upon the defendant before **May 04, 2024**.

If the Sheriff is unable to complete service by **May 04, 2024** you will receive a "Notice of Incomplete Service" from the Sheriff's Department. You may request that new paperwork be issued by electronically filing a Request for Documents. There is a fee for this request.

The Sheriff will mail the 'Return of Service' to you. You **MUST** electronically file the 'Return of Service' with the court by May 25, 2024.

If service is not made as directed, no further action will occur and the case may be dismissed by the court.

Important Service Information for Sheriff

Do not file this with the court

Provide this information to the Sheriff's Department.

See Instructions for Service for more information.

PLEASE PRINT CLEARLY

Date: _____

Case #: _____

Who are you requesting to be served?

Please provide whatever information you know

Name: _____

Address for service (no P.O. boxes):

_____ APT #: _____

Home phone #: _____ Cell phone #: _____

Sex: Male Female Race: _____

Last 4 digits of SS#: xxx-xx- _____ D.O.B. _____

Work name & address:

Special instructions for service (i.e. directions, best time to serve, cautions, etc.):

Vehicle description/license plate:

Your Information:

Name (please print): _____

Residential address: _____

Mailing address: _____

Phone number to contact you during business hours:

_____ Alternate #: _____

Signature

◆IN-HAND SERVICE WILL INCUR EXTRA COSTS DUE TO ADDITIONAL TRAVEL◆

SHERIFF OFFICE USE ONLY: (This will vary by Sheriff's Office)

Fees Paid: \$ _____	Cash #: _____	Check#: _____
Id#: _____	Waiver: _____	Money Order#: _____
Sheriff File # _____	Authorization #: _____	Credit Card: _____

Instructions for filing the Return of Service:

If you are working with an attorney, they will guide you on the next steps. If you are going to represent yourself in this action, go to the court's website: www.courts.nh.gov, select the Electronic Services icon and then select the option for a self-represented party.

1. Select "I am filing into an existing case". Enter 217-2024-CV-00145 and click Next.
2. When you find the case, click on the link follow the instructions on the screen. On the "What would you like to file?" screen, select "File Other Document" and choose "Return of Service".
3. Scan the Return of Service packet and follow the instructions in the electronic filing program to upload the Return of Service to complete your filing.
4. If the sheriff was unable to serve the paperwork, you can request new paperwork by filing a Request for Documents. On the "What would you like to file?" screen, select "File Other Document" and choose "Request for Reissued Summons" from the menu and upload the Request for Documents form.

FAILURE TO FILE THESE DOCUMENTS MAY RESULT IN YOUR CASE BEING DISMISSED.

March 20, 2024
Date

Jennifer L. Uhouse
Clerk of Court

You can access documents electronically filed through our Case Access Portal by going to <https://odypa.nhecourt.us/portal> and following the instructions in the User Guide. In that process you will register, validate your email, request access and approval to view your case. After your information is validated by the court, you will be able to view case information and documents filed in your case.

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NOTICE TO DEFENDANT

Case Name: **Christopher R. Golomb v City of Concord**
Case Number: **217-2024-CV-00145**

You have been served with a Complaint which serves as notice that this legal action has been filed against you in the **Merrimack Superior Court**. Review the Complaint to see the basis for the Plaintiff's claim.

Each Defendant is required to electronically file an Appearance and Answer 30 days after service. You may register and respond on any private or public computer. For your convenience, there is also a computer available in the courthouse lobby.

If you are working with an attorney, they will guide you on the next steps. If you are going to represent yourself in this action, go to the court's website: www.courts.nh.gov, select the Electronic Services icon and then select the option for a self-represented party.

1. Complete the registration/log in process. Click Register and follow the prompts.
2. After you register, click Start Now. Select **Merrimack Superior Court** as the location.
3. Select "I am filing into an existing case". Enter **217-2024-CV-00145** and click Next.
4. When you find the case, click on the link and follow the instructions on the screen. On the "What would you like to file?" screen, select "File a Response to Civil Complaint". Follow the instructions to complete your filing.
5. Review your Response before submitting it to the court.

IMPORTANT: After receiving your response and other filings the court will send notifications and court orders electronically to the email address you provide.

A person who is filing or defending against a Civil Complaint will want to be familiar with the Rules of the Superior Court, which are available on the court's website: www.courts.nh.gov.

Once you have registered and responded to the summons, you can access documents electronically filed by going to <https://odypa.nhecourt.us/portal> and following the instructions in the User Guide. In that process you will register, validate your email, request access and approval to view your case. After your information is validated by the court, you will be able to view case information and documents filed in your case.

If you have questions regarding this process, please contact the court at 1-855-212-1234.

STATE OF NEW HAMPSHIRE

MERRIMACK

SUPERIOR COURT

Christopher R. Golomb

v.

City of Concord

217-2024-CV-00145

Case No. _____

COMPLAINT

JURY TRIAL DEMANDED

Parties

1. The Plaintiff, Christopher R. Golomb, resides at 737 Islington Street, #5, Portsmouth, NH 03801.
2. The Defendant, City of Concord, has its Municipal Offices at 41 Green Street, Concord, New Hampshire.

Jurisdiction and Venue

3. The Court has jurisdiction of this matter pursuant to RSA 491:7, Title VII and RSA 354-A.
4. On or about July 20, 2022, Mr. Golomb filed a Charge of Discrimination and Retaliation (hereinafter "Charge") with the New Hampshire Human Rights Commission and the Equal Opportunity Commission.
5. Ms. Golomb's Charge was filed with the New Hampshire Human Rights Commission and the Equal Employment Opportunity Commission within 180 days after the unlawful employment acts were committed.

6. On December 13, 2023, the Equal Employment Opportunity Commission issued Plaintiff a Notice of Right to Sue with respect to her charges of discrimination, thus satisfying the procedural prerequisites established by 42 U.S.C. 2000(e) - 5(b) and (3). See Exhibit A, Notice of Right to Sue, attached hereto and incorporated herein by reference.

7. This Complaint is filed fewer than 90 days after receipt of the Notice of Right to Sue, dated December 13, 2023 (as attached).

Facts

8. Mr. Golomb became a Firefighter for the City of Concord (hereinafter “Concord”) in 2008.

9. Mr. Golomb is a career certified firefighter and nationally registered EMT.

10. Mr. Golomb’s work performance during the time he worked for Concord was exemplary. During his employment with Concord, he received a unit citation and several letters of appreciation from citizens the Department treated and their family members.

11. Following the beginning of his employment with Concord, Mr. Golomb was actively involved in the community. He participated in Concord-related events on his own personal time. These events included, but were not limited to, Concord’s annual Halloween Howl, which involved firefighters using their own money to purchase candy and handing it out to citizens on their own time. He participated in community awareness programs during Concord’s annual Market Days festivities and National Night Out events. He gave his own time to stand outside of community locations to raise money for the MDA. He participated in events such as “Operation Warm” which, on their own free time, they raised money to purchase coats for children, and “Operation Elf” which, on their own free time, they raised money and accepted gifts to give to the less fortunate families in their community. Mr. Golomb chaired the event co-

sponsored with Recycled Percussion and spent his own time on Christmas Eve handing out presents to those in his community who have little. He worked almost every single Christmas Day, usually for other members of the Fire Department so they could be home with their families. He organized coverage for members who had sick family members and documented these in the Department's firehouse scheduling software. He personally spearheaded and executed two separate fundraisers for members with sick family members. He created a "prize calendar" and went door to door to community businesses by himself to generate prizes. One of the calendars produced over \$6,500.00, and the other over \$8,000. Mr. Golomb personally ran the entire fundraiser, and 100% of the proceeds went to benefit their members.

12. Mr. Golomb also served as an unpaid member of the Fire Department's Safety Committee.

13. Before the retaliation outlined below began, three separate times, Mr. Golomb was elected by his peers as the shift representative from Battalion 3 and was elected by his peers as the Vice President of Local 1045. In addition, three separate times, he was elected to serve as the Third District Trustee for the state union organization.

14. Mr. Golomb cohosted the annual Boys and Girls Club of Central NH Christmas auction for nine straight years and participated by answering phones during the years he did not host.

15. Mr. Golomb delivered toys and gift cards to the NH Coalition Against Sexual and Domestic Violence.

16. Mr. Golomb organized retirement parties for members, and participated in retiree dinners, award ceremonies, honor guard and many other community and Department centered events.

Discriminatory, Harassing, and Retaliatory Conduct

17. In the summer of 2011, Concord moved Mr. Golomb from Battalion 1 to Battalion 3, where Ken Folsom was the Battalion Chief.

18. Mr. Golomb also spent time in Station 4 (Broadway) and worked with Lt. Gary French, Jeff Schottler, Scott Marcotte, and Mick Cullen.

19. Mr. Golomb began to be subjected to “gay” jokes and comments (which were directed at him) when he worked at Station 4. This occurred, despite the fact that Mr. Golomb is not gay.

20. Firefighter Jeff Schottler, Scott Marcotte, and Mick Cullen would comment on Mr. Golomb’s clothing (sweater vest and jeans) stating, “that’s gay” or “those are gay jeans.” Lt. Gary French overheard these comments.

21. In the fall of 2011, Firefighter Scott Marcotte said, in front of other firefighters and Mr. Golomb, that he asked his daughter about sweater vests and that she said they were “gay.” Everyone laughed in response.

22. It was clear to Mr. Golomb and those present that the “gay” jokes and comments were directed at Mr. Golomb. He was offended by the comments.

23. At that time, Mr. Golomb did not report the harassment to Concord because his supervisor, Lt. French, heard and observed the conduct and just walked away. As a result, it appeared as though Lt. French was condoning the conduct.

24. In July 2012, Mr. Golomb was transferred to Station 5 (Manor).

25. The Station 5 crew consisted of Battalion Chief Tony Manning¹, and Firefighters Paul DiGeronimo, Pat Richardson, and Travis Keeler.

¹ Upon information and belief, prior to 2020, Battalion Chief Manning was a Lieutenant.

26. Within the first few months, the Station 5 crew started making “gay” slurs in Mr. Golomb’s presence. It was a regular, daily occurrence.

27. It got to the point where Mr. Golomb said to the crew that he needed to start writing down the times that these offensive comments about his presumed sexuality were being made. After Mr. Golomb said that to them, they started to mock him by including that information as well. For example, they would say, “You went out last night? What was his name? [Said] at 9:32.”

28. The comments toward Mr. Golomb were of such an offensive nature and occurred so frequently, that at a training event at St. Paul’s School in August 2013, a newly hired firefighter came up to Mr. Golomb and said, “Those guys really make a lot of comments to you.”

29. On October 22, 2013, the comments became particularly harsh. Battalion Chief Manning used the terms “fag” and “f---ing homo” to refer directly to Mr. Golomb. Firefighter Travis Keeler was present when those comments were made, and also made similar comments to Mr. Golomb.

30. Starting in March of 2014, Mr. Golomb held the position of Shift Float at Station 5.

31. The comments about Mr. Golomb’s sexuality continued, even when another Battalion Chief took over and Sean Brown became the Battalion Chief of Battalion 3. This was striking to Mr. Golomb because it showed that even a new Battalion Chief did not intend to put an end to the discrimination and hostile environment that existed for Mr. Golomb.

32. If Mr. Golomb wore a nice pair of jeans, he would hear comments from his crews that he was wearing his “gay” jeans.

33. If Mr. Golomb said that he was on a date or out the prior night they would reply with, “what is his name?” This was a frequent comment, and it was said even though Mr. Golomb never suggested to any of his coworkers that he was gay, and in fact, he is not gay.

34. In December of 2015, Mr. Golomb was at a Concord training conducted by Dr. David Hirsch from Concord Hospital when a large group from the shift were making comments related to his alleged failure to conform to male gender stereotypes. Battalion Chief Sean Brown was in close range to hear them, but he did nothing to stop the comments or reprimand the speakers. Instead, he took his coffee cup and walked away.

35. In the Spring 2016, Mr. Golomb complained to Robin Wirbal, Human Resources at Concord, regarding the ongoing harassment involving Battalion Chief Manning and the others. Mr. Golomb told Ms. Wirbal that he was tired of the “gay” slurs and that it was offensive to him.

36. In May 2016, Mr. Golomb met with Fire Chief Dan Andrus in his office. Chief Andrus told Mr. Golomb that he heard about his complaint regarding being subjected to sexual harassment and that he was concerned, and that it would not happen again.

37. In a meeting with Battalion Chief Manning that occurred sometime after Mr. Golomb’s May 2016 meeting with Chief Andrus, Battalion Chief Manning told Mr. Golomb that he wanted to talk to him about the “gay” comments. However, they actually didn’t end up discussing the “gay” comments, and the “gay” comments toward Mr. Golomb continued on a regular basis.

38. Upon information and belief, Concord did not conduct an investigation into Mr. Golomb’s allegations at that time, and no action was taken to remedy the discriminatory treatment toward him.

39. In the spring/summer of 2019, Mr. Golomb volunteered as a victim in a training. Lt. Christian Lund was not paying attention as he attempted to raise Mr. Golomb on a belay from a floor below and kept smashing Mr. Golomb's head on the ceiling. Mr. Golomb asked him to stop. After that, Lt. Lund yelled out in front of everyone for Mr. Golomb to "man up." Mr. Golomb took this to be yet another reference to his allegedly failing to conform to male gender stereotypes.

40. On October 30, 2019, Mr. Golomb was participating in training and most of the Battalion was present. Captain Dave Dumas was present when Firefighter Mick Cullen started making "gay" comments about Mr. Golomb in front of Mr. Golomb and everyone there, including Fire Fighters Ian Gill and Matt Cole, who were present. Before long, Firefighter Jim Freitas also chimed in with comments related to Mr. Cullen's comments. Mr. Golomb was offended and humiliated.

41. Mr. Cole was present when Mr. Cullen made the comments about Mr. Golomb and confirmed to Mr. Golomb that he heard what Mr. Cullen said to Mr. Golomb.

42. On one occasion, Mr. Cullen said to a visitor to the Fire Department in front of Mr. Golomb, "He likes men," referring to Mr. Golomb. This incident was particularly upsetting to Mr. Golomb because the visitor was a student rider. It is common for student riders to spend a day at the Department job shadowing and/or working on EMS skills.

43. These types of comments were a regular and frequent part of Mr. Golomb's day for years, meaning the entirety of the time that he was assigned to Station 5 on Battalion 3.

44. Travis Keeler and Pat Richardson were also on the crew with Battalion Chief Manning and also made these offensive comments to Mr. Golomb.

45. For example, if the television was on at the station and an attractive woman was on the news, Battalion Chief Manning would say to Mr. Golomb and in front of other firefighters, “That’s not your style. You’re into men.”

46. On another occasion, after Mr. Golomb had cooked a meal for the crew, Battalion Chief Manning, Mr. Keeler, and Mr. Richardson said to him and in front of everyone, “You’re going to make someone a good wife someday.” Everyone laughed. This comment was made to Mr. Golomb on several occasions.

47. Another time when Mr. Golomb said that he had been out on a date, Battalion Chief Manning, Mr. Keeler and Mr. Richardson responded to him and in front of everyone, “What’s his name?” Everyone laughed.

48. Mr. Golomb’s supervisor, Battalion Chief Manning, was present when these offensive comments were made, and he participated in the conduct. He did nothing to stop the comments and, by saying nothing, condoned the comments.

49. On January 30, 2020, Mr. Golomb responded to a generator fire with other firefighters.

50. After the fire was controlled, the firefighters were gathered at the scene.

51. Firefighter Jim Freitas said in front of Mr. Golomb and the other firefighters, “Did you see Chris all fired up? He’s in a good mood. He played hide the sausage last night.”

52. Mr. Cullen replied, “I didn’t know the Provincetown Regatta was last night.”

53. Firefighter Ian Gill was present when the comments were made.

54. Mr. Golomb turned and walked away in disgust and distress.

55. Mr. Golomb’s Lieutenant, Donnie Harpell, told him that at an officers’ meeting at the end of January 2020, Mr. Golomb was the first order of business regarding moving

personnel. Lt. Harpell told the other officers that Mr. Golomb was uncomfortable moving to Station 4/Broadway. Mr. Cullen said, “Are you f---ing kidding me? Everyone knows Lund doesn’t like him.” Mr. Golomb believes that it is common knowledge Lt. Christian Lund does not like him because of his presumed sexual orientation.

56. Although Lt. Harpell told Mr. Golomb that he was doing a great job, Battalion Chief Manning told Lt. Harpell that Mr. Golomb had been at that Station too long and he wanted him to see other districts. Mr. Golomb told Lt. Harpell that he felt that he was being retaliated against. Many other members had been at their stations much longer than Mr. Golomb was at Station 5, and were not been transferred.

57. Ambulance 5 covered all areas of Concord, and Mr. Golomb had already been assigned to the other Stations. There was no legitimate reason to transfer him to Station 4.

58. Mr. Golomb told Chief Guy Newbury that he did not want to go to Station 4, because the same firefighters who made the “gay” comments about him worked there. Mr. Golomb believes that he was transferred in retaliation for his complaining about the discriminatory treatment to which he was subjected to during his employment.

59. Upon information and belief, Battalion Chief Manning told Chief Newbery about Mr. Golomb’s concerns about the station transfer.

60. On February 15, 2020, after a meal at work, Mr. Cullen replied to a comment that Mr. Golomb made, stating, “queer.” Mr. Golomb had told him that coworkers were calling him gay slurs. Mr. Golomb believes he mentioned to Mr. Cullen that they were calling him “fag” and “fucking homo.”

61. On February 20, 2020, Chief Newbery asked Mr. Golomb to go for a walk with him. During the walk, Mr. Golomb told Chief Newbery about the “gay” slurs. Chief Newbery told Mr. Golomb that he needed to hear all sides of the story and didn’t say much else.

62. Mr. Golomb wrote a summary of the meeting and emailed it to Chief Newbery.

63. Mr. Golomb told Chief Newbery that he did not want to be transferred and was continuing to be subjected to sexually harassing and discriminatory statements. Mr. Golomb told him about concerns he had regarding how his coworkers and supervisors were perceiving and commenting upon what he now understands to be his alleged failure to conform to male gender stereotypes. Mr. Golomb told him about the offensive comments that his coworkers and supervisors were making.

64. On February 23, 2020, Chief Newbery and Battalion Chief Manning came to Station 5 to meet with Mr. Golomb while he was on duty. Mr. Golomb did not know about the meeting in advance.

65. Chief Newbery said that he came to meet with Mr. Golomb because Mr. Golomb had sent a discussion summary letter following up on their conversation of Thursday, February 20, 2020.

66. Chief Newbery said that the letter from Mr. Golomb was sent to him after hours and he didn’t know if that was intentional or not, but that he felt it was. He went on to tell Mr. Golomb that he respected Mr. Golomb’s work hours and Mr. Golomb did not respect Chief Newbery’s.

67. Chief Newbery told Mr. Golomb that the letter was not a summary of their conversation, but some sort of legal letter.

68. Chief Newbery told Mr. Golomb that he thought Mr. Golomb understood that he had been just visiting for some fact finding during their informal meeting on February 20, 2020.

69. Chief Newbery told Mr. Golomb that he thought Mr. Golomb understood that Chief Newbery was going to think about what needed to be done.

70. Chief Newbery told Mr. Golomb that he was surprised with his follow-up email.

71. Chief Newbery told Mr. Golomb that Mr. Golomb was putting himself above the job, above the Fire Department, and Concord.

72. Chief Newbery told Mr. Golomb that Mr. Golomb was “closing doors” and that he needed to open them. Mr. Golomb understood him to mean that Mr. Golomb should not have made repeated complaints to Concord about the discriminatory and sexually hostile treatment he was experiencing at work.

73. Chief Newbery told Mr. Golomb that Mr. Golomb was making a lot of demands.

74. Chief Newbery told Mr. Golomb that Mr. Golomb needed to do some self-reflection.

75. Chief Newbery told Mr. Golomb that Mr. Golomb was getting his wish and was not being transferred.

76. Chief Newbery told Mr. Golomb that he hoped Mr. Golomb would get what he wanted, but he didn't think he would. What Mr. Golomb wanted was to work in an environment free from harassment and retaliation.

77. Battalion Chief Manning told Mr. Golomb that the planned transfer would have been for professional development because he wanted Mr. Golomb to see inside buildings in the south end of Concord.

78. The February 23, 2020 meeting was intimidating to Mr. Golomb.

79. The next day, Mr. Golomb was approached by the head of the Union, Jim Duckworth, who said that Chief Newbery asked him to ask Mr. Golomb if he wanted to proceed with an independent investigation. Mr. Golomb told Jim Duckworth that he wanted to proceed with an independent investigation.

80. Mr. Golomb found it odd that Chief Newbery asked Jim Duckworth to speak with him about the independent investigation, since Human Resources was already aware of Mr. Golomb's desire to have the matter investigated.

81. On March 4, 2020, Mr. Golomb was interviewed as part of an investigation into his allegations of sexual harassment, discrimination, and retaliation.

82. On March 4, 2020, at the Local 1045 monthly Union meeting, at which Mr. Golomb was present, Firefighter Bob Andrews stood up in front of everyone and asked if they could talk about "the elephant in the room. . .the harassment lawsuit." There was no other "harassment lawsuit" pending involving the Fire Department besides Mr. Golomb's. It was clear from this comment that Concord did not keep Mr. Golomb's complaint confidential. This comment made Mr. Golomb uncomfortable and humiliated him.

83. On March 9, 2020, at a Primex Strategic Planning Committee meeting, Derek Martel said that a survey to gauge department-wide morale had not been sent out because of "the investigation" and looked at and gestured toward Mr. Golomb. This was witnessed by everyone present (Chief Guy Newbery, Chief Sean Brown, and Chief Aaron McIntire), Local 3195 members (President Derek Martel and VP Keith Mulholland), and all four Local 1045 Executive Board members (President Jim Duckworth, Treasurer Andy Davis, and Secretary Mike Johnson). The investigation was supposed to be confidential, and Mr. Golomb was humiliated by being

singled out in the meeting. None of the officers present told Mr. Martel that he should not have said what he did or did anything to smooth over the situation.

84. On March 17, 2020, Jennifer Johnston, the Director of Human Resources and Labor Relations for Concord, took Mr. Golomb into her office and told him that the investigation was complete and handed him a letter that explained their findings. She said that there was no finding of retaliation or a hostile work environment or any other unlawful actions. However, “Concord found that inappropriate behavior which runs counter to its Policy on Non-Discrimination and Sexual Harassment occurred.”

85. On March 17, 2020, Ms. Johnston told Mr. Golomb that Concord administration was well aware that Chief Guy Newbery has a temper. She also made reference to a physical assault complaint that was sent to her regarding an alleged assault by Guy Newbery on a newer member, David Dumas. Ms. Johnston told Mr. Golomb that Concord would conduct sexual harassment training by the end of the month.

86. Concord has never provided anti-harassment training for Mr. Golomb or any other employee of the Concord Fire Department (as far as he knows) and has not done so since the investigation findings in March 2020. However, Concord has provided Fire, EMS, and other trainings to the Concord Fire Department.

87. After the investigation concluded, the sexually harassing, discriminatory and retaliatory conduct toward Mr. Golomb continued.

88. One month after the conclusion of the investigation into discriminatory, sexually harassing and retaliatory conduct by the Concord Fire Department, on April 17, 2020, in a letter sent to the Fire Department and members at City Hall by City Manager Tom Aspell, Mr. Aspell said that Chief Newbery exhibited “stellar leadership performance.”

89. Mr. Aspell was aware of Mr. Golomb's allegations of retaliation against Chief Newbery and the findings following the investigation when he made that statement.

90. Soon thereafter, Mr. Aspell extended Chief Newbery's contract and wrote, "Interim Chief Newbery is the right leader, in the right place at a time when he is most needed. I wish to thank all of you for your continued high level of service. And have no doubt that I, the City Council, and the entire community recognize and appreciate the professionalism and extreme competence you continue to exhibit for the benefit of all."

91. Concord's adulations for Chief Newbery, in light of its knowledge of allegations involving him, belies Concord's alleged efforts to address Mr. Golomb's ongoing complaints.

92. On or about April 17, 2020, on the heels of Mr. Golomb's complaint and the investigation findings, Concord announced the promotions of two of the management-level employees who had been harassing Mr. Golomb at work, Bob Andrews and Derek Martel. The promotions were effective May 2, 2020. Mr. Andrews was promoted from Firefighter to Lieutenant, and Mr. Martel was promoted from Lieutenant to Captain.

93. Three months after the March 2020 conclusion of the investigation into Mr. Golomb's complaint of discrimination, sexual harassment and retaliation, on June 11, 2020, Lt. Harpell told him that, effective first day next "tour," Mr. Golomb was being transferred out of his current station, Station 5, to Station 7.

94. Lt. Harpell did not give Mr. Golomb a reason for the transfer.

95. Lt. Harpell told Mr. Golomb that a newly hired firefighter would be sent to Station 5, effective immediately, and that he had been texted the information by Battalion Chief Manning that morning. The new firefighter was named Jeff Kipphutt.

96. Battalion Chief Manning was one of the individuals Mr. Golomb directly named in his complaints of discrimination, sexual harassment, and retaliation to Concord.

97. There was neither a vacancy in Station 5, nor a vacancy in Station 7.

98. However, there would have been a vacancy in Station 4, after a voluntary shift transfer of another firefighter effective June 14, 2020, according to DD 20-19.

99. In order to transfer Mr. Golomb to Station 7, a vacancy had to be created by moving another member from Station 7.

100. Mr. Golomb believes that he was transferred to Station 7 in June 2020, in retaliation for the complaints that he made to Concord. The reason Mr. Golomb believes that is that instead of having to move him to create a vacancy at Station 5, Concord could have easily assigned Firefighter Jeff Kipphutt to Station 4. Instead, Concord moved a firefighter from Station 7 to Station 4, and moved Mr. Golomb to Station 7.

101. On June 11, 2020, Mr. Golomb sent a letter to Ms. Johnston, in which he stated that he believed that he was transferred in June 2020 in retaliation for the complaints that he had made to Concord.

102. On June 18, 2020, Concord completed its investigation in response to Mr. Golomb's June 11, 2020, complaint, and determined that the station transfer was not retaliatory.

103. As a result of Mr. Golomb's transfer to Station 7, he was forced to be in regular contact with Mr. Cullen, one of his harassers. This caused Mr. Golomb significant emotional distress. Concord knew that at the new station Mr. Golomb would be in contact with Mr. Cullen, Mr. Freitas, Battalion Chief Manning, and others about whom he had complained.

104. Concord took no steps to decrease the likelihood of Mr. Golomb being harassed or retaliated against following his complaints. Moreover, Concord did not provide anti-

harassment training to the Fire Department or to any of those individuals who were harassing Mr. Golomb following his complaint.

105. After Mr. Golomb was transferred to Station 7, a significant percentage of his calls involved being with Mr. Cullen, Mr. Freitas, and Battalion Chief Manning. In fact, on his very first night at Station 7, Mr. Golomb's crew was assigned to work with Mr. Cullen's crew at a bedroom fire on Pleasant Street.

106. Mr. Cullen and Mr. Freitas consistently and completely ignored Mr. Golomb at work. While they would speak with all of the other crew members, they did not speak with Mr. Golomb. They pretended that Mr. Golomb did not exist. In addition, the other crew members in Station 7 were cold to Mr. Golomb and only spoke to him if he had a specific question.

107. Mr. Golomb continued to be ostracized and singled out at work following his complaints, further contributing to his discriminatory, sexually harassing and retaliatory work environment.

108. On September 7, 2020, while Mr. Golomb was working, their crew was dispatched to a five-alarm fire in Laconia. When they returned to the station right at the time of shift change, their contaminated gear was placed in a pile to be laundered by the oncoming shift.

109. This was common in these types of situations where crews returned so close to shift change, since no overtime was offered to them, so that their gear could be properly cared for. Their gear was all clearly and conspicuously labeled with their names on it.

110. When Mr. Golomb went to pick up his gear the next day, the liners of his gear (and only his gear) were tied tightly in several knots. This was a deliberate act, and it caused issues with the gear drying properly, potentially caused unnecessary damage to the gear

(Concord property) and created a delay in putting the gear back properly prior to Mr. Golomb's next shift.

111. On September 11, 2020, Mr. Golomb submitted another complaint to Concord alleging harassment and retaliation, this time, regarding the treatment of his gear.

112. Mr. Golomb made the complaint to his direct supervisor, Lt. John McAuliffe. Lt. McAuliffe, in turn, reported it to Battalion Chief Tony Manning. Following Mr. Golomb's reporting, he was never contacted by any Concord Fire Department officer or by any member of the Concord Fire Department Administration regarding his complaint.

113. Concord's investigation of Mr. Golomb's complaint was done by Captain Alan Robidas, not by Ms. Johnston. Even though there was potential for intentional damage to Concord property, the Police Department was not notified. In addition, Concord had a policy requiring that Concord investigations be conducted by an employee at the Battalion Chief level or higher.

114. On September 30, 2020, Concord informed Mr. Golomb that it had found that the knots were intentionally put in his gear, but that Concord was not able to substantiate Mr. Golomb's complaint of retaliation based upon witness interviews. Concord stated that it "will continue to provide training to employees in the Fire Department on respectful workplace conduct, as well as harassment and discrimination." Following September 30, 2020, to Mr. Golomb's knowledge, Concord never provided any training on respectful workplace conduct to employees of the Fire Department.

115. In September of 2020, Mr. Golomb told his supervisor, Lt. John McAuliffe, about how members of the Fire Department continued to give him the cold shoulder or didn't talk to him at all, and that it bothered him. Lt. McAuliffe said that he thought that Mr. Golomb's

complaint, which was widely talked about throughout the organization, seemed like a big deal at first, but “whimpered out” since nothing came of it. Mr. Golomb took Mr. McAuliffe’s comments to him to mean that his coworkers thought that he complained about nothing because nothing was done by Concord after the investigation was concluded and, therefore, his coworkers were annoyed with him for filing a baseless complaint and, thus, were now taking it out on him.

116. Multiple times throughout Mr. Golomb’s time at Station 7, Lt. McAuliffe told Mr. Golomb that he didn’t know what Battalion Chief Manning’s plan was for him, only that Battalion Chief Manning wanted Mr. Golomb to see inside the downtown buildings. This did not make sense, because Mr. Golomb had already been inside downtown buildings.

117. On October 18, 2020, Mr. Golomb was on a call at the State Prison for Men with Lieutenant Brad Newbery. Mr. Golomb was driving Ambulance 5, and Tower 2 was also dispatched with Lt. Brad Newbery, and Firefighters Jared Beard, and Eric Anderson, who remained outside the facility with Tower 2.

118. The practice during the COVID-19 pandemic had been that they would back A5 in the sally port and the prison correctional officers and medical staff would meet them with the patient, and they would transfer care there.

119. On this occasion, on October 18, 2020, several corrections officers, a member of the prison medical staff, and the prisoner/patient were at the rear of the ambulance, along with Mike Langille, the Paramedic assigned to A5. Lt. Newbery and Lt. Beard were also at the rear of the ambulance. Mr. Golomb remained in the cab of the ambulance with full PPE donned/ready in case they needed his assistance. That was a common practice and was exactly what would typically happen on his own shift (Battalion 3).

120. Captain Dave Dumas had been the company officer on the tower ladder, which had responded to all of the calls to the State Prison for Men since Mr. Golomb's return to Station 5 in September 2020. They had been to approximately five calls to the Prison since October 1, 2020. Never had Captain Dumas or anyone else ever said anything to Mr. Golomb about his performance on any of the calls.

121. Lt. Newbery, who is known to have a temper, yelled to the front of the ambulance in an angry manner for Mr. Golomb to assist the crew at the back of the ambulance. Mr. Golomb immediately did so. He helped both Lt. Newbery and Lt. Beard get the patient to the ambulance cot. This required little assistance. Then, Lt. Newbery and Mr. Golomb loaded the patient into the ambulance while Lt. Beard stood by and did not help. Mr. Golomb returned to the cab after being exposed to the patient and staff and drove the ambulance to the hospital.

122. On October 20, 2020, when Mr. Golomb reported for work, Lt. Harpell told him that Acting Battalion Chief Dave Dumas had called him and said that he wanted to meet with Mr. Golomb regarding the call at the prison with Lt. Newbery (on October 18, 2020).

123. Lt. Harpell told Mr. Golomb it was non-disciplinary. Despite the fact that Mr. Golomb had been told that the meeting would be non-disciplinary, Mr. Golomb called Andrew Davis from Local 1045 to be his Union representative. Mr. Golomb did so due to the ongoing retaliation to which he had been subjected at work, ever since his complaint to Concord about discrimination and sexual harassment. Lt. Harpell told Mr. Golomb that Acting Battalion Chief Dumas would be up at 9:00 AM. He showed up at 9:30 A.M. After Acting Battalion Chief Dumas had a closed-door meeting with Lt. Harpell, the four of them met.

124. Acting Battalion Chief Dumas started their meeting by stating that he was there to meet with Mr. Golomb regarding the call on Sunday (October 18, 2020) where Lt. Newbery had

to have a conversation with Mr. Golomb because he stayed in the cab of the ambulance. Mr. Golomb told Acting Battalion Chief Dumas that there was never a conversation between them, and that Lt. Newbery only summoned Mr. Golomb to help. Acting Battalion Chief Dumas then asked Mr. Golomb if he participated in medical calls in Station 5's district. Mr. Golomb told Acting Battalion Chief Dumas that of course he did, and Lt. Harpell confirmed that that was the case.

125. Acting Battalion Chief Dumas then stated that Lt. Newbery was angry that Mr. Golomb didn't get out of the cab to help. Mr. Golomb explained to him that Chief Guy Newbery had a virtual meeting with them the day prior (Acting Battalion Chief Dumas was absent that day) to address with them his concerns with the rising cases of COVID-19 in the capital region and the reported and possible cases in the Fire Department. The virtual meeting message from Chief Newbery was clear: COVID-19 was an ever-changing situation that had become more serious. Additionally, he told them that face coverings were now necessary for all members to be worn in the fire stations when proper social distance could not be maintained.

126. As of that time, Chief Newbery and Deputy Chief Brown had regularly encouraged members to use "crew resource management." Mr. Golomb did exactly that on October 18, 2020, but Lt. Newbery took exception, even though he had enough personnel to handle the situation. Mr. Golomb believes that Chief Newbery's conduct toward Mr. Golomb was in retaliation for Mr. Golomb making complaints to Concord.

127. Mr. Golomb went on to explain to Acting Battalion Chief Dumas that they both had been on numerous calls to the prison since COVID-19 started, and several of those had been within the past few weeks. Mr. Golomb further explained that he had remained in the cab in full PPE (N95 mask, eye goggles and gloves) so as to limit the members who were potentially

exposed to people and environments. Mr. Golomb further stated that it was easy to understand that the Prison is a highly dangerous environment for the spread of COVID-19.

128. Mr. Golomb asked Acting Battalion Chief Dumas for clarity on the policy for responding to the Prison during COVID-19. Acting Battalion Chief Dumas told Mr. Golomb there was no policy and that "we use common practice." Mr. Golomb again pointed out that the common practice he had been following was to remain in the cab of the ambulance in PPE so as to limit the exposure of another member unless it was necessary. Mr. Golomb noted that there were three members of the Fire Department, along with several correctional officers and medical staff there. He explained to Acting Battalion Chief Dumas how he was called from the cab of the ambulance to assist, and then loaded the patient in the back, as other Fire Department members stood by and watched.

129. Mr. Golomb asked Acting Battalion Chief Dumas if anyone else had been reprimanded, and Acting Battalion Chief Dumas told Mr. Golomb that he didn't know and that that was between Lt. Newbery and the members.

130. Mr. Golomb told Acting Battalion Chief Dumas that he felt like he was being unfairly scrutinized, that the situation should never have risen to the level it did, that he should never have been pulled aside in front of his peers for a meeting, and that this was extremely embarrassing.

131. Acting Battalion Chief Dumas told Mr. Golomb that, after thinking about the situation on the call with Lt. Newbery, he now believed that all members on scene were to be not just available, but also at the back of the ambulance. He told Mr. Golomb his expectation was to have the member who was driving the ambulance on calls to the Prison to get out and see if assistance was needed with patient care.

132. This sudden change of common practice could have easily been communicated to Mr. Golomb via email or phone conversation utilizing the chain of command. Instead, Mr. Golomb was singled out in a meeting. Mr. Golomb believes he was singled out in the meeting in further retaliation for his complaints to the Department.

133. On October 30, 2020, Mr. Golomb reported the further harassment and retaliation described above to Concord.

134. On November 12, 2020, Concord completed its investigation regarding Mr. Golomb's October 30, 2020 report of retaliation, and again found the conduct to be non-retaliatory. Upon information and belief, Ms. Johnston conducted the investigation. However, in the course of her investigation, she never met with or talked with Mr. Golomb to hear and/or understand the complaints/concerns he was raising to Concord.

135. After Mr. Golomb complained about further harassment and retaliation on October 30, 2020, the Fire Administration did not hold any more labor management sessions with the Executive Board of Local 1045 (of which Mr. Golomb was Vice President), even though other activities in Concord, such as contract negotiations, continued.

136. Mr. Golomb believes these labor management sessions ceased because of his complaint of further harassment and retaliation.

137. Mr. Golomb's belief is based upon the fact that after he was no longer a member of the Union Executive Board, the labor management sessions resumed.

138. After Mr. Golomb complained to Concord about further harassment and retaliation on October 30, 2020, either he was not invited back to any more Primex strategic planning meetings or the committee was dissolved, even though other activities in Concord

continued. Mr. Golomb believes he was the only member who stopped being invited to the Primex strategic planning meetings.

139. While Concord went through the motions of looking into Mr. Golomb's complaints of both harassment and retaliation, it never did anything to stop the retaliation against him since the time he made his complaints of discrimination and a hostile work environment.

140. Eventually, instead of being verbally assaulted, Mr. Golomb was continuously ignored and ostracized by his coworkers and supervisors.

141. This further created a retaliatory and hostile work environment. Furthermore, Mr. Golomb was continuously singled out by his supervisors for alleged performance issues, while other coworkers were not.

142. From the time Mr. Golomb first complained of sexual harassment and from the first time Mr. Golomb complained of retaliation, Concord did not conduct any anti-harassment training for any employees or members of management of the Fire Department.

143. Throughout the remainder of Mr. Golomb's employment with Concord, his coworkers continued to foster a retaliatory and hostile work environment for him by repeatedly ignoring and ostracizing him at work.

144. Eventually, his coworkers hardly spoke with him.

145. Eventually, even new members of the Concord Fire Department were rude to Mr. Golomb, right from the outset of their employment.

146. Mr. Golomb believes he was subjected to retaliatory treatment even by new members of the Concord Fire Department because they were told by other members of the Department about his complaints of sexual harassment and retaliation.

147. Mr. Golomb never experienced rude treatment from brand new members of the Department before he made complaints of sexual harassment and retaliation to Concord.

148. After Mr. Golomb complained of sexual harassment and retaliation to Concord, his coworkers would gather in small groups and talk at work but would not include him.

149. Mr. Golomb suffered from repeated and ongoing retaliatory treatment by his coworkers and superiors in the Concord Fire Department which he believes is in direct retaliation for the complaints of sexual harassment and retaliation which he raised to Concord, as described in this Complaint.

150. Mr. Golomb filed a charge of discrimination (“Charge”) and retaliation with the New Hampshire Human Rights Commission (“the Commission”), which was docketed by the Commission on July 20, 2022.

151. Concord filed a response to the Charge in September 2022.

152. Discriminatory and retaliatory treatment toward Mr. Golomb continued after the filing of his Charge.

153. In early March 2023, Mr. Golomb received his annual performance evaluation.

154. The performance evaluation contained unfounded comments by the chief, and Mr. Golomb appealed the evaluation. Thereafter, the chief removed his unfounded comments about Mr. Golomb on the evaluation.

155. Mr. Golomb reported to Concord that the unfounded comments on the performance evaluation were in retaliation for Mr. Golomb’s Charge. Concord disagreed, finding no retaliation toward Mr. Golomb.

156. In mid-April 2023, Mr. Golomb reported to Ms. Johnson that an officer on his shift called him a coward in front of almost everyone on the shift, plus other officers and administrators.

157. Mr. Golomb told Ms. Johnston that this incident was emblematic of the treatment he received from his co-workers. Again, Concord disagreed, finding no discriminatory or retaliatory treatment toward Mr. Golomb.

158. In early August 2023, Mr. Golomb was ordered to meet with Chief John Chisholm and Deputy Chief Mark Hebert. The Chief and the Deputy Chief claimed that this meeting was to gain perspective on past history. However, the meeting was conducted in a hostile manner, and Mr. Golomb requested that the meeting be adjourned. During the meeting, Mr. Golomb said he wished to consult with legal counsel.

159. Following the early August 2023 meeting, Chief Chisholm texted Mr. Golomb on a day that Mr. Golomb was not working. Mr. Golomb requested that Chief Chisholm not text him on his day off, but Chief Chisholm continued to text Mr. Golomb.

160. A second meeting with Chief Chisholm was held in late August 2023.

161. Chief Chisholm wanted to know the names of the people with whom Mr. Golomb could not work.

162. Mr. Golomb told Chief Chisholm he could work with anyone so long as they did not discriminate against him or retaliate against him for the Charge he had filed against Concord.

163. Despite Mr. Golomb answering the Chief's main question during the meeting, Chief Chisholm repeated his question multiple times, clearly in an effort to intimidate Mr. Golomb.

164. Mr. Golomb told Chief Chisholm that the meeting was intimidating. Chief Chisholm responded that the meeting was not intimidating and angrily demanded that Mr. Golomb “answer the question.”

165. Mr. Golomb told Chief Chisholm that he had already answered his question, but then answered again. Chief Chisholm then began to mock Mr. Golomb’s answer.

166. During the meeting, Chief Chisholm told Mr. Golomb to stop isolating himself from other employees on his shift.

167. This was a demand from Chief Chisholm that Mr. Golomb work with others on his shift who had called him gay slurs repeatedly and retaliated against him following his reports to Concord and his filing of the Charge.

168. The discrimination and retaliation against Mr. Golomb continued, unabated, through the remainder of his employment with Concord.

169. Concord never did anything to remedy the discrimination and retaliation, despite Mr. Golomb’s multiple reports to Concord’s Human Resources Department, and despite his filing of the Charge in July 2022.

170. Sadly, Concord did nothing but deny the discrimination, and deny the retaliation.

171. Concord did not adequately train the employees (including management level employees) in the Fire Department about employment discrimination and retaliation.

172. When Concord finally conducted a single training in or about August 2022, fire department personnel were required to respond to calls during the training, and several department members missed significant portions of the training. Additionally, members of the department made inappropriate comments and engaged in inappropriate behavior during the training.

173. Concord's complete failure to remedy the discrimination and retaliation to which Mr. Golomb was repeatedly subjected, makes clear that Concord accepted and tolerated discrimination toward Mr. Golomb.

174. As a result of all the allegations herein, Mr. Golomb was constructively discharged from his employment with Concord.

175. Mr. Golomb sent a resignation letter to Concord on December 8, 2023, advising Concord that the effective date of resignation would be December 22, 2023.

COUNT I
DISCRIMINATION ON THE BASIS OF SEX – TITLE VII

176. Mr. Golomb re-alleges and incorporates herein by reference, all of the allegations contained in the preceding paragraphs.

177. As described in this Complaint, Concord discriminated against the Plaintiff because of his sex in violation of Title VII, 42 U.S.C. §2000(e) et seq., including but not limited to, discriminating against the Plaintiff during his employment and constructively discharging him.

178. Concord's discriminatory conduct, including but not limited to, constructively discharging Plaintiff, violated Plaintiff's rights under 42 U.S.C. §2000(e).

179. As a direct and proximate result of Concord's violation of the Plaintiff's rights secured by 42 USC §2000(e) et seq., as herein above stated, the Plaintiff has incurred damages in the form of lost wages and benefits, future lost wages and benefits, compensatory damages, pain and suffering, loss of enjoyment of life, and attorneys' fees and costs.

COUNT II
DISCRIMINATION ON THE BASIS OF SEX – N.H. RSA 354-A

180. Plaintiff re-alleges and incorporates herein by reference, all of the allegations contained in the preceding paragraphs.

181. Concord discriminated against the Plaintiff because of his sex, in violation of N.H. RSA 354-A, including but not limited to, discriminating against Plaintiff during his employment and constructively discharging him.

182. The conduct described in this complaint constitutes sex discrimination in violation of RSA 354-A:7, I.

183. The Plaintiff brings this action pursuant to RSA 354-A:21-a.

184. Concord's actions were wanton, malicious and/or oppressive.

185. As a direct and proximate result of Concord's violation of the Plaintiff's rights secured by RSA 354-A, as herein above stated, the Plaintiff has incurred damages in the form of lost wages and benefits, future lost wages and benefits, compensatory damages, enhanced compensatory damages, and attorneys' fees and costs.

COUNT III
SEX-BASED HOSTILE WORK ENVIRONMENT – RSA 354-A

121. Plaintiff re-alleges and hereby incorporates the foregoing paragraphs of this Complaint as if fully set forth herein.

122. As described throughout Plaintiff's Complaint, Plaintiff was subjected to repeated offensive comments regarding his sex and conduct based upon his sex.

123. The repeated offensive comments and conduct were based on Plaintiff's sex.

124. The repeated offensive comments and conduct regarding Plaintiff's sex were so severe and/or pervasive that they created an offensive and demeaning work environment for Plaintiff and interfered with his ability to perform his job.

125. Concord had actual knowledge of the sex-based harassment because Plaintiff repeatedly reported the discrimination to Concord as described throughout this Complaint.

126. Despite reporting the sex-based harassment to Concord, Concord failed to take appropriate remedial action that would have enabled Plaintiff to continue working without the threat of being subjected to a hostile and inappropriate work environment, as well as the potential for retaliation for reporting the sex-based harassment, which said retaliation did occur as described throughout this Complaint.

127. Plaintiff did not welcome, encourage, or consent to the sex-based harassment to which he was subjected as an employee of Concord.

128. The sex-based harassment to which Plaintiff was subjected as an employee of Concord has had, and continues to have, a detrimental effect upon his employment and personal well-being.

129. Concord's unlawful employment practices in allowing Plaintiff to be subjected to sex-based harassment and in failing to take prompt remedial action to see to it that the sex-based harassment ended, violated New Hampshire RSA 354-A.

130. As a direct and proximate result of the violation of the Plaintiff's rights secured under RSA 354-A, as stated herein, the Plaintiff has incurred damages in the form of lost wages and benefits, future lost wages and benefits, compensatory damages, enhanced compensatory damages, and attorneys' fees and costs.

COUNT IV
SEX-BASED HOSTILE WORK ENVIRONMENT – TITLE VII

131. Plaintiff re-alleges and hereby incorporates the foregoing paragraphs of this Complaint as if fully set forth herein.

132. As more particularly described in Count III above, Concord willfully violated Title VII, 42 U.S.C. §2000(e) et seq. by subjecting Plaintiff to sex-based harassment (hostile environment) during his employment with Concord as described throughout this Complaint.

133. As a direct and proximate result of Concord's violation of Plaintiff's rights secured under 42 U.S.C. §2000(e) et seq., as stated herein, Plaintiff has incurred damages in the form of lost wages and benefits, future lost wages and benefits, compensatory damages, and attorneys' fees and costs.

COUNT V
RETALIATION IN VIOLATION OF TITLE VII

186. Plaintiff re-alleges and incorporates herein by reference, all of the allegations contained in the preceding paragraphs.

187. As described throughout this Complaint, Concord retaliated against Plaintiff because Plaintiff reported unlawful discrimination based on sex to Concord, including but not limited to, his internal complaints of discrimination to Concord (including to Human Resources) and because Plaintiff filed a Charge with the Commission in July 2022;

188. The retaliation ultimately culminated in the constructive discharge of Plaintiff's employment by Concord;

189. Concord willfully retaliated against Plaintiff in violation of Title VII, 42 U.S.C. §2000(e) et seq.;

190. As a direct and proximate result of Concord's violation of Plaintiff's rights secured under 42 U.S.C. §2000(e) et seq., as stated herein, the Plaintiff has incurred damages in the form of lost wages and benefits, future lost wages and benefits, compensatory damages and attorneys' fees and costs.

COUNT VI
RETALIATION IN VIOLATION OF N.H. RSA 354-A

191. Plaintiff re-alleges and hereby incorporates the foregoing paragraphs of this Complaint as if fully set forth herein.

192. As described throughout this Complaint, Concord retaliated against Plaintiff because Plaintiff reported unlawful discrimination based on sex to Concord, including but not limited to, his internal complaints of discrimination to Concord (including to Human Resources) and because Plaintiff filed a Charge with the Commission in July 2022 by retaliating against the Plaintiff for reporting sex and/or sexual orientation discrimination, in violation of RSA 354-A.

193. The retaliation ultimately culminated in the constructive discharge of Plaintiff's employment by Concord.

194. Concord's unlawful retaliation against Plaintiff for reporting sex discrimination violates N.H. RSA 354-A:7, I.

195. As a direct and proximate result of the violation of the Plaintiff's rights secured under RSA 354-A, as stated herein, the Plaintiff has incurred damages in the form of lost wages and benefits, future lost wages and benefits, compensatory damages, enhanced compensatory damages, and attorneys' fees and costs.

Respectfully submitted,

CHRISTOPHER R. GOLOMB, Plaintiff

By His Attorneys
UPTON & HATFIELD, LLP

Date: March 8, 2024

By: /s/ Heather M. Burns
Heather M. Burns (NHBA #8799)
Brooke Lovett Shilo (NHBA #20794)
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Concord, NH 03302-1090
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hburns@uptonhatfield.com

EXHIBIT A

DEC 15 2023



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

New York District Office
33 Whitehall St, 5th Floor
New York, NY 10004
(929) 506-5270
Website: www.eeoc.gov

DISMISSAL AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161, 161-A & 161-B)

Issued On: 12/13/2023

To: Christopher Golomb
8 Lavista Street
Manchester, NH 03103

Charge No: 16D-2022-00173

EEOC Representative and email: MARIANNE MONTLER
Supervisory Investigator
Marianne.Montler@eeoc.gov

DISMISSAL OF CHARGE

The EEOC is closing this charge because: Charging Party is pursuing claims in another forum.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission,

Digitally Signed By: Timothy Riera
12/13/2023

Timothy Riera
Acting District Director

Cc:

**City of Concord
Nancy Oliver
Jackson Lewis
100 International Drive Suite 363 Suite 363
Portsmouth, NH 03801**

**Heather Burns
Upton & Hatfield
PO Box 1090
Concord, NH 03302**

Please retain this notice for your records.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Christopher R. Golomb,

Plaintiff

v.

City of Concord, NH

Defendant

Civil Action No. -----

NOTICE OF FILING OF NOTICE OF REMOVAL TO PLAINTIFF'S COUNSEL

VIA EMAIL TO:

TO: Heather M. Burns, Esq.
Brooke Lovett Shilo, Esq.
Upton & Hatfield, LLC
10 Centre Street, P.O. Box 1090
Concord, NH 03302-1090
Hburns@uptonhatfield.com
Bshilo@uptonhatfield.com

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§1441 and 1446, DEFENDANT CITY OF CONCORD, has this day filed in the Clerk's Office of the United States District Court for the District of New Hampshire, Concord, New Hampshire, a Notice of Removal of this case, as shown by copy attached, and in accordance with the above statute, the State Court proceedings should proceed no further herein, unless and until the case is remanded.

Respectfully Submitted,

CITY OF CONCORD

By its attorneys,

JACKSON LEWIS P.C.,

Date: April 7, 2024

By: /s/ Ashley R. Theodore
Ashley R. Theodore (NH Bar No. 268090)
100 International Drive, Suite 363
Portsmouth, NH 03801
Direct - 603.559.2706
Ashley.theodore@jacksonlewis.com

Certificate of Service

I hereby certify that the foregoing was served by electronic filing to all parties and to Plaintiff's counsel via electronic mail.

Date: April 7, 2024

By: /s/ Ashley R. Theodore
Ashley R. Theodore

4857-2017-7076, v. 1

STATE OF NEW HAMPSHIRE

MERRIMACK

SUPERIOR COURT

Christopher R. Golomb

v.

City of Concord

Case No. 217-2024-cv-145

NOTICE OF FILING OF NOTICE OF REMOVAL

TO: Jennifer L. Uhouse, Clerk
Merrimack Superior Court
5 Court Street
Concord, NH 03301

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§1441 and 1446, DEFENDANT CITY OF CONCORD by and through their attorneys, JACKSON LEWIS P.C., have this day filed in the Clerk's Office of the United States District Court for the District of New Hampshire, Concord, a Notice of Removal of this case, as shown by copy attached, and in accordance with the above statute, the State Court proceedings should proceed no further herein, unless and until the case is remanded.

Respectfully Submitted,

CITY OF CONCORD

By its attorneys,

JACKSON LEWIS P.C.,

Date: April 7, 2024

By: /s/ Ashley R. Theodore
Ashley R. Theodore (NH Bar No. 268090)
100 International Drive, Suite 363
Portsmouth, NH 03801
Direct - 603.559.2706
Ashley.theodore@jacksonlewis.com

Certificate of Service

I hereby certify that the foregoing was served by electronic filing to all parties.

Date: April 7, 2024

By: /s/ Ashley R. Theodore
Ashley R. Theodore

4886-4354-1428, v. 1

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.)

I. (a) PLAINTIFFS
Christopher R. Golomb
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, and Telephone Number)
Heather M. Burns and Brooke Lovett Shilo, Upton & Hatfield, LLP, 10 Centre Street, Concord, NH 03302-1090, 603-224-7791

DEFENDANTS
City of Concord
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)
Ashley R. Theodore, Jackson Lewis, P.C., 100 International Drive, Suite 363, Portsmouth, NH 03801, 603-559-2700

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

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 210 Land Condemnation, 310 Airplane, 440 Other Civil Rights, 463 Alien Detainee, 625 Drug Related Seizure, 710 Fair Labor Standards Act, 820 Copyrights, 870 Taxes (U.S. Plaintiff or Defendant), 375 False Claims Act, etc.

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 - Transfer
8 Multidistrict Litigation - Direct File

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. §2000e, et seq.
Brief description of cause:
sex discrimination, hostile work environment, retaliation in employment

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: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE DOCKET NUMBER

DATE 04/07/2024 SIGNATURE OF ATTORNEY OF RECORD /s/ Ashley R. Theodore, NH Bar #268090

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.