

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

COLLEEN MOORE, an individual,

Plaintiff,

v.

**SAN CARLOS PARK FIRE PROTECTION &
RESCUE,**

Defendant.

CIVIL ACTION

Case No. 2:17-CV-_____

Judge:

Mag. Judge:

COMPLAINT WITH A DEMAND FOR JURY TRIAL

Plaintiff, **COLLEEN MOORE**, by and through her undersigned counsel, sues Defendant, **SAN CARLOS PARK FIRE PROTECTION & RESCUE**, and states and alleges as follows:

1. This is an action brought under and jurisdiction lies pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, *et seq.*, as amended (hereinafter "Title VII"), and supplemental claims jurisdiction of state courts under the Florida Civil Rights Act of 1992, codified in Chapter 760, Florida Statutes (hereinafter "FCRA"), pursuant to 28 U.S.C. §1367.
2. Plaintiff, **COLLEEN MOORE** (hereinafter referred to as "MOORE"), is a citizen of the United States and the State of Florida, who at all material times resided in Lee County, Florida.
3. Defendant, **SAN CARLOS PARK FIRE PROTECTION & RESCUE** (hereinafter referred to as "SCPF"), is a political subdivision of the State of Florida with a principal place of business located at 19591 Ben Hill Griffin Parkway, Fort Myers, Florida

33913.

4. At all relevant times, MOORE was an employee of Defendant, SCPF.
5. MOORE received paychecks drafted by Defendant, SCPF.
6. SCPF is a "person" within the meaning of 42 U.S.C. §2000e(a) and §760.02(6), Florida Statutes, and an "employer" within the meaning of 42 U.S.C. §2000e(b) and §760.02(7), Florida Statutes.
7. At all material times, SCPF employed greater than fifteen (15) employees.
8. All of the discriminatory employment practices alleged herein were committed within this judicial district.
9. All conditions precedent to jurisdiction under §706 of Title VII, 42 U.S.C. §2000e-5(f)(3) and §760.11, Florida Statutes, have occurred or been complied with.
 - a. An original charge of employment discrimination on the basis of sex discrimination, retaliation, and constructive discharge was filed with the Equal Employment Opportunity Commission ("EEOC") and cross-filed with the Florida Commission on Human Relations ("FCHR") on February 27, 2014. (See **Exhibit A.**)
 - b. The complaint has been filed within the ninety (90) days of receipt of the EEOC's Dismissal and Notice of Rights dated July 30, 2017. (See **Exhibit B.**)

STATEMENT OF FACTS

10. After graduating from high school in 1991, MOORE became a volunteer firefighter in Lee County. MOORE excelled as a volunteer and chose to apply to the fire academy in lieu of accepting a scholarship at a local higher education program.

11. MOORE entered the Fire Academy in October 1991, successfully completed training as one of the top three in her class, and obtained state certification as a Firefighter in 1992. During the state certification process MOORE applied to all open firefighting positions for which she would be qualified upon completion of the state certification.
12. MOORE was eventually offered a position at Defuniak Springs Fire Department, SCPF, and was next on the hiring list at Immokalee Fire Department.
13. MOORE is the first female firefighter hired by SCPF in its history.
14. Throughout her employment with SCPF, although MOORE always performed her assigned duties in a professional manner and was well qualified for her position, SCPF subjected MOORE to disparate treatment because of her sex almost immediately upon beginning her career. Such disparate treatment and harassment based on her sex remained consistent throughout her employment thereby significantly changing the terms and conditions of her employment.
15. Throughout her 20-year career with SCPF, MOORE worked to excel in her promising career overcoming many of SCPF's repeated and pervasive attempts to stifle her success; however, SCPF never wasted an opportunity to try to get rid of their sole female firefighter.
16. In 2010, after being involved in a minor accident with the fire engine that resulted in slight damage to a reflector on the engine, MOORE was reprimanded, demoted from the rank of Lieutenant to firefighter (a severe demotion), further disciplined by having her "supervisory authority" removed for one year, and ordered to remain on her same shift. As a result, MOORE was subjected to being supervised by the same firefighters whom she had previously supervised.

17. Based on information and belief, in the history of SCPF no other firefighter had ever been reprimanded for such an infraction (minor or severe), nor had any other firefighter had their supervisory authority stripped as a form of discipline, nor had any other firefighter ever been subjected to supervision from his/her own supervisees.
18. In response, MOORE filed a grievance with her union (Local 1826) representative, and, after over a year of fighting the disparate treatment due to her sex, she won at arbitration against SCPF. She was reinstated as a Lieutenant and awarded all back pay, effective immediately.
19. During the grievance process, MOORE remained undeterred and fought for the right to sit for the Battalion Chief exam which was required to rank candidates for promotion.
20. Restored to her rank of Lieutenant after arbitration, MOORE was eligible for promotion to Battalion Chief. As a result of scoring in the top two on the Battalion Chief exam during the arbitration process, MOORE was promoted to the rank of Battalion Chief as part of SCPF's normal promotion procedures.
21. Due to her involvement in the grievance process and in retaliation for her fight to restore her rank after SCPF's disparate treatment, SCPF's harassment and resolve to end MOORE's career as a firefighter intensified.
22. In 2013, as a pretext for disparate treatment based on her sex, MOORE was constructively terminated from SCPF for a series of minor infractions for which others had never been disciplined.
23. At the time of her termination, MOORE was still the only female firefighter at SCPF. She had remained the only female firefighter for her entire 20-year career with the exception of approximately six months. In 2001, SCPF hired a second female who

soon left her employment with SCPF and went back to the Miami area.

24. As a result of her termination and the history of actions taken by SCPF to intentionally create a hostile working environment for MOORE because of her status as a female firefighter, MOORE has suffered severe depression and post-traumatic stress, which have prevented MOORE from participating in normal life activities. As a direct result of SCPF's continuous and severe disparate treatment because of MOORE's sex, MOORE has been unable to meaningfully support her family for close to four (4) years since her termination.

COUNT ONE:
HOSTILE WORK ENVIRONMENT DUE TO SEVERE
AND PERVASIVE SEX DISCRIMINATION
IN VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964
AND THE FLORIDA CIVIL RIGHTS ACT OF 1992

26. Plaintiff, MOORE reasserts and states allegations contained in paragraphs 1 through 25, as if they had been set forth herein.

27. This is an action for damages for violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, *et seq.*, as amended (hereinafter "Title VII"), and for violations of the Florida Civil Rights Act of 1992, as amended, as set forth in Chapter 760 of the *Florida Statutes* (hereinafter "FCRA").

28. From her very first encounter working with SCPF, MOORE was subjected to repeated and pervasive comments and behavior because of her sex. Some of these incidents include:

SEXIST COMMENTS

29. Battalion Chief Jose Orama told MOORE that he did not believe women should be firefighters. He said that, because of his Hispanic background, he believed men are

supposed to work, and women are supposed to be home to take care of the house and the children. He subsequently always referred to MOORE as "the girl."

30. Additionally, Lieutenant John Horner often joked about MOORE being a firefighter.

While she regarded him as a friend and believed he was joking as a satire of those who were serious in their sexist comments, the joking was in the presence of the other firefighters, and it was not evident that he was kidding. Lieutenant Horner's comments set a bad example and reinforced the sexist attitudes of the other firefighters towards MOORE.

HAIR STROKING

31. Shortly after MOORE began her employment with SCPF, a Lieutenant on the force regularly stroked her hair, as he did with two other female volunteers. This behavior was unwanted and made all of the women very uncomfortable. None of the women knew what to do about his behavior, and no male firefighter or volunteer was subjected to the same behavior.

32. Aside from making her uncomfortable, the stroking of the hair also made it very difficult for MOORE to fit in with her crew members. MOORE was also individually subjected to unwanted attention. While the male firefighters were outside in the bay checking trucks, the Lieutenant would keep MOORE in his computer area talking to her and occasionally stroking her hair. This made MOORE appear lazy to her fellow crew members. Several firefighters made it abundantly clear to MOORE that they did not think women should be firefighters, in part due to her perceived laziness.

33. Later in her career under the supervision of Captain Jeff Mozes, despite following the SCPF handbook rule requiring firefighters to keep their hair above their collar, MOORE

was repeatedly singled out for warnings regarding the consequences of allowing even a single strand of hair to fall below her collar.

34. Despite continued compliance with the rules having her hair securely pinned above her collar, Mozes told MOORE that unless she cut her hair, she would be taken before the chief for inspection and possible discipline. MOORE was intimidated, despite the clear wording of the rule in her favor, so she cut her hair so it would not fall naturally below her collar.

35. A few days after MOORE gave birth to her son in 1996, she was visited by an SCPF secretary and Chief Nat Ippolito. Before Ippolito left MOORE's home, he told her to be sure she got a haircut before returning to work. This comment was unnecessary and upset MOORE since no other firefighter was being held to the same scrutiny.

36. MOORE made inquiries about the proper enforcement of the hair regulation, which apparently reached Ippolito. Soon thereafter, Ippolito called MOORE to his office and informed her that SCPF's attorney had advised that he could not make her cut her hair. Ippolito insisted that he would be watching her, and that if he ever saw any part of her hair hanging out with even a few strands hitting her collar, whether it be in the station, on a fire scene, or in training, she would be reprimanded.

37. Ippolito's remarks were intimidating and intended to be so because of MOORE's sex. His intimidation and threats were retaliatory for MOORE having raised the issue of the proper interpretation of the hair length rule.

38. This incident was so intimidating to MOORE that, several years later as she prepared to take the Lieutenant's test for the first time, she cut her hair very short rather than risk disqualification because of a stray hair.

"LIGHT DUTY" INCIDENT

40. During her pregnancy in 1995, MOORE was advised late in her second trimester by her physician that she should not continue to engage in active firefighting activities. Therefore, MOORE was placed on "light duty" by SCPF.
41. SCPF practice had been that, when a firefighter went on light duty, he was only required to work a 40-hour week, and his pay remained the same as though he were working his normal 56-hour week. Most employees who are on light duty answer the phones, help out with special projects, or do whatever the Chiefs assign to fill the 40-hour work week.
42. Assistant Chief Delo stated that pregnancy was not a disability, so he interpreted light duty in MOORE's case to be something rather different.
43. MOORE happened to be certified as a fire inspector, an additional certification which she obtained while preparing for her initial hire. Fire inspectors made a higher wage than firefighters.
44. For MOORE's light duty, instead of being assigned activities similar to those assigned to males on light duty, she was sent into the field as a fire inspector. However, MOORE was not paid the additional rate of pay for that work, and she was still held responsible for 56 hours of work per week instead of the normal 40 hours required of males on light duty. This assigned work required MOORE to be on her feet for long periods of time throughout her third trimester.
45. MOORE's light duty assignment was discriminatory on the basis of her sex.

THE SHIFT C TRANSFER

46. After the birth of her son, when MOORE returned from the regular leave she was forced to take because there was no maternity leave available to her, she was transferred to Shift C where the sexism was most severe. According to SCPF's longstanding practice and pursuant to the terms of the union contract, the least senior employee on the shift would be transferred to Shift C. MOORE was not the least senior employee on the shift. She experienced disparate treatment because of her sex. This occurred on or about 1996.
47. The ranking of the department at that time was as follows: the highest-ranking employee was the Fire Chief who answered to the Board of Fire Commissioners; next in rank was the Assistant Fire Chief; who was followed in rank by Captains (later renamed Battalion Chiefs). The captains ran the entire shift. Under Captains in rank were Lieutenants, who ran the individual stations and were responsible for the firefighters.
48. It was longstanding practice of SCPF that the most senior firefighter had a specified higher position than the rest of the firefighters. This was especially true on Shift C. Although Captain Bosnjak was officially in charge of Shift C, Gene Rison was the de facto leader whom actually ran the shift.
49. The union contract required that, in any shift change, the least senior employee had to be the employee whose shift was changed.
50. MOORE was not the least senior employee at the time of her change to Shift C, but she was the only female. SCPF's decision to change MOORE's shift was motivated by her sex.

THE DRIVER-ENGINEER TEST

51. On or about 1998, a test for qualifying for the position of driver-engineer was offered.
52. The process at that time involved a written exam followed by a practical exam. It was necessary to pass the written exam before being eligible to take the practical exam.
53. MOORE took both the written and practical exams and passed both.
54. After at least two males on Shift C failed the written portion of the exam, the rules were changed to make it easier for those males to qualify for the position which MOORE had clearly already earned.
55. The new set of rules allowed candidates to fail the written exam and still move on to the practical portion. The written score and a practical score were then added together and divided by two to arrive at a numerical grade. As long as the combined score equaled at least a passing grade of 70, those who had originally failed either portion could still become engineers.
56. Additional firefighters, all male, were then able to qualify for the position of driver-engineer because their practical test scores were sufficiently high enough to overcome their failure to pass the written exam.
57. Regardless of these changes designed to prevent MOORE from ranking highest for the position of driver-engineer, MOORE remained qualified for the position. Despite her qualifications, engineers assigned to train candidates for the driver-engineer position refused to schedule time to train MOORE because she was a female; therefore, MOORE received almost no time in training for the position. Despite this clear discrimination because of her sex, MOORE passed the driver-engineer qualification exams and earned this rank.

GENE RISON'S LETTER

58. Throughout her career as a firefighter, MOORE was faced with overt attempts to discriminate against her because of her sex. For example, at some point after the driver-engineer test but before the Lieutenant's exam, Gene Rison asked all firefighters on Shift C to sign a letter to have MOORE removed from their shift. Rison claimed that several employees had come to him stating that MOORE did not belong there, and that she was a bad driver.

59. It was not true that MOORE was a bad driver. Rison and those who signed the letter acted because they resented having a female firefighter on their shift and in the department.

60. Not everyone on Shift C signed the letter, but two of those who did were two of the firefighters who had failed the written portion of the driver-engineer's exam and had to have the rules changed to allow them to become engineers. Jose Orama was also the male who had initially told MOORE that women should not be firefighters and referred to her as "the girl" even after she became a Battalion Chief.

61. Assistant Chief Delo visited the station during Shift C and met with everyone at the station. Delo decided to move the employees who had signed the letter instead of moving MOORE. Regardless, the overt attempts to "get rid of MOORE" continued throughout her career, solely on the basis of her sex.

THE LIEUTENANT'S EXAMINATION

62. On or about December 2002, MOORE was eligible to sit for the Lieutenant's exam, which, according to the union contract, was to be a written exam.

63. Several firefighters who were eligible for the Lieutenant's exam, including Jose Orama and Gene Rison, wanted to change the rules yet again because they claimed MOORE was "too good at taking written tests."

64. Gene Rison went to Assistant Chief Delo and urged him to change the rules to add a practical component.

65. Assistant Chief Delo convened a meeting of those eligible to take the Lieutenant's exam and stated that he would change the method of exam as requested if they voted unanimously to make the change. This contradicted the terms of the union contract.

66. All the eligible males voted in favor of the change to the exam.

67. MOORE did not initially vote in favor of the exam change but became worried that if she failed to do so, that she would once again suffer rebuke and hostility from her male co-workers. MOORE reluctantly voted in favor of the exam change.

68. Another reason MOORE voted in favor of the exam change was that she assumed that she would be able to pass the practical portion of the exam without difficulty.

69. Even though MOORE performed more than satisfactory to pass the practical portion of the exam, she did not receive a passing score. Because she was a female, her performance was intentionally evaluated so as to ensure that she did not pass. MOORE alone failed the practical portion of the exam.

70. In the grading process, MOORE's score was haphazardly downgraded several times, although her performance did not justify the lower score.

71. Captain Kevin Burrell, who was present during the practical portion of the exam, later expressed to MOORE that she had been cheated out of a passing grade, and that she actually earned a higher score than others who had qualified.

72. The unfair grading of MOORE's performance was done to ensure that she did not pass because of her sex.

THE SECOND LIEUTENANT'S EXAMINATION

73. On or about June 2004, MOORE sat for the Lieutenant's exam a second time.

74. Because of how MOORE's grading had been done previously, she insisted that the practical portion of the exam be tape recorded.

75. Once again, MOORE's score was haphazardly downgraded several times, although her performance did not justify the lower score.

76. MOORE requested a playback of the tape recording that had been made to verify that she had met the requirement. The request was denied.

77. Although MOORE performed well enough to pass the Lieutenant's exam anyway, her recorded score was lower than it should have been as the result of continued discrimination against her on the basis of her sex.

DEMOTION FROM LIEUTENANT

78. MOORE was promoted to the rank of Lieutenant on August 9, 2004.

79. While MOORE's rank protected her from a number of the indignities she had suffered as a firefighter, she continued to endure occasional slights and imprecations such as: having to wait to receive her Lieutenant's uniform shirts (that reflected her status at the station) until more than one shift after she had started working as a Lieutenant.

80. On February 18, 2010, ten days before her wedding, MOORE was demoted. The demotion caused MOORE great emotional distress. Although the demotion was later ruled in an arbitration to be improper and that her rank was to be restored, MOORE was required to stay on her same shift (Shift A), where she had been assigned as a

Lieutenant. MOORE was placed in a position in which she was forced to work in a rank below those firefighters whom she had previously supervised. This treatment was not standard practice, and such an assignment was intended to intimidate and harass MOORE during her attempt to appeal her improper demotion.

81. As a result of the demotion, MOORE suffered severe emotional distress requiring professional help and medication. She also suffered substantial loss of pay.

THE BATTALION CHIEF'S EXAMINATION

82. Not long after MOORE's demotion and while her arbitration appealing same was pending, MOORE applied for testing for a Lieutenant's position once again and also for a Battalion Chief's position so that she would be prepared for advancement regardless of how the arbitrator ruled.

83. Preparation for the two separate exams was difficult and required many extra hours beyond the time required to prepare for only one exam. Nevertheless, MOORE scored first on the Lieutenant's exam and second on the Battalion Chief's exam.

84. MOORE was set apart from her fellow examinees. To ensure that the examiners viewed all examinees equally, all examinees were required to attend the exam for the respective positions wearing the daily uniform of that rank but without any indication of actual rank or awards. Firefighters testing as Lieutenant candidates wore blue shirts with a silver badge, while Lieutenants testing as Battalion Chief candidates wore white shirts with a gold badge.

85. MOORE was instructed to wear her firefighter uniform (blue shirt with a silver badge instead of a white shirt with a gold badge) to the Battalion Chief exam, thus setting her apart from all the other candidates. She was also the only female.

86. This differentiation was intended to undermine MOORE's chances of success in the Battalion Chief's exam. This differentiation may have been a contributing reason MOORE scored second on the Battalion Chief's exam instead of first.

PROMOTION TO BATTALION CHIEF

87. Having scored high on the exam for Battalion Chief and having been restored to her rank as a Lieutenant, MOORE was promoted to the rank of Battalion Chief on or about April 20, 2011. SCPF's practice was to promote individuals in order according to each candidate's scored rank on the Battalion Chief exam, filling open positions as they became available. Although MOORE's score as second highest-ranking candidate on the Battalion Chief exam and her restored rank of Lieutenant required that she be promoted immediately, SCPF had already promoted the third highest ranking candidate into the open position for which MOORE was then eligible.

88. Instead of demoting the third highest ranking candidate (Glen VanBrunt) who was no longer eligible for the position, MOORE was promoted into Battalion Chief VanBrunt's position, and VanBrunt was given a newly-created title of Division Chief of Fire which outranked MOORE's new position.

89. Such a promotion created a new hierarchy where Glen VanBrunt was still in a rank higher than MOORE, despite MOORE having successfully passed the Battalion Chief's exam with a higher score than that of VanBrunt.

90. Although promotions typically are accompanied by a shift change so there is no issue taking authority over employees that were once equals, SCPF again left MOORE on Shift A. MOORE had worked as a Lieutenant on Shift A, was then improperly demoted to being supervised by her former supervisees on Shift A, and was then

promoted above these same employees again on Shift A. This continuing practice was a clear attempt to provide MOORE with the most intolerable working conditions available, which produced considerable stress for her.

91. Bosnjak's and Cambareri's approach of creating a higher-ranking position for VanBrunt was discriminatory against MOORE, and their actions were because of her sex.

AFTER PROMOTION TO BATTALION CHIEF

92. On April 20, 2011, the day MOORE assumed her new position as Battalion Chief, she was called into a meeting with Chief Bosnjak and Assistant Chief Cambareri. The meeting lasted six hours. A considerable part of the meeting was devoted to criticizing and harassing MOORE, including:

- a. Bosnjak told MOORE that he still felt that she was "never punished" for "what you did," referring to the alleged violation which she appealed successfully through arbitration. Bosnjak's refusal to accept the ruling of the arbitrator and Bosnjak's imposition of a punitive judgment of his own were improper and discriminatory based upon MOORE's sex.
- b. Bosnjak told MOORE that a lot of employees did not think that she deserved to be a Battalion Chief and that she had a lot to prove to the Chiefs in the area.
- c. Bosnjak told MOORE that, unlike other Battalion Chiefs, she would be assigned to a shift and would be in a sort of informal probation, though that word was not used. MOORE was told that Bosnjak would see how it went because Bosnjak and Cambareri were not sure that MOORE would

be able to discipline her coworkers. There was nothing within MOORE's record as a supervising Lieutenant which suggested an inability to discipline. Bosnjak's statement was part of the negative and discriminatory attitude held by both Bosnjak and Cambareri.

- d. At the conclusion of the meeting, Bosnjak and Cambareri did not even provide the customary Battalion Chief's uniform shirt to MOORE.

93. The above comments and assignment decisions were designed to punish MOORE, despite her official vindication by the arbitrator, and to undermine both her authority and self confidence in her new rank. Bosnjak and Cambareri made it abundantly clear that they did not believe women had any place in the department as firefighters at any level but especially in supervising men. Their comments, actions, and attitudes toward MOORE were therefore discriminatory on the basis of her sex.

94. During the meeting, everyone present had been aware that procedures and programs used by SCPF had changed in the year since MOORE had held a supervisory position. It was also understood by everyone present that it would take some additional training to bring MOORE up to date on those changes.

95. Instead of providing the additional training, the Chiefs stated that the training would be done while on the job, when MOORE did not understand one of the new procedures she would be given that understanding instead of being reprimanded for an inadvertent mistake.

96. Contrary to that assurance, MOORE was repeatedly reprimanded for any misunderstanding or mistake, however minor. These written reprimands were designed to demean MOORE and to denigrate her competence as a Battalion Chief,

all based upon the discriminatory animus the Chiefs held against MOORE based on her sex.

97. The bias of the Chiefs was so intense that it affected the firefighters whom MOORE supervised. The firefighters reported to MOORE that they felt they had to work harder on her shift because every minor thing she did was scrutinized by the Chiefs. Those who had experienced shift exchanges told MOORE that the other Battalion Chiefs were not treated the same way in which she was treated. The firefighters thought it was clear that MOORE had been targeted and had been placed under constant scrutiny. Male Battalion Chiefs on other shifts were left to run their shifts as they deemed appropriate and necessary without the Chiefs' meticulous oversight.

98. This different, stricter, harsher treatment of MOORE's shift was designed to demean MOORE and to denigrate her competence as a Battalion Chief, all based upon the discriminatory animus the Chiefs held against MOORE based on her sex.

99. The acts, failures to act, practices, and policies of SCPF set forth above constitute discrimination on the basis of sex in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, *et seq.*, as amended, and in violation of the Florida Civil Rights Act of 1992, as amended, specifically §760.10(1)(a) Fla. Stat. *et seq.*, by producing a working environment that was hostile to MOORE because she was a woman working in an environment in which she was not welcome by the male management. This hostility was pervasive and severe.

100. MOORE suffered severe emotional distress and loss of dignity as a result of the discrimination against her, for which she should be compensated.

101. MOORE suffered a loss of income during the period of her demotion, which was a direct result of the pervasive hostility directed at her because of her sex, for which she is entitled to recover.

WHEREFORE, Plaintiff **COLLEEN MOORE** demands judgment against Defendant **SAN CARLOS PARK FIRE PROTECTION & RESCUE** under Title VII and FCRA for back pay, front pay, lost benefits, pre-judgment interest, emotional distress and loss of dignity, liquidated damages, attorney's fees and costs, and such other and further relief as this honorable Court deems just and equitable.

COUNT TWO:
RETALIATION DUE TO SEVERE AND PERVASIVE SEX DISCRIMINATION
IN VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964
AND THE FLORIDA CIVIL RIGHTS ACT OF 1992

102. Plaintiff, MOORE reasserts and states allegations contained in paragraphs 1 through 25 and 28 through 98, as if they had been set forth herein.

103. This is an action for damages for violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, *et seq.*, as amended (hereinafter "Title VII"), and for violations of the Florida Civil Rights Act of 1992, as amended, as set forth in Chapter 760 of the *Florida Statutes* (hereinafter "FCRA").

104. MOORE is the victim of unfair employment practices prohibited by Title VII and FCRA, which prohibit retaliation for opposing employment discriminatory behavior.

105. MOORE engaged in protected activity having opposed actions against her which constituted sex discrimination. MOORE was improperly and unjustly demoted, and she appealed the demotion through arbitration as provided in the union contract with SCPF.

106. MOORE's manner of opposition was reasonable.

107. MOORE's opposition was based on a reasonable and good faith belief that laws were violated.
108. SCPF's increased and disparate scrutiny of MOORE and further demotion were materially adverse actions.
109. SCPF took materially adverse actions to deter MOORE from continuing her employment with SCPF.
110. SCPF retaliated against MOORE because she opposed the actions against her which constituted sex discrimination.
111. SCPF's materially adverse actions against MOORE were taken because of the protected opposition.
112. SCPF engaged in policies and practices which willfully, or in the alternative, unwillfully, retaliated against MOORE, because of her protected activity, with respect to terms and conditions of her employment leading to constructive discharge from her position.
113. Said retaliation was willfully and knowingly committed by SCPF.
114. MOORE was well qualified to perform the tasks associated with her position with SCPF.
115. Similarly situated employees who were male were treated more favorably than MOORE.
116. As a direct and proximate result of SCPF's retaliation, MOORE has suffered injury, lost wages, and benefits.
117. MOORE is entitled to reasonable attorney's fees, including litigation expenses, and other costs in this action.

WHEREFORE, Plaintiff **COLLEEN MOORE** demands judgment against Defendant **SAN CARLOS PARK FIRE PROTECTION & RESCUE** under Title VII and FCRA for back pay, front pay, lost benefits, pre-judgment interest, emotional distress and loss of dignity, liquidated damages, attorney's fees and costs, and such other and further relief as this honorable Court deems just and equitable.

COUNT THREE:
CONSTRUCTIVE DISCHARGE
DUE TO SEVERE AND PERVASIVE SEX DISCRIMINATION
IN VIOLATION OF FLORIDA CIVIL RIGHTS ACT OF 1992
AND THE FLORIDA CIVIL RIGHTS ACT OF 1992

118. Plaintiff, MOORE reasserts and states allegations contained in paragraphs 1 through 25 and 28 through 98, as if they had been set forth herein.
119. This is an action for damages for violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, *et seq.*, as amended (hereinafter "Title VII"), and for violations of the Florida Civil Rights Act of 1992, as amended, as set forth in Chapter 760 of the *Florida Statutes* (hereinafter "FCRA").
120. The practices and actions described in Count One caused MOORE such great emotional distress that she sought professional help.
121. MOORE was advised by her psychiatrist that she should not continue working in her job because it was causing her psychological and physical harm.
122. Following the advice of her psychiatrist, MOORE resigned her position with SCPF on November 5, 2013.
123. MOORE's resignation was the direct result of SCPF's discrimination against MOORE because of her sex.

124. MOORE's resignation was therefore in reality a constructive discharge by SCPF, attributable to its hostile and illegal discrimination against MOORE because of her sex.

125. As a result of her constructive discharge, MOORE suffered further severe emotional distress, injury, and loss of income and benefits.

126. MOORE is the victim of unfair employment practices prohibited by Title VII and FCRA, which prohibit the creation of a hostile work environment leading to constructive discharge of an employee.

127. MOORE reluctantly resigned her position with SCPF after 20 years of service to the department and the community in which she served.

128. Faced with the same circumstances, a reasonable person in MOORE's position would have resigned.

129. SCPF's heightened scrutiny, humiliation, badgering, belittling, and demeaning of MOORE were calculated to encourage MOORE's resignation.

130. MOORE is entitled to reasonable attorney's fees, including litigation expenses, and other costs in this action.

WHEREFORE, Plaintiff **COLLEEN MOORE** demands judgment against Defendant **SAN CARLOS PARK FIRE PROTECTION & RESCUE** under Title VII and FCRA for back pay, front pay, lost benefits, pre-judgment interest, emotional distress and loss of dignity, liquidated damages, attorney's fees and costs, and such other and further relief as this honorable Court deems just and equitable.

NOTICE OF INTENT TO SEEK PUNITIVE DAMAGES

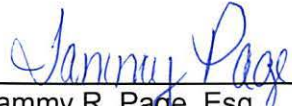
Plaintiff MOORE, by and through her undersigned counsel, hereby gives

notice pursuant to §768.72 *Florida Statutes*, of her intent to seek punitive damages under the applicable claims.

DEMAND FOR JURY TRIAL

Plaintiff, MOORE, by and through her undersigned counsel, demands a jury trial under Federal Rule of Civil Procedure 38 on all issues triable of right by a jury in this action except that as to equitable relief. The jury's verdict should be received by the Court as advisory.

Dated: October 5, 2017



Tammy R. Page, Esq.
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