

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS  
IN THE FIFTEENTH CIRCUIT  
CASE NO. 2019-CP-26-\_\_\_\_\_

Russell Brent Norman,  
Plaintiff,

**SUMMONS**

v.

Horry County d/b/a Horry County Fire Rescue,  
Defendant.

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is served upon you, and to serve a copy of your answer to this Complaint upon the subscriber at the address shown below within thirty (30) days (thirty five (35) days if served by United States Mail) after service hereof, exclusive of the date of such service, and if you fail to answer the Complaint, judgment by default will be rendered against you for the relief demanded in the Complaint.

**CROMER BABB PORTER & HICKS, LLC**

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May 6, 2019  
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Russell Brent Norman,

Plaintiff,

v.

Horry County d/b/a Horry County Fire  
Rescue,

Defendant.

IN THE COURT OF COMMON PLEAS  
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CASE NO. 2019-CP-26-\_\_\_\_\_

**COMPLAINT**  
(Jury Trial Demanded)

EMPLOYMENT CASE

Plaintiff, complaining of the Defendants, respectfully makes the following allegations.

PARTIES AND JURISDICTION

1. Plaintiff Russell Brent Norman is a citizen and resident of Horry County, South Carolina.
2. Defendant Horry County is a county subdivision of the state of South Carolina headquartered in Conway, South Carolina the County Seat for Horry County.
3. Plaintiff worked for Defendant Horry County within its fire department “Horry County Fire Rescue.”
4. Plaintiff was unlawfully terminated in Horry County by Defendant on May 8, 2018. This lawsuit relates to his termination.
5. Plaintiff alleges a South Carolina statutory claim of Workers’ Compensation Retaliation. S.C. Code Ann. § 41-1-80. Plaintiff alleges federal statutory claims of disability discrimination and retaliation in violation of the Americans with Disabilities Act Amendments Act. 42 U.S.C. 12101 *et. seq.*
6. This Court has jurisdiction or can exercise jurisdiction over each of these claims. *See*, 42 U.S.C. § 12117(a); 42 U.S.C. § 2000e-5(f)(3).

7. Defendant has enough employees to be subject to legal action under the ADAAA.
8. Defendant has over 500 employees meaning it is subject to the damage limitations outlined in 41 U.S.C. § 1981a(b)(3)(D).
9. Plaintiff timely filed charges of disability discrimination and retaliation before the Equal Employment Opportunity Commission and the South Carolina Human Affairs Commission.
10. Plaintiff has received his EEOC and SCHAC right to sue letters.
11. This lawsuit is timely filed within the deadline to file a lawsuit stated in Plaintiff's right to sue letters and is filed within the one-year statute of limitations for claims arising under S.C. Code Ann. § 41-1-80.
12. The parties have sufficient connections to Horry County based on their residence.
13. The events giving rise to this claim occurred in Horry County.
14. The Horry County Court of Common Pleas may exercise Jurisdiction over these claims; however, the Defendant may also remove these claims based on Federal Question Jurisdiction.

#### FACTUAL ALLEGATIONS

15. Plaintiff was hired by Defendant as a Heavy Equipment Operator in its Public Works Department on April 23, 2001.
16. Plaintiff transferred to Horry County Fire Rescue, within Defendant Horry County, on October 1, 2005 as a Firefighter/EMT.
17. Plaintiff received positive performance evaluations throughout his tenure.
18. Plaintiff was consistently rated as meeting or exceeding Defendant's legitimate performance expectations on his performance evaluations.
19. Plaintiff met the legitimate performance expectations of his employment.
20. Plaintiff was promoted to Lieutenant by Defendant on February 3, 2018.
21. Plaintiff was qualified to serve as a Lieutenant when he was promoted.

22. That Plaintiff was promoted to Lieutenant on February 3, 2018 demonstrates that Plaintiff was satisfying the legitimate performance expectations of Defendant at that time.

23. Plaintiff received no disciplinary actions between his promotion and his termination.

24. Plaintiff suffered a workplace injury at a fire call on April 6, 2018.

25. Plaintiff submitted Worker's Compensation paperwork to his employer the very next day.

26. Plaintiff was placed on light duty restrictions on April 10, 2018.

27. Plaintiff was released to light dirty work with medical restrictions on April 13, 2018. Those restrictions said, "no running."

28. Plaintiff received new restriction on April 23, 2018 and was diagnosed with a torn ACL and lateral and medial meniscus tears.

29. Plaintiff asked his doctor at that appointment if he could start running again, and as a result, Plaintiff was told he could engage in any physical activity that he could handle.

30. Plaintiff's work restrictions on April 23, 2018 cleared Plaintiff to work light duty without the "no running" restriction.

31. Defendant denied Plaintiff's Workers' Compensation claim on April 27, 2018 arguing that Plaintiff's injuries were due to the internal mechanical breakdown of component muscle and tissues from a prior surgery.

32. Plaintiff, based on his doctor's approval, began working out again after his April 23, 2018 appointment.

33. He decided at this time, that he felt physically able to compete in a county-sponsored charity 5k marathon on April 29, 2018.

34. Plaintiff's participation in the 5k was on his own personal time, and it did not violate his work restrictions since his most recent work restrictions removed the "no running" directive.

35. Plaintiff jogged in the 5k and did not engage in anymore physical activity than he could handle.

36. Plaintiff filed a formal contested Worker's Compensation claim for his April 6, 2018 workplace injury on May 2, 2018.

37. Plaintiff was next out of work from May 4, 2018 until May 7, 2018 for a hernia repair surgery.

38. Plaintiff was terminated via Assistant Chief James Walker on May 8, 2018 when he returned to work on the stated basis that he had exceeded his work restrictions when he ran in the 5k.

39. That basis for termination is false as pointed out above.

40. Instead, as alleged, alternatively where necessary, Plaintiff was terminated because of his Workers' Compensation Claim, his disabilities, and his request for time off to treat his disabilities.

**FOR A FIRST CAUSE OF ACTION**  
Workers' Compensation Retaliation

41. Plaintiff realleges the foregoing where consistent.

42. Plaintiff instituted a Worker's Compensation proceeding against the Defendant in good faith on May 2, 2018.

43. Defendant terminated Plaintiff on May 8, 2018 because he filed his Workers' Compensation claim.

44. Defendant did not terminate Plaintiff based on any of the affirmative defenses outlined in S.C. Code Ann. § 41-1-80.

45. That Plaintiff was terminated because he instituted, in good faith, a Workers' Compensation proceeding is demonstrated by the pretextual nature of his termination, Plaintiff's prior positive performance record, and the temporal proximity between Plaintiff's Workers' Compensation claim and his termination.

46. Plaintiff is entitled to recover from the Defendant all damages provided for under S.C. Code Ann. § 41-1-80.

**FOR A SECOND CAUSE OF ACTION**  
Disability Discrimination

47. Plaintiff realleges the foregoing where consistent.

48. Plaintiff was always qualified for his job as a Lieutenant for Horry County Fire Rescue relevant to this case.

49. Plaintiff was always able to perform his job for Defendant with or without reasonable accommodation.

50. Plaintiff was disabled based on his April knee injury which substantially limited his ability to run and work and then his hernia injury which substantially limited his ability to work.

51. Defendant, alternatively, regarded Plaintiff as being disabled.

52. Furthermore, Defendant maintained a record of Plaintiff's disability as detailed above.

53. Defendant terminated Plaintiff because of his disability.

54. The discriminatory animus underlying Plaintiff's termination is shown by the pretextual reason for Plaintiff's termination, Plaintiff's prior performance record, and the timing of Plaintiff's termination.

55. Furthermore, even if not pretextual, the stated basis for Plaintiff's termination is explicitly premised on a non-medically based stereotype perpetuated by Defendant about the limitations of Plaintiff's disability.

56. Defendant, based on the above, is liable to Plaintiff for all legally recoverable damages arising under the ADAAA to include back pay, interest on back pay, front pay or reinstatement, and compensatory damages.

**FOR A THIRD CAUSE OF ACTION**  
ADAAA Retaliation

57. Plaintiff realleges the foregoing where consistent.

58. Plaintiff engaged in protected activity when he requested reasonable accommodations in the form of light duty restrictions and time off for his hernia surgery.

59. Defendant initially afforded Plaintiff these accommodations but terminated Plaintiff shortly thereafter.

60. That temporal proximity, Plaintiff' prior performance record, and the pretextual nature of Plaintiff's termination amounts to unlawful retaliation in violation of the ADAAA for which Defendant is liable.

61. Plaintiff is entitled to recover from the Defendant all damages available, against Defendant, under the ADAAA to include: back pay, interest on back pay, front pay or reinstatement, and compensatory damages.

#### **PRAYER FOR RELIEF**

62. Plaintiff requests a jury trial on all legal claims.

63. Plaintiff requests that the jury, and Court where appropriate, award all damages he seeks on the above claims.

64. Plaintiff further requests that the Court grant him all other equitable relief it deems just and necessary including backpay, interest on backpay, and front pay or reinstatement.

65. Plaintiff last requests pre-judgment interest, attorney fees, and costs.

*<signature page to follow>*

Respectfully Submitted,

**CROMER BABB PORTER & HICKS, LLC**

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