

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: _____

JOHN H. RAMIREZ,

Plaintiff,

v.

CITY OF FT. LAUDERDALE FIRE RESCUE,

Defendant.

DEFENDANT'S NOTICE OF REMOVAL

Defendant, CITY OF FORT LAUDERDALE (“Defendant” or “City of Fort Lauderdale”),¹ by and through its undersigned counsel, Law Offices of Carmen Rodriguez, P.A., and pursuant to 28 U.S.C. §1446(a), files this Notice of Removal from the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, to this Court, a proceeding styled *John H. Ramirez v. City of Ft. Lauderdale Fire Rescue*, Case No. 19-000207-CA-02, and in support thereof, states as follows:

1. On January 4, 2019, this action was filed in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, Case No. 19-000207-CA-02. On January 11, Defendant was served by process with a copy of the Plaintiff, JOHN H. RAMIREZ’s, Verified Complaint. Copies of all pleadings and filings in the state court action are attached hereto as Exhibit

¹Plaintiff misidentified Defendant as “City of Ft. Lauderdale Fire Rescue” in his initial Complaint filed in Circuit Court. The correct municipal corporation in this matter is City of Fort Lauderdale. Fire Rescue is a department within the City of Fort Lauderdale.

A, and are incorporated by reference pursuant to Rule 10(c), Fed. R. Civ. P. No other pleadings, orders or process have been filed in the state court action.

2. In his Verified Complaint, Plaintiff alleges an action against his employer, City of Fort Lauderdale, for violation of the Uniformed Services Employment and Reemployment Rights Act (“USERRA”), 38 U.S.C. §§4301, et seq.

3. Title 38 U.S.C. §4323(b)(3) provides that district courts of the United States shall have jurisdiction of an action brought under USERRA, 38 U.S.C. §§4301, et seq., against a “private employer” by a person.

4. Title 38 U.S.C. §4323(i) states that the term “private employer” includes a political subdivision of a State.

5. In *Harris v. City of Montgomery*, the plaintiff asserted a USERRA claim against his employer, the City of Montgomery. 322 F.Supp.2d 1319 (M.D. Ala. 2004). In rejecting the employer’s position that the district court did not have jurisdiction, the district court explained that “[a] suit against a municipality is not the same as a suit against the State; a suit against a municipality is considered a suit against a private employer, 38 U.S.C. §4323(j)²(“In this section, the term ‘private employer’ includes a political subdivision of a State”)...” *Id.* at 1326. It held that because the City of Montgomery is a municipality, the district court had jurisdiction under 38 U.S.C. §4323(b)(3).

6. In this case, Plaintiff’s Verified Complaint alleges violation of USERRA, 38 U.S.C. §§4301, et seq., against his employer, City of Fort Lauderdale. Like the employer in *Harris*, the City of Fort Lauderdale is a municipality. *See* Fort Lauderdale, Florida, Code of Ordinances, Art. I, §1.01;

²Prior to 2008 amendment, 110 Pub. L. No. 389, which redesignated subsection (j) as subsection (i).

Fla. Const. Art. VIII, §2. Therefore, this Court has jurisdiction pursuant to 38 U.S.C. §4323(b)(3) and (i).

7. Accordingly, Defendant is entitled to remove this action from the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, to the United States District Court. *See* 28 U.S.C. §1441. Circuit Court Notice of Filing Removal is attached hereto as Exhibit B.

8. Venue is proper in the Southern District of Florida, in that the Circuit Court action is pending within the jurisdictional confines of this District and Division. *See* 28 U.S.C. §1446(a).

9. In accordance with 28 U.S.C. §1446(b), wherein a removal action must be filed within thirty (30) days after Defendant's receipt of service, the removal period of this action has not yet expired.

WHEREFORE, Defendant requests that further proceedings in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida in Case No. 19-000207-CA-02 be discontinued and that the action be removed to the United States District Court for the Southern District of Florida.

Dated: January 18, 2019
Miami, Florida

Respectfully submitted,

s/Carmen Rodriguez
Carmen Rodriguez - Florida Bar No. 710385
Attorney E-mail address: crpa@crlaborlawfirm.com
Law Offices of Carmen Rodriguez, P.A.
Palmetto Bay Centre
15715 South Dixie Highway, Suite 411
Miami, Florida 33157
Telephone: (305) 254-6101
Facsimile: (305) 254-6048
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email on January 18, 2019 on all counsel or parties of record on the Service List below.

s/Carmen Rodriguez
Carmen Rodriguez

SERVICE LIST

Randy A. Fleischer, P.A.
Florida Bar No. 910546
E-mail address: randy@rafesq.com
Law Offices of Randy A. Fleischer, P.A.
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Attorneys for Plaintiff

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Attorneys for Defendant

JS 44 (Rev. 06/17) FLSD Revised 06/01/2017

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS RAMIREZ, JOHN H. **DEFENDANTS** CITY OF FT. LAUDERDALE FIRE RESCUE

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

(c) Attorneys (Firm Name, Address, and Telephone Number) **Attorneys (If Known)**
 Law Offices of Randy A. Fleischer, P.A., 8528 State Road 84, Davie, FL 33324; (954) 472-8401 **Law Offices of Carmen Rodriguez, P.A., 15715 S. Dixie Hgwy., Suite 411, Palmetto Bay, FL 33157; (305) 254-6101**

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

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) **III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|--|--|--|--|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) | <input type="checkbox"/> Citizen of This State | PTF DEF
<input type="checkbox"/> 1 <input type="checkbox"/> 1 | <input type="checkbox"/> Incorporated or Principal Place of Business In This State | PTF DEF
<input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) | <input type="checkbox"/> Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | <input type="checkbox"/> Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| | | <input type="checkbox"/> Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | <input type="checkbox"/> Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

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

- | | | | | |
|---|---|--|--|---|
| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
| <input type="checkbox"/> 110 Insurance | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 375 False Claims Act |
| <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 690 Other | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 376 Qui Tam (31 USC 3729 (a)) |
| <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 320 Assault, Libel & Slander | | PROPERTY RIGHTS | <input type="checkbox"/> 400 State Reapportionment |
| <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 330 Federal Employers' Liability | | <input type="checkbox"/> 820 Copyrights | <input type="checkbox"/> 410 Antitrust |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 340 Marine | | <input type="checkbox"/> 830 Patent | <input type="checkbox"/> 430 Banks and Banking |
| <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 345 Marine Product Liability | | <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application | <input type="checkbox"/> 450 Commerce |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) | <input type="checkbox"/> 350 Motor Vehicle | LABOR | <input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 460 Deportation |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | <input type="checkbox"/> 710 Fair Labor Standards Act | SOCIAL SECURITY | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations |
| <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 720 Labor/Mgmt. Relations | <input type="checkbox"/> 861 HIA (1395ff) | <input type="checkbox"/> 480 Consumer Credit |
| <input type="checkbox"/> 150 Other Contract | <input type="checkbox"/> 362 Personal Injury - Med. Malpractice | <input type="checkbox"/> 740 Railway Labor Act | <input type="checkbox"/> 862 Black Lung (923) | <input type="checkbox"/> 490 Cable/Sat TV |
| <input type="checkbox"/> 195 Contract Product Liability | | <input type="checkbox"/> 751 Family and Medical Leave Act | <input type="checkbox"/> 863 DIWC/DIWW (405(g)) | <input type="checkbox"/> 850 Securities/Commodities/Exchange |
| <input type="checkbox"/> 196 Franchise | | <input checked="" type="checkbox"/> 790 Other Labor Litigation | <input type="checkbox"/> 864 SSID Title XVI | <input type="checkbox"/> 890 Other Statutory Actions |
| | | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 891 Agricultural Acts |
| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS | | <input type="checkbox"/> 893 Environmental Matters |
| <input type="checkbox"/> 210 Land Condemnation | <input type="checkbox"/> 440 Other Civil Rights | Habeas Corpus: | FEDERAL TAX SUITS | <input type="checkbox"/> 895 Freedom of Information Act |
| <input type="checkbox"/> 220 Foreclosure | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 463 Alien Detainee | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | <input type="checkbox"/> 896 Arbitration |
| <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 442 Employment | <input type="checkbox"/> 510 Motions to Vacate Sentence | <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision |
| <input type="checkbox"/> 240 Torts to Land | <input type="checkbox"/> 443 Housing/Accommodations | Other: | | <input type="checkbox"/> 950 Constitutionality of State Statutes |
| <input type="checkbox"/> 245 Tort Product Liability | <input type="checkbox"/> 445 Amer. w/Disabilities - Employment | <input type="checkbox"/> 530 General | IMMIGRATION | |
| <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 446 Amer. w/Disabilities - Other | <input type="checkbox"/> 535 Death Penalty | <input type="checkbox"/> 462 Naturalization Application | |
| | <input type="checkbox"/> 448 Education | <input type="checkbox"/> 540 Mandamus & Other | <input type="checkbox"/> 465 Other Immigration Actions | |
| | | <input type="checkbox"/> 550 Civil Rights | | |
| | | <input type="checkbox"/> 555 Prison Condition | | |
| | | <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | |

V. ORIGIN (Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Re-filed (See VI below)	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation Transfer	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File	<input type="checkbox"/> 9 Remanded from Appellate Court
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VI. RELATED/RE-FILED CASE(S) (See instructions): a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE: _____ DOCKET NUMBER: _____

VII. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): **28 USC § 1446(a)**

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

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____ **CHECK YES only if demanded in complaint:**

JURY DEMAND: Yes No

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

DATE January 18, 2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #	AMOUNT	IFP	JUDGE	MAG JUDGE
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EXHIBIT A

IN THE CIRCUIT COURT OF THE
17th JUDICIAL CIRCUIT, IN AND
FOR BROWARD COUNTY FLORIDA

JOHN H. RAMIREZ,

Plaintiff,

Case No.

v.

CITY OF FORT LAUDERDALE FIRE RESCUE

Defendant.

VERIFIED COMPLAINT AND JURY DEMAND

Plaintiff sues Defendant and states:

JURISDICTION AND VENUE

1. This action seeks equitable and injunctive relief, compensatory damages in excess of \$15,000, lost benefits and promotion, liquidated damages and attorney's fees and costs for violation of the Uniformed Services Employment and Reemployment Rights Act (USERRA 38 U.S.C. 4301-4333).
2. Pursuant to 38 U.S.C. 4323(b)(2) jurisdiction for a case of a person against the State as an employer is in any state court of competent jurisdiction. **NO COURT COSTS MAY BE CHARGED OR TAXED PURSUANT TO 38 USC 4323(c)(h).**

PARTIES

3. JOHN H. RAMIREZ, (hereinafter Plaintiff) is a citizen and resident of the United States who at all times relevant served and continues to serve in the United States Army.
4. CITY OF FORT LAUDERDALE FIRE RESCUE, (hereinafter Defendant) is a Florida governmental agency doing business in Broward County, Florida and employs more than

fifteen (15) regular employees.

FACTS

5. Plaintiff was hired by Defendant in March 1994.
6. During Plaintiff's employment by Defendant he was called for various deployments with the U.S. Army.
7. In 2004 Plaintiff was employed by Defendant as Battalion Chief.
8. In 2004 Plaintiff first applied for promotion to Division Chief. The Information Bulletin No. 04-168 from the Fort Lauderdale Fire Department came out with the results of the Division Chief Ranks on 19 November 2004.
9. Plaintiff has repeatedly applied for promotion to Division Chief.
10. The second time the Plaintiff took a Division test was on 2007 and the information bulletin No. 07-169 came out with the results on 25 September 2007.
11. The third time the Plaintiff took the test was on 2012 and the informational bulletin No. 12-131 came out with the results on 7 November 2012.
12. The fourth time was on 2016, the City of Fort Lauderdale gave a test and came out with the result before the plaintiff was able to take the test due that he was on military orders and applied to for the test, Information bulletin No. 15-081 came out with the results on 22 Jun 2015.
13. The Plaintiff was given the opportunity to take the Division test and new revised information bulletin No. 16-069 came out on 29 April 2016.
14. Plaintiff has never been granted promotion to Division Chief.

15. Plaintiff complained to Ms. Cosentino that he had been denied promotions and that it was connected to his military service (Exhibit A).
16. The Defendant never responded to Plaintiff's complaint.
17. The Defendant uses the rule of five to select the personnel for promotion and had been violating the rights of the Plaintiff by not following the State of Florida Veterans preference.¹
18. Plaintiff has been the better qualified for promotion than at least one person promoted ahead of him.
19. Plaintiff has complained to the Defendant that his military service was a factor in the decision to deny him promotion.
20. Plaintiff has complained to the Department of Veterans Affairs that he has been denied promotion because of his military service.
21. Defendant has not responded to the Department of Veteran's Affairs investigation. (Ex. B).
22. Defendant has refused to promote Plaintiff because of his military service.
23. Plaintiff's military service is continuing as he currently serves as a Major and Project Officer in the Commander's Action Group, U.S. Southern Command.

1. VETERANS' PREFERENCE Section 295.07 et seq., Florida Statutes (F.S.) and Chapter 55A-7, Florida Administrative Code (F.A.C.) Typically the decision maker may choose whomever he/she wants. This is referred to as the "Rule of 5" (or whatever the size of the group). If there is a Veterans' Preference eligible applicant in the group, the decision maker MUST select the Veterans' Preference eligible candidate. The decision maker is not able to skip over a VP candidate and select an equally qualified Non- VP candidate. If there is more than one VP candidate in the group, the selection will be based upon how the candidates qualified for VP and their placement in the eligibility category. A qualifying disabled veteran will always be selected over any other category of applicants.

24. Plaintiff has suffered damages as a result of Defendant's refusal to promote Plaintiff since 2004.

25. Plaintiff has been compelled to hire an attorney and file suit as Defendant refused to make Plaintiff whole.

26. Plaintiff demands a jury trial

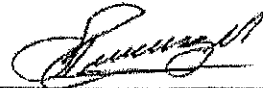
PRAYER FOR RELIEF

27. WHEREFORE, PLAINTIFF prays that this Court:

- a. Declare the conduct of the Defendant in violation of his rights;
- b. Award him injunctive relief by ordering the Defendant to promote Plaintiff to Division Chief as of November 19, 2004 when the position for Division Chief was available;
- c. Award him back pay from November 2004 through the trial;
- d. Award him full seniority as Division Chief from November 2004 as if he had never been on military service;
- e. Award him liquidated damages;
- f. Award him costs and attorney's fees pursuant to 38 USC 4323(h)(2);
- g. Grant such other relief as the Court deems just and necessary.

VERIFICATION

I, JOHN H. RAMIREZ do hereby verify that all of the factual allegations related to me and made in the above Verified Complaint and Jury Demand are true to the best of my belief and recollection.



JOHN H. RAMIREZ
Plaintiff

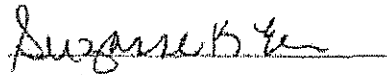
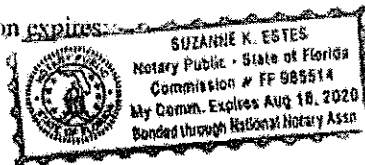
STATE OF FLORIDA

COUNTY OF BROWARD

BEFORE ME, the undersigned authority, duly licensed to administer oaths and take acknowledgments, personally appeared JOHN H. RAMIREZ, who, being by me first duly sworn and personally known to me, deposes and says that he has read the foregoing Verified Complaint and Jury Demand, and that the factual allegations relating to him are true and correct to the best of his knowledge, information and belief.

SWORN TO AND SUBSCRIBED before me this 15 day of October, 2018.

My commission expires



Respectfully submitted,

RANDY A. FLEISCHER, P.A.
8258 State Rd 84
Davie Florida 33324
(954) 472-8401
(954) 472-8446 FAX
randy@rafesq.com E-mail

s/R. Fleischer
Randy A. Fleischer, Esq.
Florida Bar No. 910546

From: John Ramirez <JRamirez@fortlauderdale.gov>
Date: February 11, 2016 at 23:18:40 EST
To: "jhramirez@comcast.net" <jhramirez@comcast.net>
Subject: Veterans Issue

Hello Ms. Cosentino,

I spoke with you a couple of weeks ago in reference of my situation with the Fort Lauderdale Fire Rescue Department, in reference that I had been skipped numerous times for the promotion of Division Chief even though that I have Veterans Preference.

I have been working for the Fire Department for almost 22 years and with the US ARMY Reserve almost 26 years. At this time I hold the rank of Battalion Chief with the Fire Department and a Major with the US ARMY Reserve.

I am a veteran of the Persian Gulf War and the Operation Enduring Freedom; a resident of the state of Florida for 30 years and I have been Honorably discharge from my deployments.

My complaint is that I believe that my rights as US Veteran has been violated due that I had been skipped for the promotion of the Division Chief for personnel that are not Veterans. The Fire Department use the rule of five to promote the personnel but according with Florida Department of Veteran's Affairs I MUST be promoted even though that they use the rule of Five.

The following is the back ground of the situation:

I took my first promotional test for Division Chief on 2004, the Information Bulleting form the Fire Department came out with the results on 19 November 2014 (Attached Information Bulleting No. 04-168). The following were the results:

Rank 1 Battalion Chief Christopher Weir (he was promoted, no a veteran)
Rank 2 Battalion Chief Lois Bowman (she was promoted, no a veteran) and Battalion Chief Richard Brown
Rank 3 Battalion Chief John Molenda and Battalion Chief William Findlan
Rank 4 Battalion Chief John Ramirez (I was not promoted from this list)
Rank 5 Battalion Chief Robert Hoecherl
Rank 6 Battalion Chief William Banks
Rank 7 Battalion Chief Robert Simac

The second time I took the Division Chief Test was on 2007, the Information Bulleting form the Fire Department came out with the results on 25 September 2007 (Attached Information Bulleting No.07-169, also information Bulletin with the Fire-rescue Promotions No.09-059). The following were the results:

Rank 1 were Battalion Chief Eric Pologruto (he was promoted, no a veteran) and Battalion Chief John Molenda (he was promoted, no a veteran)
Rank 2 were Battalion Chief Robert Bacic (he was promoted, no a veteran) and Battalion Chief Robert Hoecherl (he was promoted, no a veteran)

EXHIBIT A

Rank 3 Battalion Chief John Ramirez (I was skipped for the promotion for Battalion Chief William Findlan)
Rank 4 Battalion Chief William Findlan (he was promoted, no a veteran) and Battalion Chief Richard Brown)
Rank 5 Battalion Chief William Banks
Rank 6 Battalion Chief Timothy Blank
Rank 7 Battalion Chief Edward Duncan

The third time I took the Division Chief Test was on 2012, the Information Bulleting form the Fire Department came out with the results on 7 November 2012 (Attached Information Bulleting 12-131). The following were the results:

Rank 1 were Battalion Chief Timothy Heiser (he was promoted, no a veteran) and Battalion Chief John San Angelo (he was promoted and he is a veteran).
Rank 2 Battalion Chief John Ramirez (I was skipped for Battalion Chief Chantal Botting, no a veteran)
Rank 3 Battalion Chief Chantal Botting (she was promoted, no a veteran)
Rank 4 Battalion Chief Stewart Ahearn)
Rank 5 Battalion Chief Timothy Blank and Battalion Chief David Carter
Rank 6 Battalion Chief Richard Brown and Battalion Chief Stanley Douglas
Rank 7 Battalion Chief William Banks
Rank 8 Battalion Chief Jeffrey Lucas
Rank 9 Battalion Chief Kenneth Rudominer

I was deployed in support of Operation Enduring Freedom from 4 November 2013 to 24 October 2015. On the beginning of the year 2015 I was informed that the Fire Department wants to give another Division Test. I informed the Fire Department that I was deployed and I was not able to take the Division Test. I submitted the application via the internet to apply for the position. I attached the e-mails for the communication I has with the Human Resources department.

On 08 May 2015 I was advised by Ms. Andrea Walters that they test will be on 17 Jun and 19 Jun 2015 and she advised that I can take the test after my discharge from active duty. I advised Ms. Walters on 4 Jun 15 that I was not able to attend these dates and that I will take the test after my discharge from active duty.

I sent an e-mail advising Ms. Walters on 24 November 2015 of my return to the Fire Department and requested a date for the Division Chief test.

Ms. Walters advised me on 31 Dec 2015 that the test will be schedule on 14 Jan or 15 January 2016; due that I did not have another e-mail from Ms. Walters advising the time or location I sent an-email on 12 Jan 16 requesting the information, she replied the same day stating that the dates were no longer being considered and they will contact me with some alternatives.

I received an e-mail form Ms. Walters on 01 Feb 2015 stating to save 9 Feb 2016 for the test; on 2 Feb 2016 I replied and requested the time and location for the test.

On 8 Feb 2016 I received an e-mail form Ms. Walters advising that the test needs to be rescheduled again. On same day I advised Ms. Walters that my annual training with the US Army will be from 20 Feb to 4 Mar 2016.

In addition, the Fire Department did the test and came out with a list already date 22 Jun 2015 (attached Information Bulletin No.15-081) with the following results without waiting for me to take the test:

Rank 1 BC Douglas Stanley (he was promoted effective 21 Jun 2015, no a veteran)
Rank 2 BC Stewart Ahearn (he was promoted effective 2 August 2015, no a veteran) and BC Melanie Snowwhite
Rank 3 BC JO-Ann Lorber
Rank 4 BC Timothy Blank
Rank 5 BC John Mcloughlin
Rank 6 BC David Carter and BC Walter Dietz

Ms. Consentino, I believe my rights as veteran has been violated since 2004 and they continue doing it.

Please let me know if you need more information to be able to start an investigation; the following is my contact information:

John H. Ramirez
Address: 19042 NW 79 CT Miami-Lakes, FL 33015
Cell: 786-295-5264
Personal E-mail: jhramirez@comcast.net
ARMY e-mail: john.h.ramirez.mil@mail.mil
Fire Department e-mail: jramirez@fortlauderdale.gov

I really appreciate the attention to this matter, your assistance and support.

JHR

*John H. Ramirez, MBA, EFO
City of Fort Lauderdale Fire-Rescue
Battalion Chief Operations
A Shift District 13
Work (954) 526-3650
Cell (786) 295-5264
jramirez@fortlauderdale.gov*

*'The final test of a leader is that he leaves behind him
in other men the conviction and the will to carry on'
-Walter Lippmann-*



Glenn W. Sutphin Jr.
Executive Director

State of Florida
DEPARTMENT OF VETERANS' AFFAIRS
Office of the Executive Director
The Capitol, Suite 2105, 400 South Monroe Street
Tallahassee, FL 32399-0001
Phone: (850) 487-1533 Fax: (850) 488-4001
www.FloridaVets.org

Rick Scott
Governor
Paul Bondi
Attorney General
Jimmy Patronis
Chief Financial Officer
Adam Putnam
Commissioner of Agriculture

January 19, 2018

Maj. John Ramirez
9301 NW 33rd Street
Doral, FL 33172

RE: VP 16-0035

Dear Maj. Ramirez:

Thank you for your Veterans' Preference inquiry. The Florida Department of Veterans' Affairs (FDVA) appreciates the opportunity to serve you. This letter is in response to your employment complaint filed with the (FDVA) pursuant to Section 55A-7.016, Florida Administrative Code (FAC).

The FDVA has not received any response from the City of Fort Lauderdale (CFL) despite numerous requests beginning April 26, 2016, to the most recent sent January 3, 2018. Certified Return Receipt, which was signed as accepted by CFL on January 8, 2018. A copy of this notification has also been provided to CFL.

The investigative findings confirmed that you are a preference-eligible veteran who timely and properly completed an application for a promotional opportunity that requires the application of Veterans' Preference with CFL. You met the minimum qualifications, however, due to CFL's continued lack of response to FDVA's request for information it is impossible to determine if Veterans' Preference was applied. Therefore, FDVA has determined that you have made a valid complaint for case 16-0035.

The employer is required by subsection 55A-7.016(7), FAC, to provide to you within 30 days of receipt of the investigative findings a proposed plan to resolve the complaint. If the employer is unable or unwilling to resolve your complaint, you have the right to appeal to the Public Employees Relations Commission (PERC). You must notify the FDVA in writing within 15 calendar days from receipt of the employer's proposed action that you are not satisfied with the resolution for the complaint. If the employer has not furnished you with a proposed resolution for your complaint within 30 days of receipt of the investigative findings, you must notify the FDVA within 15 calendar days of the due date of the proposed resolution of the fact that the employer has not attempted a resolution.

If PERC determines that it has jurisdiction of your case, it will order a hearing officer to conduct a formal hearing under the provisions of Florida Administrative Procedures Act, Chapter 120, Florida Statutes (2008). At this hearing, both you, or your attorney, and the employer will be allowed to present sworn witnesses, cross-examine witnesses, and produce written evidence on the question of whether or not you are the more qualified person for the job.

"Honoring those who served U.S."

Exhibit B

If you have questions about the authority or jurisdiction of the PERC, you may call or write to the Commission. The address is:

Public Employees Relations Commission
4050 Esplanade Way, Suite 180
Tallahassee, FL 32399-0950
(850) 488-8641

Sincerely,

A handwritten signature in black ink, appearing to read 'David Marzullo', is written over a faint, illegible typed name.

David Marzullo
Inspector General
Florida Department of Veteran Affairs
MarzulloD@fdva.state.fl.us
(727) 518-3202 ext. 5570

cc: Averill Dorsett, Director Human Resources

EXHIBIT B

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO.: 19-000207-CA-02

JOHN H. RAMIREZ,

Plaintiff,

v.

CITY OF FT. LAUDERDALE FIRE RESCUE,

Defendant.

CIRCUIT COURT NOTICE OF FILING REMOVAL

TO: Brenda D. Forman
Clerk of Courts
Seventeenth Judicial Circuit for Broward County
201 S.E. 6th Street
Fort Lauderdale, Florida 33301

Defendant, CITY OF FORT LAUDERDALE,¹ by and through its counsel, Law Offices of Carmen Rodriguez, P.A., and pursuant to 28 U.S.C. §1446(d), file herewith a copy of Defendant's Notice of Removal of this matter from the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, to the United States District Court for the Southern District of Florida.

Dated: January 18, 2019

¹Plaintiff misidentified Defendant as "City of Ft. Lauderdale Fire Rescue" in his initial Complaint filed with the Court. The correct municipal corporation in this matter is City of Fort Lauderdale. Fire Rescue is a department within the City of Fort Lauderdale.

Respectfully submitted,

s/ Carmen Rodriguez

Carmen Rodriguez, Esq. (FBN 710385)

Email: crpa@crlaborlawfirm.com

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15715 S. Dixie Highway, Suite 411

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Facsimile: (305) 254-6048

Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via an automatic email generated by the Florida Courts E-Filing Portal on all counsel or parties of record on the Service List below, on this 18th day of January, 2019.

s/Carmen Rodriguez

Carmen Rodriguez

SERVICE LIST

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Florida Bar No. 910546

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