

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GORDON SPRINGS,

Plaintiff,

-against-

THE CITY OF NEW YORK, THE CITY OF
NEW YORK FIRE DEPARTMENT, FIRE
COMMISSIONER DANIEL A. NIGRO
(In His Official and Individual Capacity),
CAPTAIN VINCENT DISTEFANO, and
FIREFIGHTER RICHARD DAVI

Defendants.
-----X

Civ. No.

COMPLAINT

(Jury Trial Demanded)

Plaintiff, GORDON SPRINGS (“Plaintiff” or “SPRINGS”), by and through his attorneys, L & D LAW P.C., complaining of Defendants, jointly and severally, herein respectfully shows to this Court and alleges the following:

NATURE OF THE CASE

1. This is an action to remedy discrimination and brought by Plaintiff Gordon SPRINGS pursuant to Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C § 2000e et. Seq. (“Title VII”), and to remedy violations of the laws of the State of New York, based upon diversity and the supplemental jurisdiction of this Court pursuant to Gibb, 383 U.S. 715 (1966) and 28 U.S.C. § 1367, seeking relief and damages to redress the injuries Plaintiff has suffered as a result of being discriminated and retaliated against by his former employer on the basis of race, color, sex, national origin and orientation.

2. Defendants engaged in a pattern and practice of flagrant discrimination against Plaintiff Springs which stems from prior patterns and acts of discrimination and retaliation.

3. The Defendants had prior knowledge of these horrific acts from other

instances of discrimination taken against Plaintiff Springs for which there is another lawsuit pending in the United States District Court

JURISDICTION AND VENUE

4. Jurisdiction of this Court is proper under 42 U.S.C. § 2000e-5(f)(3), and 28 U.S.C. §§ 1331 and 1343 and the Civil Rights Act of 1964 (Title VII); of 1866 and 1871 which give this Court jurisdiction for each statute; the damages; exclusive of interest and costs in this instance exceed that of all lower courts, and this Court's pendent jurisdiction is also invoked.

5. The unlawful employment practices alleged herein occurred wholly or in part, in the jurisdiction of the Southern District of New York.

PARTIES

6. Plaintiff Gordon SPRINGS is an individual African American male who resides in the State of New York, County of New York.

7. Defendant, The City of New York, is a municipal corporation, incorporated in the State of New York, and resides in all five boroughs of New York City. The causes of action in this case arise within the County and City of New York

8. The Fire Department of the City of New York has their headquarters in Brooklyn, New York, and has its principal place of business at 9 Metro Tech Center, Brooklyn, New York 11201, and operates numerous firehouses throughout the City of New York.

9. A substantial and significant portion of the events took place at Firehouse Engine 67, which is located at 518 West 170th Street, New York, New York 10032.

10. At all times material, Defendant Fire Workers were senior to Plaintiff, and possessed the ability to control and manage Plaintiff's employment.

11. At all times material, the above-mentioned Firefighters were stationed at Engine 67.

12. Defendant Captain Firefighter DiStefano was and is a Firefighter and Officer of the FDNY, with the City of New York, and is a resident of New York State.

13. Defendant Firefighter Richard Davi was and is a Firefighter with the City of New York and is a resident of New York State.

PROCEDURAL HISTORY

14. On or about September 18, 2019, the EEOC issued a Right to Sue.

15. This action has been filed within 90 days of receipt of the Right to Sue.

PRELIMINARY STATEMENT

16. Plaintiff Gordon SPRINGS became a New York City Firefighter in or around May of 2015.

17. Plaintiff SPRINGS alleged that he was sexually harassed at his first firehouse, retaliated against at all firehouses, and was further subjected to a hostile work environment.

18. On or about January 20th, 2017, Plaintiff SPRINGS filed his claims in the United States' District Court, Southern District.

19. Claims regarding retaliation by the City Defendants survived Defendants' motion for summary judgment.

20. At Plaintiff's latest details, Defendants subjected the Plaintiff to additional retaliation and hostile work conditions, which is the basis for the current lawsuit.

FACTS

21. Throughout Plaintiff Springs' tenure with the FDNY, the FDNY has

involuntarily transferred/detailed the Plaintiff to a number of firehouses across the City of New York.

22. On or about December 11, 2017, City Defendants detailed the Plaintiff to Engine 67.
23. During Plaintiff's time at Engine 67, Plaintiff observed that a number of firefighters were exchanging tours with each other.
24. The common vernacular used to exchange tours is referred to as a "mutual" which specifically refers to a schedule exchange arrangement, which is negotiated as between the firefighters; or negotiated between firefighters with the assistance and approval of an officer.
25. Firefighters at Engine 67 willfully refused or deliberate ignored Plaintiff Springs' request to perform mutual with other firefighters.
26. All firefighters at Engine 67 were and are aware of Springs' protected complaints regarding discrimination and retaliation.
27. At all times material, all firefighters and officers of Engine 67 were and are aware of the incident of alleged sexual harassment at assault which was perpetrated against the Plaintiff while he was in the gym at Ladder 35, Engine 40.
28. Upon Plaintiff Springs' arrival to Engine 67, Plaintiff Springs asked Defendant Captain DiStefano whether or not he would be able to do mutual with other firefighters.
29. In response, Defendant DiStefano advised Plaintiff Springs that after completing a few tours, he would get firefighters to do mutuals with Plaintiff Springs.
30. Upon information and belief, Defendant DiStefano either purposely or

deliberately ignored Plaintiff Springs' requests to perform mutual with other firefighters.

31. Moreover, Plaintiff Springs followed all FDNY and Engine protocol for performing mutuals by posting his requests for mutuals on the bulletin board of the firehouse, but no firefighter would agree to do mutuals with Plaintiff Springs.
32. Retaliatory acts and hostility against Plaintiff Springs, were not limited to denial of mutual tours.
33. During Plaintiff Springs' tenure at Engine 67, despite multiple requests, the Plaintiff was not assigned a mailbox.
34. However, similarly situated firefighters who were new to Engine 67, including Firefighter Christopher Smolny, received a mailbox.
35. During Plaintiff Springs' tenure at Engine 67, the Plaintiff's photograph was not added to the wall where all other firefighters had their photos and rank/grades listed on the firehouse wall.
36. However, similarly situated firefighters who were new to Engine 67, including Firefighter Christopher Smolny, had their photo placed on the wall at Engine 67 next to other firefighters.
37. Notably, Plaintiff Springs became a member of Engine 67 before Firefighter Smolny.
38. During Plaintiff Springs' tenure at Engine 67, the Plaintiff was not provided with collar brass, which signaled that the Plaintiff was a member of Engine 67. Collar brass is used as FDNY vernacular to describe a small metal pin, shaped as an FDNY badge, which is inscribed with the number of the Engine or Ladder company to which a firefighter is assigned.

39. However, upon information and belief, other similarly situated firefighters who were also newer members of Engine 67, were issued collar brass.
40. On or about February 4, 2018, during one of the firehouse meals, firefighters of Engine 67 cooked a meal and made hamburgers in the same pan used to cook bacon (pork).
41. Prior to this meal, Plaintiff Springs advised all firefighters in the firehouse that he was unable to eat pork or cook with pork, due to his religious beliefs as a Muslim.
42. However, firefighters from Engine 67, with full knowledge of the Plaintiff's religious dietary restrictions, either purposefully cooked with pork and/or deliberately ignored the Plaintiff's religious restrictions.
43. The above is only one example of the overall discriminatory and retaliatory behavior demonstrated against Plaintiff Springs, whereas no other firefighter suffered from such unlawful behavior at the hands of the firehouse.
44. For example, on or about May 6, 2018, Defendant DiStefano recorded in the firehouse company journal that Plaintiff Springs entered the firehouse at 8:40 A.M. to report for duty and noted this in bright red ink for all firefighters to see.
45. However, on that particular date in question, the Plaintiff was not scheduled to arrive to the firehouse till at or around 9:00 A.M. In fact, Plaintiff Springs tried to be there early and did in fact arrive 20 minutes before he scheduled shift.
46. According to FDNY regulations, 9:00 A.M. was the start of the firehouse tour, but Defendant Distefano nevertheless singled out the Plaintiff.
47. Upon information and belief, no other similarly situated firefighter has been

penalized for arriving before their tour as the Plaintiff did.

48. The actions of Corporate Defendants and the actions of all named Defendants, were inappropriate, unlawful and against FDNY Regulations prohibiting discrimination and retaliation.
49. Unlawful aggression and hostility continued against the Plaintiff and came to a head in September of 2018.
50. On or about September 4, 2018, Firefighter Davi aggressively assaulted and berated the Plaintiff, referring to him as a “piece of shit.”
51. Firefighter Davi accused Plaintiff Springs of throwing a t-shirt into the garbage. The t-shirt was made as a memorial to a deceased firefighter.
52. Plaintiff Springs at no point in time, threw any t-shirt into the garbage can; nor would Plaintiff Springs ever disrespect a fallen brother in such a manner.
53. In fact, Plaintiff Springs offered to contribute to the t-shirt fund which was made to use the t-shirts and did in fact give money towards the shirt. Plaintiff contributed even though the shirt depicted a Christian cross and the Plaintiff was a Muslim.
54. However, when Firefighter Davi’s saw the t-shirt next to an area in the firehouse where the garbage was located, Firefighter Davi’s exploded on the Plaintiff with an aggressive verbal assault and at no point in time sought to have an interactive discussion with the Plaintiff.
55. At or around the time of the incident, Defendant DiStefano heard the commotion and intervened in the assault against Plaintiff Springs.
56. Rather than attempt to deescalate the confrontation, Defendant DiStefano told Plaintiff Springs “You’re a piece of shit. You’re fucked up...you went to a fucked-up firehouse and now you’re fucked up.”

57. At that point in time, Defendant Distefano advised the Plaintiff that he was relieving him of duty and sending him back to the FDNY Counseling Services Unit (CSU) for additional counseling.
58. Defendant Distefano further told the Plaintiff “Go call your lawyer. Go call the union. No house is ever gonna accept you.”
59. On or about September 6, 2018, despite being ready and willing to perform full duty, as a result the above incidents and internally filed complaints with the FDNY’s Equal Employment Office regarding the above incidents and more, the FDNY ordered the Plaintiff to light duty assignment despite being designated as “full duty.”
60. A light duty position is usual performed at the FDNY’s Metrotech Center headquarters and usual consists of menial tasks and administrative duties.
61. Generally light duty is considered a punishment and significantly discredits/tarnishes the Plaintiff’s already tarnished reputation.
62. Following the above incidents and internal complaints, Plaintiff Springs went out on medical leave.
63. On or about January 28, 2019, the FDNY assigned Plaintiff Springs to full duty, however, the FDNY again ordered the Plaintiff (while on full duty) to perform light duty assignments at FDNY headquarters, which detracted from and prohibited the Plaintiff from earning any training opportunities, overtime pay, or a flexible work schedule that is afforded to all other full duty firefighters who are similarly situated to the Plaintiff.
64. Unbeknownst to the Plaintiff, on or about August 15, 2019, the FDNY, by and through an FDNY Commissions disability application was filed, and it was determined that the Plaintiff was unfit for fire duty with a diagnosis of

psychological axis disorder.

65. On or about November 8, 2019, the New York City Fire Pension Fund through their Medical Board, that the Plaintiff was not permanently disabled, and that the application by the Fire Commission to render him permanently disabled should be denied.
66. In conjunction with this letter, the Plaintiff's personal doctor as well as an FDNY medical doctor, Dr. Kelly, cleared the Plaintiff for full duty.
67. Plaintiff was supposed to return to full duty on or about December 16, 2019.
68. However, without any explanation, rhyme or reason, the FDNY's Chief Medical Physician, Dr. Prezant, overturned the decision and ordered the Plaintiff back to light duty, even though the Plaintiff was cleared for full duty.
69. The above actions demonstrated a pattern of continuous and unlawful behavior, which upon information and belief, and meant to subject the Plaintiff to further hostility in his work environment.
70. Furthermore, Defendant's actions were unlawful under Federal, State and City statutes.
71. As a result of the severe discrimination, retaliation, and the severe and pervasive hostile work environment perpetrated by Defendants, Plaintiff was and is extremely emotionally distressed, faces high anxiety and is in an overall state of fear for a very significant length of time
72. As a result of Defendants' actions, Plaintiff felt extremely humiliated, degraded, victimized, embarrassed, and emotionally distressed.
73. The above are just some examples of the unlawful discrimination and retaliation to which Defendants subjected Plaintiff on a regular basis for the entire duration of his employment with Defendants.

74. As a result of Defendants' discriminatory and intolerable treatment, Plaintiff suffered and continues to suffer from severe anxiety and severe emotional distress with significant and painful physical manifestations.
75. As a result of the acts and conduct complained of herein, Plaintiff has suffered, and will continue to suffer the loss of benefits and other compensation which such employment entails.
76. Plaintiff has also suffered pecuniary losses, emotional pain, suffering, inconvenience, loss of enjoyment of life, and other non-pecuniary losses.
77. As Defendants' conduct has been malicious, willful, outrageous, and conducted with full knowledge of the law, Plaintiff demands Punitive Damages against all Defendants jointly and severally.

AS AND FOR A FIRST CAUSE OF ACTION
DISCRIMINATION UNDER TITLE VII
(Not Against Individual Defendants)

78. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.
79. Title VII states in relevant part as follows:
 - (a) Employer practices:

It shall be an unlawful employment practice for an employer:

 - (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin;
80. This claim is authorized and instituted pursuant to the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section(s) 2000e et seq., as amended, for relief based upon the unlawful employment practices of the above-named Defendants. Plaintiff complains of Defendants' violation of Title VII's prohibition

against discrimination in employment based, in whole or in part, upon an employee's race, sexual orientation, sex, gender, and national origin.

81. Defendants engaged in unlawful employment practices prohibited by 42 U.S.C. 2000e et seq., by terminating and otherwise discriminating against Plaintiff as set forth herein.

**AS A SECOND CAUSE OF ACTION FOR
DISCRIMINATION UNDER TITLE VII
(Not Against Individual Defendant)**

82. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

83. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-3(a) provides that it shall be unlawful employment practice for an employer: “(1) to . . . discriminate against any of his employees . . . because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this subchapter.”

84. Defendants engaged in unlawful employment practices prohibited by 42 U.S.C. 2000e seq. by discriminating against Plaintiff with respect to the terms, conditions or privileges of employment because of his opposition to the unlawful employment practices of Defendants.

**AS A THIRD CAUSE OF ACTION FOR
DISCRIMINATION UNDER THE NEW YORK
CITY ADMINISTRATIVE CODE
(Not Against Individual Defendants)**

85. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.
86. The Administrative Code of City of NY § 8-107 [1] provides that "It shall be an unlawful discriminatory practice: "(a) For an employer or an employee or agent thereof, because of the actual or perceived age, race, creed, color, national origin, gender, disability, marital status, sexual orientation or alienage or citizenship status of any person, to refuse to hire or employ or to bar or to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment."
87. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(l)(a) by creating and maintaining discriminatory working conditions, and otherwise discriminating against the Plaintiff as set forth herein.

AS A FOURTH CAUSE OF ACTION FOR
DISCRIMINATION UNDER THE NEW YORK CITY
ADMINISTRATIVE CODE
(Not Against Individual Defendants)

88. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.
89. The New York City Administrative Code Title 8, §8-107(l)(e) provides that it shall be unlawful discriminatory practice: "For an employer... to discharge ... or otherwise discriminate against any person because such person has opposed any practices forbidden under this chapter..."
90. Each of the Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(l)(e) by discriminating against the

Plaintiff because of Plaintiff's opposition to the unlawful employment practices of Plaintiff's employer.

AS A FIFTH CAUSE OF ACTION FOR
DISCRIMINATION UNDER THE NEW YORK CITY
ADMINISTRATIVE CODE
(As Against Individual Defendants)

91. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

92. New York City Administrative Code Title 8-107(19) Interference with protected rights. It shall be an unlawful discriminatory practice for any person to coerce, intimidate, threaten or interfere with, or attempt to coerce, intimidate, threaten or interfere with, any person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected pursuant to this section.

93. Defendants violated the section cited herein as set forth.

AS A SIXTH CAUSE OF ACTION
FOR DISCRIMINATION UNDER
THE NEW YORK CITY ADMINISTRATIVE CODE
(As Against Individual Defendants)

94. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

95. The New York City Administrative Code Title 8, §8-107(6) provides that it shall be unlawful discriminatory practice: "For any person to aid, abet, incite, compel; or coerce the doing of any of the acts forbidden under this chapter, or attempt to do so."

96. Defendants engaged in an unlawful discriminatory practice in violation of New York City Administrative Code Title 8, §8-107(6) by aiding, abetting, inciting, compelling and coercing the above discriminatory, unlawful and retaliatory conduct.

AS A SEVENTH CAUSE OF ACTION
FOR DISCRIMINATION UNDER THE NEW YORK CITY
ADMINISTRATIVE CODE
(Not Against Individual Defendants)

97. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

98. New York City Administrative Code Title 8-107(13) Employer liability for discriminatory conduct by employee, agent or independent contractor.

- a. An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of any provision of this section other than subdivisions one and two of this section.
- b. An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of subdivision one or two of this section only where:
 - (1) the employee or agent exercised managerial or supervisory responsibility; or
 - (2) the employer knew of the employee's or agent's discriminatory conduct, and acquiesced in such conduct or failed to take immediate and appropriate corrective action; an employer shall be deemed to have knowledge of an employee's or agent's discriminatory conduct where that conduct was known by another employee or agent who exercised managerial or supervisory responsibility; or
 - (3) the employer should have known of the employee's or agent's discriminatory conduct and failed to exercise reasonable diligence to prevent such discriminatory conduct.

99. Defendants violated the section cited herein as set forth.

AS AN EIGHTH CAUSE OF ACTION FOR
DISCRIMINATION UNDER STATE LAW
(Not Against Individual Defendants)

100. Executive Law § 296 provides that "1. It shall be an unlawful discriminatory practice:

"(a) For an employer or licensing agency, because of an individual's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, or domestic violence victim status, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment."

101. Defendants engaged in an unlawful discriminatory practice by discriminating against the Plaintiff as set forth herein.

102. Plaintiff hereby makes a claim against Defendants under all of the applicable paragraphs of Executive Law Section 296.

AS A NINTH CAUSE OF ACTION
FOR DISCRIMINATION UNDER STATE LAW
(As Against Individual Defendants)

103. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

104. New York State Executive Law §296(7) provides that it shall be an unlawful discriminatory practice: "For any person engaged in any activity to which this section applies to retaliate or discriminate against any person because [s]he has opposed any practices forbidden under this article."

105. Defendants engaged in an unlawful discriminatory practice by discharging, retaliating, and otherwise discriminating against the Plaintiff because of Plaintiff's opposition to the unlawful employment practices of Plaintiff's employer.

**AS A TENTH CAUSE OF ACTION FOR
DISCRIMINATION UNDER STATE LAW
(As Against Individual Defendants)**

106. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

107. New York State Executive Law §296(6) provides that it shall be an unlawful discriminatory practice: "For any person to aid, abet, incite compel or coerce the doing of any acts forbidden under this article, or attempt to do so."

108. Defendants engaged in an unlawful discriminatory practice in violation of New York State Executive Law §296(6) by aiding, abetting, inciting, compelling and coercing the discriminatory conduct.

JURY DEMAND

109. Plaintiff demands a jury trial.

WHEREFORE, Plaintiff demands the following relief jointly and severally against all Defendants:

- (a) a declaration that Defendants violated Plaintiff's federal and state civil rights;
- (d) compensatory damages for the injuries suffered by Plaintiff by reason of Defendants' unlawful and unjustified conduct, in an amount just and reasonable and in conformity with the evidence at trial in an amount to be determined at trial;
- (c) punitive damages against the Defendants assessed to deter such intentional and reckless deviations from well-settled constitutional standards, to the extent

allowable by law;

(d) damages for emotional distress, lost wages, back pay, front pay, statutory damages, medical expenses, interest;

(d) reasonable attorneys' fees and costs and all other applicable laws; and

(e) such other and further relief as appears just and proper.

Dated: New York, New York
December 17, 2019

L & D LAW P.C.

_____/s/_____
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