

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.

CHAD SELLS,

Plaintiff,

v.

UPPER PINE RIVER FIRE PROTECTION DISTRICT, and
BRUCE EVANS, *Individually and as Fire Chief of Upper Pine River Fire Protection District,*

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiff Chad Sells, by and through his counsel David T. Albrechta and Eleni K. Albrechta of Albrechta & Albrechta, LLC, respectfully alleges for his Complaint and Jury Demand as follows:

I. INTRODUCTION

1. Defendant Upper Pine Fire Department provides fire rescue and emergency medical services to approximately 15,000 residents in the eastern portion of La Plata County, Colorado, covering approximately two hundred sixty-five (265) square miles.

2. Plaintiff Chad Sells is a firefighter and EMT with approximately nineteen years of professional firefighter and medic experience. Mr. Sells was employed as a Firefighter/EMT for Upper Pine Fire Department from May 2015 to July 2017.

3. Mr. Sells experienced sexual harassment by a female co-worker on three different occasions. He reported the incidents to the Department's human resources representative in June 2017.

4. In July 2017 Mr. Sells organized a meeting of all of the Firefighters at the Department (excluding Captains and Chiefs except for the Deputy Chief of Operations) for the purpose of

addressing workplace safety concerns, public safety concerns, and the general mismanagement, disorganization, and dysfunction of the Upper Pine Fire Department. His intent in organizing the meeting was to create a list of such concerns to bring to the attention of the Chief in order to remedy the problems.

5. Mr. Sells organized the meeting during his personal time, using only personal and private resources. None of the Firefighters were on duty at the time of the meeting.

6. During the meeting on July 16, 2017 Mr. Sells facilitated the meeting by assisting the Firefighters in compiling a list of their concerns and then collectively brainstorming solutions to each of the problems. The Firefighters intended to deliver the list of problems and solutions through the chain of command to Chief Bruce Evans through the Deputy Chief.

7. On July 18, 2017, two calendar days and one work shift after the meeting, Mr. Sells went to Chief Evans's office to discuss the meeting and share the results. Chief Evans abruptly terminated Mr. Sells's employment for no reason at the beginning of the meeting.

8. As a result of Defendants' unlawful termination of Mr. Sells, Mr. Sells brings claims against Defendant Upper Pine River Fire Protection District for wrongful discharge in violation of public policy and violations of Title VII of the 1964 Civil Rights Act and the Colorado Anti-Discrimination Act, and against Defendants Upper Pine River Fire Protection District and Bruce Evans for violations of Mr. Sells's First Amendment rights pursuant to 42 U.S.C. § 1983.

II. PARTIES

9. Plaintiff Chad Sells (hereinafter, "Plaintiff" or "Mr. Sells"), at all times relevant hereto, was an adult legal resident of and domiciled in La Plata County, Colorado.

10. Defendant Upper Pine River Fire Protection District (hereinafter, the "Upper Pine Fire Department" or "the Department"), is a special district organized pursuant to the Colorado Special District Act, C.R.S. 32-1-101, *et seq.* The Upper Pine Fire Department's main office is located at

515 Sower Drive, Bayfield, Colorado 81122, and it provides its services in La Plata County, State of Colorado.

11. Defendant Bruce Evans, (hereinafter, “Chief Evans”), is an adult resident of and domiciled in La Plata County, Colorado. At all relevant times Chief Evans was the Fire Chief of the Upper Pine Fire Department.

III. JURISDICTION AND VENUE

12. Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission and received a Notice of Right to Sue.

13. Plaintiff seeks damages in excess of Seventy-Five Thousand Dollars (\$75,000.00).

14. This Court has jurisdiction over this action pursuant to subject matter federal court jurisdiction, 28 U.S.C. § 1331 and diversity jurisdiction, 28 U.S.C. § 1332.

15. Venue is proper under 28 U.S.C. § 1391(a)(2) because a substantial part of the events or omissions giving rise to this action occurred in Colorado.

IV. FACTUAL ALLEGATIONS

16. Mr. Sells is a Firefighter and Emergency Medical Technician (EMT) whose career spans the course of nineteen years with several different fire departments.

17. Leading up to the summer of 2015, Chief Evans and Deputy Chief Josh Lorenzen sought out Mr. Sells in an attempt to convince him to join Upper Pine Fire Department as a Firefighter/EMT due to Mr. Sells’s reputation in the region as a skilled, experienced, and knowledgeable Firefighter and EMT.

18. Mr. Sells accepted a part-time position at Upper Pine Fire Department on or about May 2015.

19. Throughout Mr. Sells’s part-time employment, Chief Evans and Deputy Chief Lorenzen continued their attempts to recruit him as a full-time Firefighter/EMT at the Upper Pine Fire

Department.

20. Near the end of December 2016, Mr. Sells informed Chief Evans that he was interested in a full-time position at the Upper Pine Fire Department.

21. On December 28, 2016 Chief Evans sent Mr. Sells a letter offering him a full-time position as a Firefighter-II/EMT-1.

22. Mr. Sells accepted the position.

23. Mr. Sells worked rotating 24-hour shifts, 48-96 hours a week and earned \$14.57 per hour and overtime premium compensation when applicable.

24. Defendants put Mr. Sells on the A-Shift, which is considered the strongest shift at Upper Pine Fire Department based on the qualifications and experience of the firefighters and medics who comprise that shift.

25. In his December 28, 2016 letter offering Mr. Sells a full-time position, Chief Evans stated that Mr. Sells's knowledge, skills, and experience were "valuable assets" to the Upper Pine Fire Department.

26. Prior to and after his promotion to a full-time Firefighter-II/EMT-1, Mr. Sells's knowledge, skills, and experience were praised by his supervisors and co-workers.

27. After Mr. Sells's promotion to the full-time position, Chief Evans made regular statements to Mr. Sells alluding to future promotions, advancements, and long-term positions for Mr. Sells at Upper Pine Fire Department.

28. Chief Evans made regular statements and comments to Mr. Sells which inferred that he would be employed at Upper Pine Fire Department through the end of his career, and that he was a "shoe-in" for a Captain position.

29. Upper Pine Fire Department never issued Mr. Sells a warning, disciplinary action, or a bad review during his employment at Upper Pine Fire Department. Throughout Mr. Sells's

employment at Upper Pine Fire Department he was never given any indication whatsoever that his performance was anything but excellent.

30. Mr. Sells was a loyal and dedicated employee and public servant throughout his years of service at Upper Pine Fire Department.

Reporting of Sexual Harassment

31. Firefighters at Upper Pine Fire Department have access to individual changing stalls to change in and out of their uniforms before and after their shifts.

32. In early June 2017 Mr. Sells was changing clothes before his shift when Firefighter Fuchs, a female Firefighter who was coming off of her shift, entered his changing stall unannounced.

33. When she entered, Mr. Sells was naked. He was shocked, surprised, and uncomfortable.

34. Mr. Sells told her to leave immediately and that he did not want her to be in his stall.

35. Ms. Fuchs refused to leave. Mr. Sells stated that it was not funny and continued to demand that she leave his stall.

36. This was the third time that Ms. Fuchs had entered Mr. Sells's changing stall without his permission or consent while he was changing.

37. Clark Brown and Will Shoesmith, co-workers on Mr. Sells's shift, were also in the room changing, and they heard the incident.

38. Mr. Brown and Mr. Shoesmith physically removed Ms. Fuchs from Mr. Sells's stall.

39. Once out of the stall, Ms. Fuchs made another attempt to push her way past Mr. Brown and Mr. Shoesmith by crawling on all fours to get under the curtain and into the stall.

40. Mr. Brown and Mr. Shoesmith successfully prevented Ms. Fuchs from getting back into Mr. Sells's stall.

41. The Upper Pine Fire Department has a zero-tolerance sexual harassment policy, which requires any employee witnessing behavior in violation of the policy to contact a manager or the

director of human resources.

42. Over the next few days, Mr. Sells, Mr. Brown, and Mr. Shoemith discussed the incident and whether they should report what happened. They decided to discuss the matter with Upper Pine Fire Department's Human Resources Administrator, Lisa Eckert.

43. Mr. Sells discussed the incident with Ms. Eckert. After their discussion, on or about May 11, 2017, Mr. Sells filed a formal complaint with the Upper Pine Fire Department.

44. About one week later Chief Evans informed Mr. Sells that Ms. Fuchs had been disciplined.

45. Upper Pine Fire Department has a zero-tolerance policy for retaliation against employees who report inappropriate conduct in the workplace. (Upper Pine River Fire Protection District Policy 1045).

Organizing A Meeting of Co-Worker Firefighters to Address Safety Concerns

46. Prior to being hired by Upper Pine Fire Department, Mr. Sells worked for the Durango Fire Protection District ("Durango Fire Department"). Mr. Sells continued to work for Durango Fire Department after his termination from Upper Pine Fire Department.

47. Through his work with other fire departments in the region, Mr. Sells learned of Upper Pine Fire Department's reputation of being a dysfunctional, disorganized, and mismanaged department.

48. Despite its reputation, Mr. Sells accepted a position at Upper Pine Fire Department because he knew and respected Deputy Chief Josh Lorenzen and believed that the upper levels of management at Upper Pine Fire Department were working to improve the Department and make it a more professional and organized fire department. Mr. Sells was excited to help in that process.

49. Immediately upon being hired as a part-time Firefighter by Upper Pine Fire Department, Mr. Sells observed major safety issues that he had not experienced at any other fire department during his nineteen-year career.

50. While the safety concerns were many, the most obvious problems stemmed from the lack of standard operating procedures (SOP), standard operating guidelines (SOG), or other basic best practices pursuant to national standards. The policies that Upper Pine Fire Department did have were rarely and inconsistently enforced.

51. SOPs, SOGs, and other best practices are crucial to promote a safe, consistent, and streamlined response to any emergency situation.

52. Instead of consistently applied SOPs and SOGs, each Shift Captain at Upper Pine Fire Department determined his or her shift's operating procedures, which varied by shift, captain, and station. This led to confusion, inconsistency, and conflicting orders.

53. As soon as Mr. Sells began working at Upper Pine Fire Department, personnel of all levels approached Mr. Sells for advice about a myriad of safety issues.

54. Mr. Sells did not seek out this advisory role. For the same reasons that Chief Evans viewed him as an asset, Mr. Sells's co-workers recognized his extensive training and qualifications, and they viewed Mr. Sells as a resource to help them address these long-standing safety issues to improve the workplace conditions and fire protection services provided to the public.

55. At the outset of his employment, Mr. Sells handled issues that his co-workers brought to his one at a time. He handled them on an individual basis and helped Line Firefighters address their concerns with their direct supervisors. Mr. Sells focused most of his assistance on guiding his co-workers through the chain of command to address their concerns directly with their respective Shift Captains.

56. By July 2017, after six months of full-time employment, Mr. Sells became increasingly aware that the complaints about safety, personnel, and other issues were common, consistent, and widespread throughout the Department.

57. These issues were of public concern because they affected the Department's ability to

effectively and efficiently respond to fires and other emergency situations within the district.

58. On or about July 2017, Mr. Sells had a conversation with Deputy Chief Lorenzen who was also aware of the escalating concerns within the Department. Each of them believed that the cumulative nature of these issues, and some of the specific issues, had risen to a level effecting Firefighter safety and the safety of the general public.

59. Mr. Sells decided that the most efficient way to address these issues was to have one meeting where all the Firefighters could come and voice their concerns at once without fear of retaliation. The purpose of such a meeting was to discuss all of the workplace safety concerns, public safety concerns, and the general mismanagement, disorganization, and dysfunction of the Upper Pine Fire Department at one time, with all of the Line Firefighters present, and to come up with proposed solutions to each of the issues.

60. Mr. Sells began the process of arranging the meeting. He followed the chain of command.

61. Mr. Sells first had a conversation with his Shift Captain and the B-Shift Captain to get their feelings about organizing such a meeting. The Shift Captains supported Mr. Sells's idea to hold a meeting about workplace safety concerns, public safety concerns, and the general mismanagement, disorganization, and dysfunction of the Upper Pine Fire Department.

62. Mr. Sells then presented the idea to Deputy Chief Lorenzen. Deputy Chief Lorenzen supported Mr. Sells's idea to hold a meeting about workplace safety concerns, public safety concerns, and the general mismanagement, disorganization, and dysfunction of the Upper Pine Fire Department.

63. Mr. Sells volunteered to organize and facilitate this meeting with Deputy Chief Lorenzen's advice and counsel.

64. Mr. Sells, his Shift Captain, the B-Shift Captain, and Deputy Chief Lorenzen all agreed that, consistent with the chain of command, Chief Evans did not need to be involved until they had

a product from the meeting to review with him.

65. Mr. Sells and Deputy Chief Lorenzen scheduled the meeting for July 16, 2017.

66. Mr. Sells used his personal time, phone, and email to contact each of the Line Firefighters via private email accounts and by personal phone to inform them about the meeting.

67. Although Mr. Sells's co-workers has customarily sought Mr. Sells's advice about safety issues, organizing such a meeting and addressing the Department's policies were not within Mr. Sells's typical job duties.

68. When Mr. Sells contacted each Firefighter about the meeting, he also asked them to send him a list of workplace safety concerns, public safety concerns, and their concerns about the general mismanagement, disorganization, and dysfunction of the Upper Pine Fire Department, as well as their proposed solutions for the agenda.

69. Mr. Sells created a four-page meeting agenda using the issues and solutions he received from individual Firefighters.

70. Agenda topics included, but were not limited to:

- a. Captains – some of the Captains do not have the training and experience that is usually required of Captains. Shift Captains were not communicating with each other, and each Captain was running his or her shift differently with his or her own operating procedures. Captains acted like bosses or dictators instead of leaders.
- b. Chain of Command – the chain of command is not followed by everyone. Some Line Firefighters and Captains who had close relationships with Chief Evans would go straight to the Chief with issues instead of following the chain of command like everyone else was required to do. This created infighting, miscommunication, and divisions between the lines.

- c. Training – Captains at Upper Pine Fire Department were providing internal trainings when they had never received that training themselves; certain Captains were not certified to conduct certain trainings (e.g. tech rope rescue, extrication, and tactical fire training, to name a few).
- d. SOP – Upper Pine Fire Department did not have any SOPs or SOGs. For comparison, other fire departments typically have at least seventy SOPs. The lack of SOPs creates chaos, disorder, and inconsistency when responding to a fire which is a risk to Firefighter and public safety.
- e. Station 4 – A new fire station was staffed by a single Firefighter, which meant that if that single Firefighter responded to a call, he or she first had to wait for back-up to perform any fire rescue services. Not only was this a waste of taxpayer money, but it was a risk to Firefighter safety and the general public’s safety. The Firefighters were concerned that specifically that the station was opened and staffed before the necessary logistics were developed and implemented.

71. On or about Friday, July 14, 2017, Chief Evans learned about the meeting scheduled for July 16, 2017 and berated Deputy Chief Lorenzen for approving and organizing the meeting.

72. Deputy Chief Lorenzen defended the meeting by informing Chief Evans that he believed the Line Firefighters were using properly the chain of command to address their issues and concerns.

73. However, Deputy Chief Lorenzen offered to cancel the meeting if the Chief preferred. Chief Evans told him to proceed with the meeting.

74. Following Deputy Chief Lorenzen’s discussion with Chief Evans about the upcoming July 16, 2017 meeting, it became well known amongst the Line Firefighters that Chief Evans was upset about the meeting. Rumors circulated that there would be repercussions for Firefighters who

attended the meeting.

75. Mr. Sells and Deputy Chief Lorenzen personally reassured the Firefighters that there would not be any retaliation for participation in such a meeting about public and workplace safety issues.

76. The meeting took place on July 16, 2017.

77. Mr. Sells facilitated the meeting by introducing each topic on the agenda. He then turned the conversation over to the Line Firefighters who shared their specific concerns and engaged in a conversation with Deputy Chief Lorenzen about each topic.

78. While at the meeting, Line Firefighters expressed their concerns that Chief Evans was upset about the meeting and that they would be fired for attending the meeting.

79. Deputy Chief Lorenzen and Mr. Sells again reassured them that no one would be fired for attending the meeting.

80. Mr. Sells also told everyone at the meeting that he would go to Chief Evans's office on the following Monday to discuss the meeting and to report the solutions that the Firefighters proposed. He offered to do this as a way of providing cover to his co-workers because he never believed he would be fired for organizing such a meeting.

81. The overall feeling after the meeting was that it was productive and successful. The Firefighters gave Mr. Sells positive feedback during and after the meeting.

82. On July 18, 2018, Mr. Sells went to Chief Evans's office to discuss the meeting.

83. Upon his arrival to Chief Evans's office, Mr. Sells could hear Chief Evans and Deputy Chief Lorenzen arguing loudly in Chief Evans's office. Mr. Sells was asked to come back later.

84. Shortly after he was sent away on July 18, 2017 Mr. Sells was called back to Chief Evans's office.

85. Chief Evans and Human Resources Administrator Lisa Eckert were in an office waiting for Mr. Sells.

86. Mr. Sells had no opportunity to discuss the July 16, 2017 meeting because Chief Evans abruptly terminated his employment upon his arrival by handing him a termination letter.

87. Mr. Sells was shocked. He requested a reason for his termination. Chief Evans refused to provide a reason beyond what was contained in the letter.

88. Chief Evans's termination letter to Mr. Sells states: "Upper Pine River Fire Protection District has decided to exercise our right to terminate your employment effective immediately."

89. On July 18, 2017, Chief Evans sent out a threatening email to the Firefighters stating that, "[t]he consternation and disruption toward the Captains lately is going to stop. I need to reinforcement [sic] some principles of this organization".

90. As Deputy Chief Lorenzen viewed Mr. Sells as one of the Upper Pine Fire Department's best assets, he was upset with Chief Evans's decision to terminate his employment. Deputy Chief Lorenzen voiced his objection to Chief Evans before and after Mr. Sells's employment was terminated.

91. On approximately August 21, 2017, Chief Evans terminated Deputy Chief Lorenzen's employment for no stated reason.

92. The Board of Directors of the Upper Pine Fire Department was made aware of these events at the July 20, 2017 meeting during an executive session.

93. The Board of Directors of Upper Pine Fire Department is aware of Chief Evans's conduct to suppress Firefighters' rights to organize and to express their concerns about workplace safety concerns, public safety concerns, and the general mismanagement, disorganization, and dysfunction of the Upper Pine Fire Department. The Board of Directors' indifference and tacit approval of such has allowed and encouraged the wrongful conduct to continue.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION

**WRONGFUL DISCHARGE
(In Violation of Colorado Public Policy)
(Against Defendant Upper Pine River Fire Protection District)**

94. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

95. Defendant Upper Pine River Fire Protection District terminated Mr. Sells's employment, in whole or in part, to prohibit Mr. Sells from his performance of an important public duty and right or from exercising an important job-related right or privilege.

96. Defendant's termination of Mr. Sells's employment undermines a clearly expressed public policy (see below) relating to Mr. Sells's basic responsibility as a citizen or his rights or privileges as an employee.

97. Defendant, at all times, was aware, or reasonably should have been aware, that Mr. Sells's activities were protected as important public duties, his rights as a citizen, or his job-related rights or privileges.

98. Defendant's conduct was willful and wanton and attended by circumstances of malice and reckless disregard for the rights of Mr. Sells and was done to chill other employees' future exercise of their public and job-related duties and rights.

99. As a direct result of Defendant Upper Pine River Fire Protection District's actions, Mr. Sells suffered and continues to suffer injuries, damages, and losses in an amount to be determined at trial.

SOURCES ESTABLISHING PUBLIC POLICY

100. The legislative declaration of the Colorado Special Districts Act states that special districts are to be created to "serve a public use and will promote the health, safety, prosperity, security,

and general welfare of the inhabitants of such districts and of the people of the state of Colorado.”
C.R.S. § 32-1-102(1).

101. The Colorado Firefighter Safety Act exists to protect the safety of Firefighters and the communities they serve. C.R.S. § 29-5-201, *et seq.* The legislative declaration of the Colorado Firefighter Safety Act states, “the people of Colorado have a fundamental interest in the development of harmonious and cooperative relationships between public employers and firefighters, particularly related to safety issues [...]” C.R.S. § 29-5-202(1).

102. The following sections of the Colorado Firefighter Safety Act further outline the public policy adopted by the Colorado General Assembly:

a. Section 202(2) of the Colorado Firefighter Safety Act states that “[i]t is also the policy of this state to obligate public employers to meet and confer with their firefighters, upon request, to discuss safety, equipment, and noncompensatory matters.”

b. Section 204(1)(b) of the Colorado Firefighter Safety Act states that firefighters have the right to, “[n]egotiate collectively or address grievances through representatives of their own choosing,

c. Section 204(1)(c) of the Colorado Firefighter Safety Act states that firefighters have the right to, “[e]ngage in other concerted activity for the purpose of collective bargaining or other mutual aid or protection [...]”

d. Section 204(1)(d) of the Colorado Firefighter Safety Act states that firefighters have the right to, “[b]e represented by an exclusive representative without discrimination, intimidation, or retaliation [...]”

SECOND CAUSE OF ACTION

RETALIATION

**(In Violation of the First Amendment of the United States Constitution – 42 U.S.C. § 1983)
(Against both Defendants)**

103. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

104. The First Amendment of the United States Constitution protects public employees, such as Mr. Sells, from retaliation for exercising their right to free and protected speech.

105. The Defendants terminated Mr. Sells for exercising his First Amendment rights to speak freely as a private citizen about matters of public concern.

106. Mr. Sells's exercise of such speech were not pursuant to and were outside of his usual duties as a Line Firefighter.

107. Mr. Sells's interest in speaking about matters regarding significant public safety and mismanagement of a public entity outweighs the Fire Department's interests in preventing such protected speech and conduct.

108. Defendants did not provide, and cannot provide, any reason for the termination of Mr. Sells's employment, other than that such termination was in retaliation for Mr. Sells's participation in protected speech and conduct.

109. Defendants, at all relevant times, knew or reasonably should have known that Mr. Sells was engaging in protected activities for which he could not be terminated.

110. Defendants' conduct was willful and wanton and attended by circumstances of malice and reckless disregard for Mr. Sells's rights.

111. As a direct result of Defendants' actions, Mr. Sells suffered and continues to suffer injuries, damages, and losses in an amount to be determined at trial.

THIRD CAUSE OF ACTION

RETALIATION

**(In Violation of Title VII of the 1964 Civil Rights Act [Title VII], 42 U.S.C. § 2000e-3(a))
(Against Defendant Upper Pine River Fire Protection District)**

112. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

113. Defendant Upper Pine River Fire Protection District's conduct as alleged above constitutes retaliation for opposing sexual harassment in violation of Title VII.

114. Defendant knew that Plaintiff had engaged in the protected activity of opposing sexual harassment by filing an internal complaint with human resources because it investigated the harassment complaint and disciplined an employee as a result.

115. Defendant terminated Plaintiff's employment, in whole or in part, because of his opposition to conduct made unlawful by Title VII.

116. The stated reasons for Defendant's conduct were not the true reasons, but instead were pretext to hide the Defendant's retaliatory animus.

117. As a direct result of Defendant's actions, Mr. Sells suffered and continues to suffer injuries, damages, and losses in an amount to be determined at trial.

FOURTH CAUSE OF ACTION

RETALIATION

**(In Violation of the Colorado Anti-Discrimination Act [CADA] C.R.S. § 24-34-401, *et seq.*)
(Against Defendant Upper Pine River Fire Protection District)**

118. Plaintiff reasserts and realleges the allegations set forth in the above paragraphs.

119. Defendant Upper Pine River Fire Protection District's conduct as alleged above constitutes retaliation for opposing sexual harassment in violation of CADA.

120. Defendant knew that Plaintiff had engaged in the protected activity of opposing sexual harassment by filing an internal complaint with human resources because it investigated the harassment complaint and disciplined an employee as a result.

121. Defendant terminated Plaintiff's employment, in whole or in part, because of his opposition to conduct made unlawful by CADA.

122. The stated reasons for Defendant's conduct were not the true reasons, but instead were pretext to hide the Defendant's retaliatory animus.

123. As a direct result of Defendant's actions, Mr. Sells suffered and continues to suffer injuries, damages, and losses in an amount to be determined at trial.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants and prays for:

- A. Compensatory and emotional distress damages;
- B. Statutory penalties as permitted by law;
- C. Reasonable attorney's fees and the costs of this action as permitted by law;
- D. Statutory prejudgment interest;
- E. Punitive damages; and
- F. Such other relief as this Court may deem just and equitable.

VII. JURY TRIAL DEMAND

Plaintiff requests a trial by jury.

Dated this 27th day of August 2018.

Respectfully submitted,

s/ David T. Albrehta
David T. Albrehta (48431)
Eleni K. Albrehta (48429)
ALBRECHTA & ALBRECHTA, LLC
530 Main Avenue, Suite D-3
P.O. Box 4596
Durango, CO 81302
Phone/Fax: (970) 422-3288
Eleni@AlbrehtaLaw.com
David@AlbrehtaLaw.com

Counsel for Plaintiff Chad Sells

JS 44 (Rev. 06/17) District of Colorado Form **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.)

<p>I. (a) PLAINTIFFS</p> <p>Chad Sells</p> <p>(b) County of Residence of First Listed Plaintiff La Plata <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i></p> <p>David T. Albrechta (41431) and Eleni K. Albrechta (48429) 530 Main Ave., Suite D-3, Durango, CO 81301 (970) 422-3288</p>	<p>DEFENDANTS</p> <p>Upper Pine River Fire Protection District, and Bruce Evans</p> <p>County of Residence of First Listed Defendant La Plata <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>

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

(For Diversity Cases Only)

Citizen of This State	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input checked="" type="checkbox"/> 1
Citizen of Another State	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)* [Click here for Nature of Suite Code Descriptions](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
<p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization <input type="checkbox"/> 465 Other Immigration Actions	<p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

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

<input checked="" type="checkbox"/> 1. Original Proceeding	<input type="checkbox"/> 2. Removed from State Court	<input type="checkbox"/> 3. Remanded from Appellate Court	<input type="checkbox"/> 4. Reinstated or Reopened	<input type="checkbox"/> 5. Transferred from another district <i>(specify)</i>	<input type="checkbox"/> 6. Multidistrict Litigation	<input type="checkbox"/> 8. Multidistrict Litigation - Direct File
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VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
42 U.S.C. 1983

Brief description of cause: **Retaliation for exercising First Amendment rights** AP Docket

VII. 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

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

DATE **8/27/18** SIGNATURE OF ATTORNEY OF RECORD **s/ David T. Albrechta**

FOR OFFICE USE ONLY

RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.

Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.

PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to the changes in statute.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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