

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

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|---------------------------|---|-------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Civil Action No.: _____ |
| |) | |
| |) | JURY TRIAL DEMANDED |
| CITY OF ORLANDO, FLORIDA, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

COMPLAINT

Plaintiff United States of America, alleges:

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* (“Title VII”).
2. All conditions precedent to filing of suit have been satisfied.

JURISDICTION AND VENUE

3. This court has jurisdiction over this action under 42 U.S.C. §§ 2000e-5(f), 2000e-6(b) and 28 U.S.C. §§ 1331, 1343(a), and 1345.
4. Venue is proper in this judicial district pursuant to 42 U.S.C. § 2000e-5(f)(3) because all or a substantial part of the events or omissions giving rise to this cause of action took place in this judicial district.

PARTIES

5. Plaintiff is the United States of America, which is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

6. Defendant City of Orlando, Florida is a governmental body created pursuant to the laws of the State of Florida and is located within this judicial district.

7. Defendant maintains the Orlando Fire Department (“OFD”), which employs uniformed firefighters in the City of Orlando to provide firefighting and emergency medical services to the City of Orlando.

8. Defendant is a “person” within the meaning of 42 U.S.C. § 2000e(a) and an “employer” within the meaning of 42 U.S.C. § 2000e(b).

EEOC CHARGE AND AMENDMENTS TO THE CHARGE

9. On May 18, 2017, Dawn Sumter (“Sumter”) filed a timely charge of discrimination (Charge No. 515-2017-00547) with the United States Equal Employment Opportunity Commission (“EEOC”), naming the OFD as the respondent. Sumter amended her charge on December 26, 2017, and again on March 28, 2018.

10. In her charge and amendments to the charge of discrimination, Sumter alleged, among other things, that she was subjected to discrimination on the basis of sex when she was subjected to sexually harassing behavior from the OFD’s then-fire chief, Roderick Williams (“Williams”). Sumter further alleged that she was

discriminated against when the OFD retaliated against her for filing her charge and amendments to the charge.

11. Pursuant to Section 706 of Title VII, as amended, 42 U.S.C. § 2000e-5, the EEOC investigated the charges against the OFD and, among other things, found reasonable cause to believe that Sumter was subjected to sexual harassment and was retaliated against, attempted unsuccessfully to achieve through conciliation a voluntary resolution of the charge, and subsequently referred the matter to the Department of Justice.

FACTUAL ALLEGATIONS

A. Orlando Fire Department

12. The OFD employs approximately 600 individuals, the majority of whom are sworn firefighters. Approximately four percent of the OFD firefighters are women. The OFD has 17 fire stations in the City of Orlando, where it provides firefighting and emergency medical services.

13. In early 2015, Williams was promoted to fire chief of the OFD. As fire chief, Williams was the highest-ranked individual at the OFD. In the City organizational structure, the fire chief is only one step removed from the mayor; that is, Williams is only separated from the top-ranked City official, the mayor, by the deputy chief administrator.

14. As fire chief, Williams was empowered by the City to take tangible employment actions against Sumter, including, but not limited to hiring, firing, promotions, transfers, and performance evaluations.

15. Williams supervised three deputy chiefs, Gary Fussell (“Fussell”), Ian Davis (“Davis”), and Richie Wales (“Wales”). The three deputy chiefs in turn directly supervised six assistant chiefs, including Sumter.

16. As deputy chiefs, Fussell, Davis, and Wales all had the power to recommend or otherwise substantially influence tangible employment actions against Sumter, including, but not limited to hiring, firing, promotions, transfers, and performance evaluations.

B. Sumter’s Career with the OFD

17. Sumter began her career with the OFD in 1993. In 1995, she successfully applied for an OFD firefighter position.

18. Sumter has been selected for several promotions within the OFD. Most recently, in or around March 2015, she was promoted to the rank of assistant chief. Sumter is the highest-ranking female uniformed firefighter in the OFD and the youngest individual ever appointed to the rank of assistant chief with the OFD. She is also the only OFD assistant chief to be certified as an Executive Fire Officer, a Chief Fire Officer, and a Chief Emergency Medical Services (“EMS”) Officer.

19. From March of 2015 to October 20, 2017, Sumter’s assistant chief duties consisted of supervising one of three shifts of firefighters. In essence, Sumter

supervised all of the OFD fire stations during her shift (approximately 150 firefighters). Sumter worked a 24-hour shift every three days, while two other assistant chiefs supervised the other two shifts in the intervening 48 hours.

20. From October 23, 2017 until November 2020, Sumter's assistant chief duties largely involved overseeing the EMS Division. In this capacity, Sumter worked normal business hours on a Monday-Friday schedule. During this time frame, she supervised, at most, 9 firefighters.

C. Chief Williams's Harassing Conduct Towards Sumter

21. The OFD, through Williams, subjected Sumter to unwelcome sexual harassment from at least 2015 through January 2017.

22. Sumter and Williams have known each other since approximately 1995, when both were hired as firefighters by the OFD. Sumter and Williams were not assigned to the same physical location at the OFD until approximately 2015. As a result, during the period 1995-2015, they would only see each other approximately three to five times per year.

23. Whenever Williams would see Sumter during this 1995-2015 timeframe, Williams would embrace Sumter. The embraces would typically last for an extended period of time. While embracing Sumter, Williams would also whisper comments into Sumter's ear such as "you look beautiful" or "I wish I wasn't married." Sumter found the conduct unwelcome and offensive.

24. In March 2015, Williams called Sumter into his office and informed her that she was being promoted to assistant chief. Williams and Sumter were the only two individuals in the office at the time. After telling her of the promotion, Williams embraced her for an extended period of time and whispered in her ear that she was “sexy.” Sumter could feel that Williams was physically aroused when he embraced her. Upon feeling the arousal, Sumter forced herself out of the embrace and left Williams’s office.

25. After Sumter’s promotion to assistant chief, Sumter and Williams would see each other more often, approximately three to four times per month. As such, Williams’s extended embraces and salacious comments, as well as attempted embraces of Sumter increased to approximately three to four times per month, essentially every time that he saw her.

26. In January 2017, Williams again invited Sumter into his office under the guise of a work discussion. Williams again embraced Sumter for an extended period, whispered into her ear “you’re so sexy” and “I wish you were mine,” and Sumter could feel Williams’s physical arousal. Sumter immediately pushed herself away from Williams and left his office.

27. After the January 2017 incident, Sumter took precautions to try to prevent the unwelcome conduct. Specifically, she would ensure that she was not in a room alone with Williams. Additionally, when Sumter had staff meetings with Williams,

she would arrive on time and leave immediately upon adjournment so as not to potentially be alone with him.

28. During the 23-month time period of March 2015 to January 2017, Williams embraced Sumter for an extended period of time and whispered sexually inappropriate comments in her ear approximately 70 to 90 times, with two of those times including Williams's erect penis against Sumter's body.

29. On February 21, 2019, eight days after the EEOC's determination finding reasonable cause that Sumter was subjected to sexual harassment, Williams resigned as fire chief.

30. The sexual harassment perpetrated by Williams was unwelcome, perceived as offensive by Sumter, and altered the terms and conditions of her employment.

31. As Sumter was aware, several other women in the OFD had reported sexual harassment that they had experienced there, but the City failed to investigate the harassment, take action to remedy the harassment, or prevent future harassment. They often experienced retaliation for bringing complaints of harassment as well, such as transfers to less desirable positions or denials of promotions.

32. Prior to late 2017, Sumter believed that Williams's harassing conduct was not affecting her career advancement, and feared that reporting the conduct would result in retaliation that would, in essence, derail her career. However, by late 2017, she believed that Williams, Fussell, and Davis were already preventing her from further advancement following her January 2017 rejection of Williams's advances and her

original May 18, 2017 EEOC charge. As a result, Sumter, feeling she had nothing left to lose, reported the sexual harassment by Williams in her December 26, 2017 amended EEOC charge.

33. Additionally, according to many OFD female employees, the OFD has provided inadequate information about the City's harassment policy or how to report harassment. Despite the training they received, they still did not know how to report harassment. The training they received was "cookie cutter" annual training about what constitutes sexual harassment in an office setting, which had been assigned to all City employees, and was not targeted to the unique environment of a fire department. The City did not provide this training until approximately March 2019, nor had the City previously required all OFD employees to acknowledge that they read the harassment policy. The City never provided training to its chief, deputy chiefs, assistant chiefs, and district chiefs on how to handle complaints of sexual harassment.

34. Sumter suffered emotional distress from the sexual harassment perpetrated by then-Chief Williams.

D. The Orlando Fire Department's Retaliation After Sumter Files Her Initial EEOC Charge

35. Following Sumter's May 18, 2017 EEOC charge, the OFD began to systematically retaliate against Sumter for filing her discrimination complaint.

36. Williams, Fussell, and Davis became aware of Sumter's EEOC charge shortly after the EEOC notified the City of Orlando of the charge in or around May 22, 2017.

37. Williams, Fussell, and Davis subjected Sumter to a series of retaliatory actions following her initial EEOC charge, including, but not limited to:

- (a) immediately after the filing of her EEOC charge, Williams, Fussell, and Davis subjecting her work to increased scrutiny and criticism;
- (b) in or around July 13, 2017, removing Sumter as a SME from the OFD assistant chief promotional process;
- (c) in or around August 2, 2017, removing Sumter's name from a list of individuals to be honored at a FBI event;
- (d) in August and October 2017, rejecting Sumter's requests to attend conferences in favor of other OFD assistant chiefs;
- (e) in or around October 20, 2017, transferring Sumter to assistant chief of EMS effective October 23, 2017;
- (f) in or around October 31, 2017, removing Sumter as head of the "Books and Badges" program that she founded; and
- (g) in December 2017, failing to forward an employee's nomination of Sumter for an Employee of the Year Award.

38. The October 20, 2017 announcement of Sumter's transfer to assistant chief of EMS occurred four days after an October 16, 2017 report on Sumter's EEOC charge aired on television station WFTV.

39. The assistant chief position overseeing EMS has far less prestige and responsibility than an assistant chief position supervising a shift. For example, the number of individuals supervised by Sumter decreased from approximately 150 to 9 after the transfer. The EMS position also has drastically different hours (Monday-Friday normal business hours) than shift supervision, which negatively affected Sumter because it gave her significantly less time with her son. Sumter had limited EMS background prior to the transfer. Sumter informed Williams and other OFD management that she strongly preferred supervising a shift and did not want a position with normal business hours, but, upon information and belief, Williams transferred Sumter to the EMS position anyway as part of efforts to retaliate against her. Fussell and Davis played significant roles in discussions with Williams that led to Sumter's transfer.

E. The Orlando Fire Department's Continued Retaliation After Sumter Amends EEOC Charge

40. The retaliation against Sumter continued after Sumter amended her EEOC charge on December 26, 2017.

41. In January 2018, following Sumter's EEOC amended charge alleging sexual harassment, Defendant retained an outside investigator to investigate Sumter's allegations, including her sexual harassment allegations.

42. By memorandum dated February 27, 2018, the outside investigator issued a written report concluding that Sumter's sexual harassment claims, as well as other claims of discrimination made by Sumter, were unsubstantiated.

43. The outside investigator's report, however, contained multiple conclusions that were based on a misunderstanding of the facts. For example, the investigator found Sumter's allegation regarding the January 2017 incident of sexual harassment perpetrated by Williams onto Sumter to be unsubstantiated largely because the investigator concluded that the meeting in question happened in March 2017, and, therefore, Sumter's claim that the incident occurred two months earlier lacked credibility. In fact, the investigator confused two meetings on the same subject, and Sumter's contention that the meeting occurred in January is correct.

44. Within 48 hours of the issuance of the February 27, 2018 report, upon information and belief, the OFD leaked its contents to the local media in an effort to embarrass Sumter.

45. Additionally, upon information and belief, the OFD provided the report to fire stations in an effort to disparage Sumter.

46. Sumter amended her EEOC charge again on March 28, 2018, to include additional acts of retaliation. OFD, including, Williams, Fussell, and Davis, knew about this amendment to the charge as well.

47. The harassment of Sumter continued in 2018, including, but not limited to:

- (a) throughout all of 2018, Williams, Fussell and Davis (as well as others under their direction) continuing to scrutinize and criticize Sumter's work product and constantly questioning her authority;
 - (b) in the spring of 2018, reducing Sumter's responsibilities by reassigning management of an orientation program from her division to a male assistant chief's division instead;
 - (c) between July 2018 and October 2018, consistently questioning Sumter's decisions with respect to coordinating a high-profile anti-opioid initiative, which ultimately led to her effective removal from the project; and
 - (d) in October 2018, denying Sumter's request to attend a conference on women in firefighting.
48. The harassment further continued into 2019, including, but not limited to:
- (a) in January 2019, denying multiple requests by Sumter to attend an out-of-state ceremony where she was to be recognized for completing her graduation from the National Fire Academy's Executive Fire Officer program;
 - (b) in January 2019, refusing to acknowledge Sumter and her team at a civilian unit graduation ceremony, as they had been in several previous graduation ceremonies;

(c) in January 2019, assigning another assistant chief to split EMS duties with Sumter; and

(d) in early 2019, Davis telling Sumter he intends to eliminate the class “A” uniforms for female OFD firefighters that were designed by Sumter and won a nationwide award.

49. The assignment of another assistant chief to EMS in January 2019 cut Sumter’s responsibilities in half. She lost supervisory authority over logistics and training, and the number of employees she supervised decreased from 9 to 6. Even when initiatives fell within her responsibilities, she was excluded and ignored in the chain of command, or OFD management refused to speak to her. She also suffered a further loss in prestige. Since then, her responsibilities were reduced again when her division was further split into Training and Quality Improvement, with Sumter only overseeing Quality Improvement. This second split effectively reduced her position by two-thirds since October 2017, when Sumter was initially transferred to EMS.

50. The harassment by Fussell, Davis, and other OFD deputy chiefs and assistant chiefs has continued following Williams’s resignation in February 2019. For example, OFD leadership has excluded Sumter from several meetings, including a meeting of OFD senior staff to meet the new fire chief. Additionally, OFD leadership has left Sumter out of decision making on numerous matters where her input was previously requested. OFD leadership also continued to further limit her

duties during her tenure in EMS and permitted other OFD employees to interfere with her job duties.

51. By transferring Sumter to a less desirable position and subsequently cutting her duties within that position, the OFD reduced the prestige and responsibility of her job, essentially derailed Sumter's career, and prohibited her from further advancement within the OFD.

52. All of these actions in paragraphs 37 to 50 constituted pervasive retaliatory harassment and unreasonably interfered with her job duties.

53. Sumter repeatedly complained to her supervisors and Deputy Chief Administrative Officer Deborah Girard, Williams's supervisor, orally and in writing, regarding the retaliatory harassment. However, the City failed to take any action to remedy the harassment or prevent future harassment. Also, OFD leadership has also refused to allow her to file complaints about retaliatory harassment.

54. Sumter suffered emotional distress from the acts of retaliation and the retaliatory harassment.

COUNT I
Title VII, 42 U.S.C. § 2000e-2(a)
Hostile Work Environment – Sex

55. The OFD discriminated against Sumter because of her sex (female) in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), by subjecting her to harassment based on sex.

56. As described in paragraphs 23 through 28, the harassment consisted of sexual harassment by Williams, including, but not limited to repeated, prolonged embraces, sexually-based comments during those embraces, and forcing Sumter to feel himself in an aroused state.

57. The harassment was severe and pervasive, materially altered Sumter's working conditions, created an objectively hostile or abusive work environment that a reasonable person would find hostile or abusive, created a work environment that Sumter perceived to be hostile or abusive, and which adversely affected the terms, conditions, and privileges of her employment.

58. Defendant is automatically vicariously liable for Williams's supervisory sexual harassment. Williams, the highest-ranking official at the OFD, holds such a high position with the OFD and the City that he is considered the alter ego of both.

59. Alternatively, if Williams is not considered the alter ego, the City failed to exercise reasonable care to prevent and correct promptly the sexually harassing behavior of Williams, and Sumter did not unreasonably fail to take advantage of any preventive or corrective opportunities provided by the employer or to otherwise avoid harm.

60. The OFD's sex harassment policy, the limited training on it, and ineffective implementation of the policy were ineffectual in preventing the harassment or remedying future harassment.

COUNT II
Title VII, 42 U.S.C. § 2000e-3(a)
Retaliatory Hostile Work Environment - Supervisor

61. The OFD subjected Sumter to a hostile work environment in retaliation for her engaging in a statutorily protected activity in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

62. Sumter's May 23, 2017 filing of her EEOC charge and her amendments to her charge constitute statutorily protected activity under Title VII.

63. As described in paragraphs 37 to 50, Sumter has been subjected to a host of punitive work actions by Williams, Fussell, Davis, and other OFD personnel because she filed her EEOC charge of discrimination on May 23, 2017, as well as her two amendments to the charge of discrimination. Sumter would not have been subjected to these punitive work actions if she had not filed her EEOC charge or amendments to it. These retributive activities were designed to minimize and eventually eliminate Sumter's influence and authority in the OFD and to prevent her from future advancement.

64. The harassment was severe and pervasive, materially altered Sumter's working conditions, created an objectively hostile or abusive work environment that a reasonable person would find hostile or abusive, created a work environment that Sumter perceived to be hostile or abusive, and which adversely affected the terms, conditions, and privileges of her employment.

65. Defendant is automatically vicariously liable for the retaliatory hostile work environment caused by Williams, the alter ego of the City and the OFD.

66. Alternatively, Williams, Fussell and Davis, Sumter's supervisors, were empowered by the OFD to perpetrate the harassment.

67. The City and the OFD failed to take reasonable care to prevent or promptly correct the harassment, and Sumter did not unreasonably fail to take advantage of any preventive or corrective opportunities provided by the employer or to otherwise avoid harm. Despite Sumter's numerous oral and written complaints regarding the harassment, the City failed to correct promptly the harassing behavior of Williams, Fussell, and Davis.

68. The City's harassment policy prohibiting retaliation, the limited training on it, and ineffective implementation of the policy were ineffectual in preventing the retaliation or remedying future retaliation.

COUNT III
Title VII, 42 U.S.C. § 2000e-3(a)
Retaliatory Hostile Work Environment – Non-Supervisor

69. The OFD subjected Sumter to a hostile work environment in retaliation for her engaging in a statutorily protected activity in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

70. Sumter's May 23, 2017 filing of her EEOC charge and her amendments to her charge constitute statutorily protected activity under Title VII.

71. As described in paragraphs 37 to 50, Sumter has been subjected to a host of punitive work actions by OFD personnel because she filed her EEOC charge of discrimination on May 23, 2017, as well as her two amendments to the charge of discrimination. Sumter would not have been subjected to these punitive work actions if she had not filed her EEOC charge or amendments to it. These retributive activities were designed to minimize and eventually eliminate Sumter's influence and authority in the OFD and to prevent her from future advancement.

72. The harassment was severe and pervasive, materially altered Sumter's working conditions, created an objectively hostile or abusive work environment that a reasonable person would find hostile or abusive, created a work environment that Sumter perceived to be hostile or abusive, and which adversely affected the terms, conditions, and privileges of her employment.

73. The OFD negligently failed after actual or constructive knowledge of the harassment to take prompt and adequate action to stop it.

74. The City's harassment policy prohibiting retaliation, the limited training on it, and ineffective implementation of the policy were ineffectual in preventing the retaliation or remedying future retaliation.

COUNT IV
Title VII, 42 U.S.C. § 2000e-3(a)
Retaliation

75. The OFD discriminated against Sumter when it retaliated against her for engaging in a statutorily protected activity in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

76. Sumter's May 23, 2017 filing of her EEOC charge and her amendments to her charge constitute statutorily protected activity under Title VII.

77. The OFD retaliated against Sumter in or around October 20, 2017, when it transferred her to the position of assistant chief of EMS, effective October 23, 2017.

78. The OFD retaliated against Sumter in January 2019, when it significantly reduced her duties as assistant chief of EMS by appointing another assistant chief to supervise EMS with Sumter and diminishing the prestige and responsibility of her job.

79. There is a causal connection between Sumter's protected activity and the adverse actions listed in Paragraph 77 and 78 above.

80. The OFD would not have transferred Sumter to EMS or significantly reduced her duties as assistant chief of EMS by appointing another assistant chief to supervise EMS with Sumter in the absence of her filing an EEOC charge and amendments to it.

81. The City has no legitimate nondiscriminatory reason for its adverse actions in Paragraphs 77 and 78. Even if the City had such a reason, there is sufficient

circumstantial evidence establishing that the City's stated reason is pretext for discrimination.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that the Court grant the following relief:

- (a) Enjoin Defendant from further discriminating and retaliating against Sumter;
- (b) Award compensatory damages to Sumter to fully compensate her for the pain, suffering, and physical ailments caused by OFD's discriminatory conduct, pursuant to and within statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a;
- (c) Order Defendant to take remedial steps to ensure a non-discriminatory workplace for all OFD employees, including implementation of appropriate anti-discrimination, anti-retaliation, and anti-harassment policies, and providing adequate training to all employees and officials regarding the handling of discrimination, retaliation, and harassment complaints; and
- (d) Award such additional relief as justice may require, together with the United States' costs and disbursements in this action.

JURY DEMAND

Plaintiff United States hereby demands a jury trial of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

Dated: March 29, 2021

Respectfully submitted,

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