

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

CHRIS O'NEIL)	
)	
Plaintiff,)	
)	Case No.
vs.)	
)	
CITY OF RICHMOND, INDIANA,)	
and JERRY PURCELL)	
)	
Defendants.)	Jury Trial Requested

COMPLAINT AND DEMAND FOR JURY TRIAL

NATURE OF THE CASE

1. This lawsuit seeks redress for violations of the Family Medical Leave Act of 1993 (“FMLA”), 29 U.S.C. § 2601 *et seq.*, the Americans with Disabilities Act of 1990 (“ADA”) and Title VII of the Civil Rights Act of 1964, including monetary damages against the City of Richmond and Jerry Purcell for injuries and losses related to retaliation, discrimination and harassment against Chris O’Neil.

JURISDICTION AND VENUE

2. This court has original subject matter jurisdiction of this action pursuant to 29 U.S.C. §2617 and 28 U.S.C. §1331.
3. The claims asserted in this action arose within this district and the alleged retaliation and damage occurred in this district. Venue of this action is therefore proper pursuant to 29 U.S.C. §2617 and 28 U.S.C. §1391.

PARTIES

4. At all times relevant herein, Plaintiff, Chris O'Neil ("O'Neil") was a citizen of the State of Indiana, residing in the City of Richmond, Indiana.
5. At all times relevant herein, O'Neil was a full-time member of the City of Richmond Fire Department.
6. At all times relevant herein, Defendant City of Richmond, Indiana is an Indiana Political Subdivision which employs Firefighter personnel by and through its lawful subdivision in the City of Richmond Fire Department, including Chief Jerry Purcell ("Purcell").
7. At all times relevant herein, Defendant Purcell was a citizen of the State of Indiana, residing in Wayne County, Indiana; was Chief of the Richmond Fire Department and acted directly and/or indirectly in the interest of the City of Richmond.
8. Each Defendant satisfies the definition of "employer" and/or "public agency" as provided by FMLA, 29 U.S.C. §2611(4) and 29 C.F.R. §825.108.
9. The Plaintiff is an "eligible employee" as defined in the FMLA, 29 U.S.C. §2611(2).

FACTUAL ALLEGATIONS

10. O'Neil suffers from a mental health disability triggered by many on-duty incidents, including the Dennis Intermediate School Shooting.
11. On January 13, 2022, O'Neil's treating physician issued a letter to the City wherein she informed officials that O'Neil was seen in her clinic on January

13, 2022, and that it advisable at this time that the patient is excused from work for a duration of time.

12. This letter triggered a medical leave of absence for O'Neil pursuant to the FMLA.

13. The Richmond Fire Department allows for firefighters to take up to one (1) year of FMLA leave for qualifying medical reasons.

14. A firefighter who is on an FMLA leave of absence is required to receive appropriate treatment while on leave in an effort to remedy the ailment that necessitates the leave of absence.

15. The Fire Department furnishes medical evaluation forms to firefighters on leaves of absence to be filled out by their treating medical professional, which are to be returned to the fire department so that progress may be appropriately monitored.

16. Upon information and belief, O'Neil was one of only two (2) firefighters that were required to submit to the medical evaluation forms.

17. At all times relevant, O'Neil satisfied the requirement of ensuring the medical evaluation forms were completed and submitted to the department.

18. On or about February 24, 2022, Chief Purcell called O'Neil's nurse practitioner office and asked if O'Neil could have faked the medical evaluation form that had been submitted on his behalf.

19. On or about February 24, 2022, Chief Purcell contacted O'Neil's nurse practitioner office again, stating he was calling on behalf of Human

Resources, and requested O'Neil's session notes to be sent to Purcell's personal email account.

20. Defendants Purcell and the City of Richmond also ordered O'Neil to appear for approximately four (4) separate fitness for duty evaluations during the 2022 calendar year.

21. In December 2022, Purcell filed disciplinary charges with the City of Richmond Board of Public Works and requested the termination of O'Neil. The charges were fabricated and without merit.

22. O'Neil filed a complaint with the City of Richmond human resources department regarding this retaliation and discrimination.

23. O'Neil also filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC"). O'Neil received his Determination and Notice of Rights Letter on or about August 20, 2024.

COUNT I: RETALIATION

The Plaintiff, Chris O'Neil, by counsel, incorporates all material statements in rhetorical paragraphs 1-23 and further states:

24. The Defendants retaliated against the Plaintiff for exercising his statutory right to medical leave when Defendants deliberately contacted his nurse practitioner, insinuated O'Neil was untruthful, and requested O'Neil's medical records.

25. The Defendants retaliated against the Plaintiff for exercising his statutory right to medical leave when Defendants deliberately ordered O'Neil to appear for four (4) fitness for duty evaluations during 2022.

26. The Defendants further retaliated against the Plaintiff for exercising his statutory right to medical leave when Defendants deliberately fabricated and filed disciplinary charges against O'Neil and requested his termination.

27. At all times relevant hereto, Defendants were prohibited to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided by the FMLA, including discriminating and/or retaliating against employees who lawfully request leave under the FMLA. See 29 U.S.C. §2615, and 29 C.F.R. 825.220.

28. As a direct and proximate result of the Defendants' actions, Plaintiff has incurred and is now incurring damages, and respectfully prays that this Court enter Judgment against the Defendants for:

- a. Liquidated damages pursuant to the FMLA, 29 U.S.C. §2617;
- b. Reasonable attorneys' fees and costs; and
- c. Such other further relief as the Court deems just and proper.

COUNT II: DISCRIMINATION AND HARASSMENT

BASED ON DISABILITY

29. The Plaintiff, by counsel, incorporates all material statements in rhetorical paragraphs 1-28 above and further states:

30. Title I of the Americans with Disabilities Act of 1990 (“ADA”) prohibits discrimination in employment against qualified individuals on the basis of disability.

31. Defendants have violated the ADA in the following ways:

- a.** Intrusive comments and questions about O’Neil’s disability;
- b.** Singling out O’Neil for different treatment based on disability;
- c.** The failure of the City of Richmond to stop the harassment and discrimination after it was reported;
- d.** Disparate treatment based on O’Neil’s disability.

COUNT III: DEFAMATION

32. The Plaintiff, by counsel, incorporates all material statements in rhetorical paragraphs 1-31 and further states:

33. Defendants, by and through Jerry Purcell, made and published communications with defamatory imputation, known to be false, regarding O’Neil’s reputation by insinuating and/or accusing O’Neil of falsifying the medical evaluation form submitted on his behalf.

34. Defendants, by and through Jerry Purcell, made and published communications with defamatory imputation, known to be false, when disciplinary charges were filed against O’Neil with the City of Richmond Board of Works.

35. Such communications by Purcell were made with the intent to harm O’Neil, his reputation, and his standing within the Fire Department, the local firefighters union, and City of Richmond community.

36. The false and defamatory communications made by Purcell were calculated and intentional and caused O’Neil immense reputational and emotional harm.

37. As a direct and proximate result of Defendants’ actions, O’Neil suffered embarrassment, emotional distress, and damages, including special damages.

WHEREFORE, Plaintiff, Chris O’Neil, demands judgment against Defendants in an amount sufficient to compensate the Plaintiff for his damages, prejudgment interest, costs of this action, and all other relief just and proper in the premises.

JURY TRIAL DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

Date: November 13, 2024

Respectfully submitted,

SMID & MERCHANT LLC

/s/ Michael J. Bruzzese

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