

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

Terrance Keith Lemons,)
Plaintiff,)
v.) Civil Action No. 4:03CV00975ERW
Pattonville-Bridgeton Fire Protection)
District,) FIRST AMENDED COMPLAINT
a political subdivision)
of the State of Missouri,) JURY TRIAL DEMANDED
Dan Bishop, individually and in his)
official capacity as chairman of)
the Board of the Pattonville-)
Bridgeton Fire Protection)
District,)
Bill Esterline, individually and in his)
official capacity as Treasurer)
and Board member of the)
Pattonville-Bridgeton Fire)
Protection District,)
Roy Bone, individually and in his)
official capacity as Secretary)
and Board member of)
Pattonville-Bridgeton Fire)
Protection District,)
Herb Jacobs, individually and in his)
official capacity as a former)
Captain of the Pattonville-)
Bridgeton Fire Protection)
District,)

Steve Wolf, individually and in his)
official capacity as acting)
Captain of the Pattonville-)
Bridgeton Fire Protection)
District,)
)
International Association of Fire)
Fighters, Local 2665,)
)
Defendants.)

COUNT I

Nature of the Action

This is an action under Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e, *et seq.*), the Americans With Disabilities Act of 1990 (42 U.S.C. §12101, *et seq.*), and state pendent claims of infliction of emotional distress, violation of § 287.780, R.S.Mo., 3 violations of § 213.010, *et seq.*, R.S.Mo., breach of contract, and retaliation, all to correct unlawful practices by the Pattonville-Bridgeton Fire Protection District, its current Board of Directors, its employees, and the International Association of Fire Fighters Local 2665 union ("Defendants") and to make whole Terrance Keith Lemons ("Plaintiff"). On July 5, 1989, Plaintiff Terrance Keith Lemons, a black male, began his employment as a firefighter with the Pattonville-Bridgeton Fire Protection District. Throughout his tenure as a firefighter, he was subjected to unwanted and unwarranted racist remarks which became a term and condition of his employment and created a hostile work environment. This racism came to a peak on or about June 3, 2002 when he left work at 7:00 a.m. at which time he noticed

that his car, which was parked in the Pattonville-Bridgeton Fire Protection District lot, was vandalized with the word "nigger" scratched in the driver's door. As a result of the years of torment and this final incident, Terrance Keith Lemons suffered extreme emotional distress, and a workers compensation report of injury and claim for compensation were filed. As a result of the constant harassment on the job and the hostile work environment, Terrance Keith Lemons was constructively discharged because of his race (black), his disability, and in retaliation for attempting to file a workers' compensation claim and a charge of discrimination. The Defendants have used their powers to violate Plaintiff's federally protected civil rights.

Jurisdiction and Venue

1. Jurisdiction of this Court is invoked pursuant to Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e, *et seq.*), The Americans With Disabilities Act of 1990 (42 U.S.C. 12101, *et seq.*), 28 U.S.C. §1343 and 28 U.S.C. § 1331. This action is authorized and instituted pursuant to Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act of 1990, and other state pendent claims.

2. The unlawful employment practices alleged below were and are now being committed within the jurisdiction of the United States District Court for the Eastern District of Missouri, Eastern Division.

Parties

3. Plaintiff Terrance Keith Lemons (hereinafter referred to as the "Plaintiff"), is an individual authorized to bring this action by Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act of 1990, and 28 U.S.C. § 1343 and 28 U.S.C. § 1331. Plaintiff was at all times mentioned herein a former resident of St. Louis County, Missouri and is now a resident and citizen of the County of St. Charles, State of Missouri, Eastern District of Missouri, United States of America. At all relevant times, Plaintiff was working for and employed by Defendant Pattonville-Bridgeton Fire Protection District.

4. Defendant International Association of Fire Fighters, Local 2665, (hereinafter "IAFF") which is located in St. Louis County, Missouri, Eastern District of Missouri is a labor organization in which Plaintiff was a member. At all relevant times, Plaintiff was under a union contract with IAFF.

5. At all relevant times, Pattonville-Bridgeton Fire Protection District (hereinafter referred to as "Defendant Employer"), has continuously been and is now a political subdivision of the State of Missouri, located in the County of St. Louis, State of Missouri, Eastern District of Missouri.

6. At all relevant times, Defendant Employer employs and employed more than fifteen (15) individuals including Defendant Dan Bishop as chairman of the Board of the Pattonville-Bridgeton Fire Protection District, Bill Esterline as Treasurer and Board member of the Pattonville-Bridgeton Fire Protection District, Roy Bone as Secretary and Board member of Pattonville-Bridgeton Fire

Protection District, Herb Jacobs as a former Captain of the Pattonville-Bridgeton Fire Protection District, and Steve Wolf as a firefighter and acting Captain of the Pattonville-Bridgeton Fire Protection District.

7. At all relevant times, each of these individuals was employed by Defendant Employer and acted within the course and scope of his employment for Defendant Employer.

8. At all relevant times, Defendant Employer has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e, *et. seq.*).

9. Each of the enumerated acts occurred within the Eastern District of Missouri.

Statement of Claims

10. On July 5, 1989, Plaintiff was hired to work for Defendant Employer as a firefighter.

11. From the beginning of Plaintiff's employment for Defendant Employer, he was subjected to unwanted and unwarranted racial epithets, remarks, and comments including, but not limited to, those from Defendants Steve Wolf and Herb Jacobs; he was treated differently than all of the other employees who are all white; and he was subjected to a hostile work environment.

12. On or about June 3, 2002 at 7:00 a.m., Plaintiff got off of his shift as a firefighter for Defendant Employer and observed that his car, which was

parked on Defendant Employer's lot, had been vandalized with the word "nigger" scratched in the driver's door.

13. As a result of all of these actions, a report of injury and a claim for compensation were filed with the Missouri Department of Labor, Division of Workers Compensation.

14. Plaintiff's physician did not allow Plaintiff back to work because of this pervasive hostile work environment which caused his severe emotional and mental distress.

15. The racist remarks and mistreatment coupled with the vandalism to his car were terms and conditions of his employment and created a hostile work environment.

16. Plaintiff, the only black employee for Defendant Employer, was constructively discharged.

17. Plaintiff was an exemplary employee and this termination was based on Plaintiff's race (black), his disability, in retaliation for being injured on the job and attempting to file a workers' compensation claim, and in retaliation for filing a charge of discrimination.

18. Plaintiff has suffered emotional distress as a result of the actions taken by Defendant Employer, its Defendant employees, and Defendant IAFF.

19. The Defendants have violated Plaintiff's federally protected civil rights and other rights guaranteed under Missouri law.

20. Plaintiff filed separate charges of discrimination with the Equal

Employment Opportunity Commission (EEOC) alleging violations of Title VII by Defendant Employer and Defendant IAFF based on race, violations of the Americans With Disabilities Act based on Plaintiff's disability, and violations of retaliation for filing a workers compensation claim and discrimination claims.

21. The EEOC and the Department of Justice each issued Plaintiff a Notice of Right to Sue letter. Plaintiff filed this Complaint within 90 days of the receipt of said Notice of Right to Sue letters. All conditions precedent to the filing of this Complaint have been satisfied. A true and accurate copy of Plaintiff's Notice of Right to Sue letter issued by the EEOC is attached hereto as Exhibit I and by the U.S. Department of Justice is attached hereto as Exhibit 3 and Exhibit 4, respectively.

22. Defendant Employer terminated Plaintiff's employment based on his race (Black) and therefore made it a term and condition of his employment for Defendant Employer and created a hostile work environment in violation of Title VII of the Civil Rights Act of 1964, and Defendant IAFF did nothing to remedy this.

23. That as a direct and proximate result of Defendants' actions in violation of Title VII of the Civil Rights Act of 1964, Plaintiff was damaged in an amount to be proven at the trial in this matter.

24. That Defendants' actions were willful, wanton, malicious, intentional, deliberate, reckless and involved a callous indifference to Plaintiff's federally protected rights.

WHEREFORE, Plaintiff prays this Honorable Court to:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns and all persons in active concert or participation with them, from engaging in any employment practice which discriminates on the basis of race;

B. Order Defendants to institute and carry out policies, practices and programs which provide equal employment opportunities for citizens of color, and which eradicate the effects of its past and present unlawful employment practices;

C. Order Defendants to make whole Plaintiff, by providing appropriate back pay with Prejudgment Interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to rightful place reinstatement and promotion of the aggrieved individual;

D. Order Defendants to award the Plaintiff his costs and expenses in this action and reasonable attorneys fees;

E. Order all Defendants, except Defendant Employer, to award Plaintiff liquidated damages as a result of Defendants' willful violation of Title VII of the Civil Rights Act of 1964;

F. Order Defendants to award Plaintiff his health insurance benefits, pension benefits, seniority, leave time, sick time, vacation time and other fringe benefits; and

G. Grant such further relief as the Court deems necessary and proper.

COUNT II

COMES NOW Plaintiff and for Count II of his First Amended Complaint against Defendants state to the Court as follows:

25. Plaintiff restates and realleges each and every allegation in Count I of this First Amended Complaint as if more fully set out herein.

26. Defendant Employer terminated Plaintiff's employment based on his disability (mental) and did not make reasonable accommodations for him; therefore making it a term and condition of his employment for Defendant Employer in violation of The Americans With Disabilities Act of 1990 set forth in 42 U.S.C. §12101, *et seq.*

27. That as a direct and proximate result of Defendants' actions in violation of The Americans With Disabilities Act of 1990, 42 U.S.C. §12101, *et seq.*, Plaintiff was damaged in an amount to be proven at the trial in this matter, including, but not limited to, lost wages and benefits, emotional pain, suffering, inconvenience, mental anguish, humiliation, and loss of enjoyment of life.

28. At all relevant times hereto, Defendants were aware of the prohibition against disability discrimination as set forth in 42 U.S.C. §12101, *et seq.*

29. That Defendants' actions were willful, wanton, malicious, intentional, deliberate, reckless and involved a callous indifference to Plaintiff's federally and state protected rights.

WHEREFORE, Plaintiff prays that this Court:

A. Enjoin Defendants, their successors, officers, agents, representatives, employees, attorneys, and those acting in concert with them, from engaging in the policies and practices complained of hereinabove, or any other discriminatory employment practices which are violative of the law;

B. Order Defendants to accommodate Plaintiff and make him whole for any and all losses or damages suffered as a result of Defendants' unlawful employment practices, including, but not limited to, back pay, interest thereon, front pay, retroactive seniority, pension, health and dental, and other employment-related benefits and compensatory damages lost to Plaintiff as a result of Defendants' discriminatory actions and policies as aforesaid;

C. Enter judgment in favor of Plaintiff and against Defendants, jointly and severally, in an amount sufficient to compensate him for his damages set forth above;

D. Award Plaintiff the costs of this action together with his reasonable attorney's fees; and

E. Grant such other and further relief as this Court deems just, equitable, and proper under the premises.

COUNT III

COMES NOW Plaintiff and for Count III of his First Amended Complaint against Defendants states to the Court as follows:

30. Plaintiff restates and realleges each and every allegation in Counts I

and II of this First Amended Complaint as if more fully set out herein.

31. Jurisdiction of this Count is based on principles of this Court's pendent jurisdiction in that the Federal claim and this Count derive from a common nucleus of operative facts and are of such nature that they would ordinarily be tried together in one judicial proceeding.

32. That while Plaintiff was employed by Defendant Employer, he exercised or attempted to exercise his rights under Chapter 287, R.S.Mo. (the Workers Compensation Law).

33. Chapter 287 (Missouri Workers Compensation Law) § 287.780, R.S.Mo. states:

No employer or agent shall discharge or in any way discriminate against any employee for exercising any of his rights under this chapter. Any employee who has been discharged or discriminated against shall have a civil action for damages against his employer.

34. That as a direct and proximate result of Plaintiff's exercising or attempting to exercise his rights under Chapter 287, R.S.Mo. Defendants Employer, Bishop, Esterline, and Bone terminated benefits which were due Plaintiff from his employ.

35. That Defendants Employer, Bishop, Esterline, and Bone's actions of terminating Plaintiff's benefits and pay were wrongful, wanton, willful, malicious and were discriminatorily motivated.

36. That Defendants Employer, Bishop, Esterline, and Bone's actions of

terminating Plaintiff's benefits and pay were in violation of §287.780, R.S.Mo. and that as a direct and proximate result of Defendants Employer, Bishop, Esterline, and Bone's actions, Plaintiff has been damaged.

37. That as a result of Defendants Employer, Bishop, Esterline, and Bone's wanton, willful and malicious acts, Plaintiff is entitled to recover punitive damages from Defendants Bishop, Esterline, and Bone.

WHEREFORE, pursuant to §287.780, R.S.Mo. Plaintiff prays for judgment against Defendants Employer, Bishop, Esterline, and Bone for such damages as are fair and reasonable over \$25,000.00, for such punitive damages as are fair and reasonable, for costs of this action, and for such other and further relief as this court deems just and proper under the premises.

COUNT IV

COMES NOW Plaintiff and for Count IV of his First Amended Complaint against Defendants states to the Court as follows:

38. Plaintiff restates and realleges each and every allegation in Counts I, II and III of this First Amended Complaint as if more fully set out herein.

39. Jurisdiction of this Count is based on principles of this Court's pendent jurisdiction in that the Federal claim and this Count derive from a common nucleus of operative facts and are of such nature that they would ordinarily be tried together in one judicial proceeding.

40. That Defendants' actions toward Plaintiffs constituted extreme and

outrageous conduct, so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community.

41. That as a direct result of Defendants' intentional, extreme and outrageous, reckless, willful, wanton and malicious conduct, Plaintiff was forced to suffer and will continue to suffer in the future extreme emotional distress, loss of earnings, loss of future earning capacity, fright, nervousness, indignity, humiliation, insult, loss of marital relationship and comfort and will be forced to incur medical bills in the future all to his damage in a sum to be proven at the trial in this matter.

42. Plaintiff is entitled to exemplary damages against all Defendants except Defendant Employer.

43. That Plaintiff's emotional distress is and was severe and medically diagnosable.

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, in a sum which is fair and reasonable over \$25,000 as and for compensatory damages; a sum which is fair and reasonable as and for exemplary damages against all Defendants except Defendant Employer; for costs of this action; and for such other and further relief as this Court deems appropriate under the premises.

COUNT V

COMES NOW Plaintiff and for Count V of his First Amended Complaint against Defendants states to the Court as follows:

44. Plaintiff restates and realleges each and every allegation in Counts I, II, III and IV of this First Amended Complaint as if more fully set out herein.

45. Jurisdiction of this Count is based on principles of this Court's pendent jurisdiction in that the Federal claim and this Count derive from a common nucleus of operative facts and are of such nature that they would ordinarily be tried together in one judicial proceeding.

46. Plaintiff filed a charge of discrimination with the Missouri Commission on Human Rights (MCHR) alleging violations of his employment based on his race and based on his disability.

47. On April 21, 2003, the MCHR issued Plaintiff a Notice of Right to Sue letter. Plaintiff filed this Complaint within 90 days of the receipt of said Notice of Right to Sue letter. All conditions precedent to the filing of this Complaint have been satisfied. A true and accurate copy of Plaintiff's Notice of Right to Sue letter issued by the MCHR is attached hereto as Exhibit 2.

48. Defendants Employer, Esterline, Bone, and Bishop terminated Plaintiff's employment based on his race (Black) and therefore made it a term and condition of his employment for Defendant Employer in violation of §213.010, *et seq.*, R.S.Mo.

49. That as a direct and proximate result of Defendants' actions in

violation of §213.010, *et seq.*, R.S.Mo., Plaintiff was damaged in an amount to be proven at the trial in this matter.

50. That Defendants' actions were willful, wanton, malicious, intentional, deliberate, reckless and involved a callous indifference to Plaintiff's federally protected rights.

WHEREFORE, Plaintiff prays this Honorable Court to:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns and all persons in active concert or participation with them, from engaging in any employment practice which discriminates on the basis of race;

B. Order Defendants to institute and carry out policies, practices and programs which provide equal employment opportunities for citizens of color, and which eradicate the effects of its past and present unlawful employment practices;

C. Order Defendants to make whole Plaintiff, by providing appropriate back pay with Prejudgment Interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to rightful place reinstatement and promotion of the aggrieved individual;

D. Order Defendants to award the Plaintiff his costs and expenses in this action and reasonable attorneys fees;

E. Order all Defendants, except Defendant Employer, to award Plaintiff

liquidated damages as a result of Defendants' willful violation of Title VII of the Civil Rights Act of 1964;

F. Order Defendants to award Plaintiff his health insurance benefits, pension benefits, seniority, leave time, sick time, vacation time and other fringe benefits; and

G. Grant such further relief as the Court deems necessary and proper.

COUNT VI

COMES NOW Plaintiff and for Count VI of his First Amended Complaint against Defendants states to the Court as follows:

51. Plaintiff restates and realleges each and every allegation in Counts I, II, III, IV and V of this First Amended Complaint as if more fully set out herein.

52. Jurisdiction of this Count is based on principles of this Court's pendent jurisdiction in that the Federal claim and this Count derive from a common nucleus of operative facts and are of such nature that they would ordinarily be tried together in one judicial proceeding.

53. Plaintiff filed a charge of discrimination with the Missouri Commission on Human Rights (MCHR) alleging violations of his employment based on his race and based on his disability.

54. On April 21, 2003, the MCHR issued Plaintiff a Notice of Right to Sue letter. Plaintiff filed this Complaint within 90 days of the receipt of said Notice of Right to Sue letter. All conditions precedent to the filing of this Complaint have been satisfied. A true and accurate copy of Plaintiff's Notice of

Right to Sue letter issued by the MCHR is attached hereto as Exhibit 2.

55. Defendants Employer, Esterline, Bone, and Bishop terminated Plaintiff's employment based on his disability (mental) and did not make any reasonable accommodations for him and therefore made it a term and condition of his employment for Defendant Employer in violation of §213.010, *et seq.*, R.S.Mo.

56. That as a direct and proximate result of Defendants' actions in violation of the Missouri Human Rights Act, R.S.Mo. §213.010, *et seq.*, Plaintiff was damaged in an amount to be proven at the trial in this matter, including, but not limited to, lost wages and benefits, emotional pain, suffering, inconvenience, mental anguish, humiliation, and loss of enjoyment of life.

57. At all relevant times hereto, Defendants were aware of the prohibition against disability discrimination as set forth in R.S.Mo. § 213.010, *et seq.*

58. That Defendants' actions were willful, wanton, malicious, intentional, deliberate, reckless and involved a callous indifference to Plaintiff's federally and state protected rights.

WHEREFORE, Plaintiff prays that this Court:

A. Enjoin Defendants, their successors, officers, agents, representatives, employees, attorneys, and those acting in concert with them, from engaging in the policies and practices complained of hereinabove, or any other discriminatory employment practices which are violative of the law;

B. Order Defendants to accommodate Plaintiff and make him whole for any and all losses or damages suffered as a result of Defendants' unlawful employment practices, including, but not limited to, back pay, interest thereon, front pay, retroactive seniority, pension, health and dental, and other employment-related benefits and compensatory damages lost to Plaintiff as a result of Defendants' discriminatory actions and policies as aforesaid;

C. Enter judgment in favor of Plaintiff and against Defendants in an amount sufficient to compensate him for his damages set forth above, including liquidated damages and punitive damages;

D. Award Plaintiff the costs of this action together with her reasonable attorney's fees; and

E. Grant such other and further relief as this Court deems just, equitable, and proper under the premises.

COUNT VII

COMES NOW Plaintiff and for Count VII of his First Amended Complaint against Defendants states to the Court as follows:

59. Plaintiff restates and realleges each and every allegation in Counts I, II, III, IV, V and VI of this First Amended Complaint as if more fully set out herein.

60. Jurisdiction of this Count is based on principles of this Court's pendent jurisdiction in that the Federal claim and this Count derive from a

common nucleus of operative facts and are of such nature that they would ordinarily be tried together in one judicial proceeding.

61. Plaintiff and Defendant IAFF had a written contract that Defendant IAFF would serve as Plaintiff's union and represent Plaintiff to the best of its ability in disputes with Defendant Employer.

62. Defendant IAFF breached its contract by not providing adequate representation and support during the aforesaid dispute with Defendant Employer and acquiesced in the discriminatory actions that were being taken against Plaintiff.

63. That as a result of this breach of contract, Plaintiff was thereby damaged.

WHEREFORE, Plaintiff prays for judgement against Defendant IAFF in the sum of \$80,000.00 and for such other and further relief as this Court deems necessary and proper.

COUNT VIII

COMES NOW Plaintiff and for Count VIII of his First Amended Complaint against Defendants states to the Court as follows:

64. Plaintiff restates and realleges each and every allegation in Counts I, II, III, IV, V, VI, and VII of this First Amended Complaint as if more fully set out herein.

65. Defendants Employer, Esterline, Bone, and Bishop retaliated against

Plaintiff by denying his benefits and pay after Plaintiff filed a Charge of Discrimination.

66. All conditions precedent to the filing of this charge have been met.

67. As a result of Defendants' actions and retaliation, Plaintiff has thereby been damaged in excess of \$50,000.00.

WHEREFORE, Plaintiff prays for judgement against Defendants Employer, Esterline, Bone and Bishop in the sum of \$50,000.00 and for such other and further relief as this Court deems necessary and proper.

COUNT IX

COMES NOW Plaintiff, and for Count IX of his First Amended Complaint against Defendant IAFF states to the Court as follows:

68. Plaintiff restates and realleges each and every allegation in Counts I, II, III, IV, V, VI, VII, and VIII of this First Amended Complaint as if more fully set out herein.

69. Jurisdiction of this Count is based on principles of this Court's pendent jurisdiction in that the Federal claim and this Count derive from a common nucleus of operative facts and are of such nature that they would ordinarily be tried together in one judicial proceeding.

70. Chapter 213 (Missouri Human Rights Act) § 213.055, R.S.Mo. states, in part:

It shall be unlawful employment practice: (2) For a labor organization to

exclude or to expel from its membership any individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer because of race, color, ... or disability of any individual; or to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color , ... or disability

71. Plaintiff filed a charge of discrimination with the Missouri Commission on Human Rights (MCHR) alleging violations of the Missouri Human Rights Act against Defendant IAFF.

72. On September 8, 2003, the MCHR issued a Notice of Right to Sue to Plaintiff against Defendant IAFF.

73. Plaintiff filed this Complaint within 90 days of the receipt of said Notice of Right to Sue. All conditions precedent to the filing of this First Amended Complaint have been satisfied. A true and accurate copy of the MCHR's Notice of Right to Sue is attached hereto as Exhibit 5 and is incorporated herein by this reference.

74. That as a direct and proximate result of Defendant IAFF's actions in violation of The Missouri Human Rights Act, Plaintiff was damaged in an amount to be proven at the trial in this matter, including, but not limited to, lost wages

and benefits, emotional pain, suffering, inconvenience, mental anguish, humiliation, and loss of enjoyment of life.

75. At all relevant times hereto, Defendant IAFF was aware of the prohibition against discrimination as set forth in §213.055, R.S.Mo.

76. That Defendant IAFF's actions of terminating Plaintiff from its employ were wrongful, wanton, willful, malicious and were discriminatorily motivated.

77. That Defendant IAFF's actions of terminating Plaintiff from its employ were in violation of §213.055, R.S.Mo.

78. That as a result of Defendant IAFF's wanton, willful and malicious acts, Plaintiff is entitled to recover punitive damages.

WHEREFORE, pursuant to §213.055, R.S.Mo. and § 213.111, R.S.Mo. Plaintiff prays that this Court:

I. Enjoin Defendant IAFF, its successors, officers, agents, representatives, employees, attorneys, and those acting in concert with it, from engaging in the policies and practices complained of hereinabove, or any other discriminatory employment practices which are violative of the law;

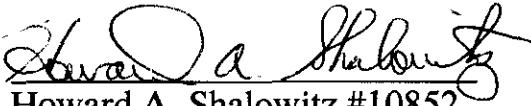
II. Order Defendant IAFF to accommodate Plaintiff and make him whole for any and all losses or damages suffered as a result of Defendant IAFF's unlawful employment practices, including, but not limited to, back pay, interest thereon, front pay, retroactive seniority, pension, health and dental, and other employment-related benefits and compensatory damages lost to Plaintiff as a

result of Defendant's discriminatory actions and policies as aforesaid;

III. Enter judgment in favor of Plaintiff and against Defendant IAFF in an amount sufficient to compensate him for his damages set forth above, including liquidated damages and punitive damages;

IV. Award Plaintiff the costs of this action together with his reasonable attorney's fees; and

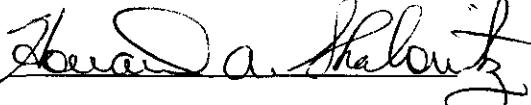
V. Grant such other and further relief as this Court deems just, equitable, and proper under the premises.



Howard A. Shalowitz #10852
Attorney for Plaintiff
26-A North Central Avenue
Clayton, MO 63105
(314) 277-9977
(314) 727-2424 -- fax
Howard@Shalowitz.org

CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing First Amended Complaint was sent electronically to all attorneys of record this 4th day of December, 2003.



EQUAL OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE

EXHIBIT 1

(Issued on request)

To: Terrance Lemons #2 FOREST PARK CT. SAINT CHARLES, MO 63303		From: EQUAL OPPORTUNITY COMM. St. Louis District Office 1222 Spruce St. Room 8.100 St. Louis, MO 63103
<input type="checkbox"/> <i>On behalf of a person aggrieved whose identity is CONFIDENTIAL (29 C.F.R. 1601.7(a))</i>		
Charge Number 280A303303	EEOC Representative Cynthia Basile	Telephone Number (314) 539-7843

(See the additional information attached to this form)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue. It is issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA **must be filed in federal court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- More than 180 days have passed since the filing of this charge.
 Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of the charge.
 The EEOC is terminating its processing of this charge.
 The EEOC will continue to process this charge.

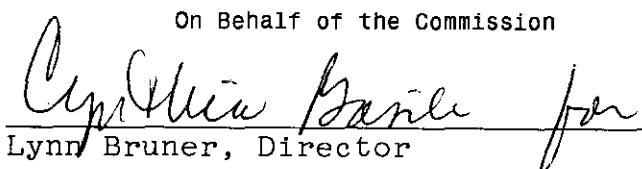
Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.
 The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of your charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required). EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit based on this charge, please send a copy of your court complaint to this office.

On Behalf of the Commission



Lynn Bruner, Director

APR 30 2003

(Date)

Enclosure(s)

cc: IAFF LOCAL 2665
6104 MADISON AVENUE
BERKELEY, MO 63134



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
MISSOURI COMMISSION ON HUMAN RIGHTS



BOB HOLDEN
GOVERNOR

CATHERINE B. LEAPHEART
DEPARTMENT DIRECTOR

STERLING ADAMS
COMMISSION CHAIRPERSON

DONNA CAVITTE
COMMISSION EXECUTIVE DIRECTOR

Terrance Lemons
#2 Forest Park Ct.
St. Charles, MO 63303

NOTICE OF RIGHT TO SUE

RE: Terrance Lemons vs. Pattonville Fire Department
FE-07/02-39505; 280A201384

Dear Mr. Lemons:

This is your NOTICE OF RIGHT TO SUE pursuant to Section 213.111 RSMo.

If, after one hundred eighty days from the filing of a complaint alleging an unlawful discriminatory practice pursuant to section 213.055, 213.065 or 213.070 to the extent that the alleged violation of section 213.070 relates to or involves a violation of section 213.055 or 213.065, or subdivision (3) of section 213.070 as it relates to employment and public accommodations, the commission has not completed its administrative processing and the person aggrieved so requests in writing, the commission shall issue to the person claiming to be aggrieved a letter indicating his or her right to bring a civil action within 90 days of such notice against the respondent named in the complaint ... Such an action may be brought in any circuit court in any county in which the unlawful discriminatory practice is alleged to have occurred, either before a circuit or associate circuit judge. Upon issuance of this notice, the commission shall terminate all proceedings relating to the complaint. No person may file or reinstate a complaint with the commission after the issuance of a notice under this section relating to the same practice or act. Any action brought in court under this section shall be filed within ninety days from the date of the commission's notification letter to the individual but no later than two years after the alleged cause occurred or its reasonable discovery by the alleged injured party (emphasis added).

The above-referenced complaint was filed on July 18, 2002; thus more than 180 days have elapsed since the filing and the Missouri Commission on Human Rights has not completed its administrative processing. Further, as you have duly requested in writing, you are hereby notified of your right to sue the Respondent(s) named in your complaint in state circuit court. **THIS MUST BE DONE WITHIN 90 DAYS OF THE DATE OF THIS NOTICE OR YOUR RIGHT TO SUE IS LOST.**

You are also notified that the Executive Director is hereby administratively closing this case and terminating all MCHR proceedings relating to it. No person may file or reinstate a complaint after the issuance of notice of right to sue.

On behalf of the Commission:

Teresa Farris
Administrative Support Services

April 21, 2003
Date

C: Chief Executive Officer
Pattonville Fire Department
13900 St. Charles Rock Road
Bridgeton, MO 63044



3315 W. TRUMAN BLVD.
P.O. Box 1129
JEFFERSON CITY, MO 65102-1129
PHONE: 573-751-3325
FAX: 573-751-2905
TTY: 573-526-5091

505 WASHINGTON AVENUE
ST. LOUIS, MO 63101-1298
PHONE: 314-340-7590
FAX: 314-340-7238
TTY: 314-340-7803

505 EAST WALNUT STREET
SPRINGFIELD, MO 65805-2305
PHONE: 417-895-5620
FAX: 417-895-5637

4049 PENNSYLVANIA AVENUE
SUITE 150
KANSAS CITY, MO 64111-3022
PHONE: 816-889-5100
FAX: 816-889-5107
TTY: 816-889-5106

108 WEST CENTER STREET
SIKESTON, MO 63801-4110
PHONE: 573-472-5320
FAX: 573-472-5321
TTY: 573-472-5223



**U.S. Department of Justice
Civil Rights Division
NOTICE OF RIGHT TO SUE
WITHIN 90 DAYS**

EXHIBIT 3

CERTIFIED MAIL
0921 0779

950 Pennsylvania Avenue, N.W.
Karen Ferguson, EMP, PHB, Room 4339
Washington, DC 20530

Mr. Terrance K. Lemons
#2 Forest Park Ct.
St. Charles, MO 63033

June 16, 2003

Re: EEOC Charge Against Pattonville Fire Dept., et al.
No. 280A303468

Dear Mr. Lemons:

Because you filed the above charge with the Equal Employment Opportunity Commission, and the Commission has determined that it will not be able to investigate and conciliate that charge within 180 days of the date the Commission assumed jurisdiction over the charge and the Department has determined that it will not file any lawsuit(s) based thereon within that time, and because you have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice. If you cannot afford or are unable to retain an attorney to represent you, the Court may, at its discretion, assist you in obtaining an attorney. If you plan to ask the Court to help you find an attorney, you must make this request of the Court in the form and manner it requires. Your request to the Court should be made well before the end of the time period mentioned above. A request for representation does not relieve you of the obligation to file suit within this 90-day period.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Ralph F. Boyd, Jr.
Assistant Attorney General
Civil Rights Division

by

Karen J. Ferguson

Karen L. Ferguson
Civil Rights Analyst
Employment Litigation Section

cc: St. Louis District Office, EEOC
Pattonville Fire Dept., et al.



Civil Rights Division
NOTICE OF RIGHT TO SUE
WITHIN 90 DAYS

EXHIBIT 4

CERTIFIED MAIL
3509 0927

950 Pennsylvania Avenue, N.W.
Karen Ferguson, EIDP, PHB, Room 4239
Washington, DC 20530

Mr. Terrance K. Lemons
#2 Forest Park Ct.
St. Charles, MO 63303

April 14, 2003

Re: EEOC Charge Against Pattonville Fire Dept., et al.
No. 280A201384

Dear Mr. Lemons:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice. If you cannot afford or are unable to retain an attorney to represent you, the Court may, at its discretion, assist you in obtaining an attorney. If you plan to ask the Court to help you find an attorney, you must make this request of the Court in the form and manner it requires. Your request to the Court should be made well before the end of the time period mentioned above. A request for representation does not relieve you of the obligation to file suit within this 90-day period.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Ralph F. Boyd, Jr.
Assistant Attorney General
Civil Rights Division

by *Karen L. Ferguson*

Karen L. Ferguson
Civil Rights Analyst
Employment Litigation Section

cc: St. Louis District Office, EEOC
Pattonville Fire Dept., et al.



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
MISSOURI COMMISSION ON HUMAN RIGHTS



BOB HOLDEN
GOVERNOR

CATHERINE B. LEAPHEART
DEPARTMENT DIRECTOR

STERLING ADAMS
COMMISSION CHAIRPERSON

DONNA CAVITTE
COMMISSION EXECUTIVE DIRECTOR

Terrance Lemons
#2 Forest Peak Court
St. Charles, MO 63303

NOTICE OF RIGHT TO SUE

RE: Terrance Lemons vs. IAFF Local 2665
FE-03/03-40720; 280A303303

Dear Mr. Lemons:

This is your NOTICE OF RIGHT TO SUE pursuant to Section 213.111 RSMo.

If, after one hundred eighty days from the filing of a complaint alleging an unlawful discriminatory practice pursuant to section 213.055, 213.065 or 213.070 to the extent that the alleged violation of section 213.070 relates to or involves a violation of section 213.055 or 213.065, or subdivision (3) of section 213.070 as it relates to employment and public accommodations, the commission has not completed its administrative processing and the person aggrieved so requests in writing, the commission shall issue to the person claiming to be aggrieved a letter indicating his or her right to bring a civil action within 90 days of such notice against the respondent named in the complaint ... Such an action may be brought in any circuit court in any county in which the unlawful discriminatory practice is alleged to have occurred, either before a circuit or associate circuit judge. Upon issuance of this notice, the commission shall terminate all proceedings relating to the complaint. No person may file or reinstate a complaint with the commission after the issuance of a notice under this section relating to the same practice or act. Any action brought in court under this section shall be filed within ninety days from the date of the commission's notification letter to the individual but no later than two years after the alleged cause occurred or its reasonable discovery by the alleged injured party (emphasis added).

The above-referenced complaint was filed on March 6, 2003; thus more than 180 days have elapsed since the filing and the Missouri Commission on Human Rights has not completed its administrative processing. Further, as you have duly requested in writing, you are hereby notified of your right to sue the Respondent(s) named in your complaint in state circuit court. **THIS MUST BE DONE WITHIN 90 DAYS OF THE DATE OF THIS NOTICE OR YOUR RIGHT TO SUE IS LOST.**

You are also notified that the Executive Director is hereby administratively closing this case and terminating all MCHR proceedings relating to it. No person may file or reinstate a complaint after the issuance of notice of right to sue.

On behalf of the Commission:

Teresa Farris
Administrative Support Services

September 8, 2003
Date

C: Chief Executive Officer
IAFF Local 2665
6104 Madison Avenue
Berkeley, MO 63134

James R. Kimmey, III
Bartley Goffstein, LLC
4399 Laclede Avenue
St. Louis, MO 63108



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