

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

ARTHUR KIRK, III

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**2455 Admire Springs Dr.
Dover, PA 17315**

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Plaintiff

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v.

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**BALTIMORE CITY FIRE
DEPARTMENT**

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**401 E. Fayette Street
Baltimore MD 21201**

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And

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**MAYOR & CITY COUNCIL
OF BALTIMORE**

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Civil No. _____

**100 Holliday Street
Baltimore MD 21202**

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**(Complaint for Employment
Discrimination, Civil Rights
Violations)**

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(Jury Trial Demand)

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COMPLAINT AND JURY TRIAL DEMAND

A. INTRODUCTION

**Arthur Kirk, III, Plaintiff, by and through undersigned counsel, files this
Complaint for Employment Discrimination and violation of Civil Rights against the
Baltimore City Fire Department and the Mayor & City Council of Baltimore,
Defendants, and in support thereof, alleges and states as follows:**

A. JURISDICTION

1. Plaintiff brings this action for employment discrimination on the basis of race, sex and medical condition, and for retaliation pursuant to Title VII of the Civil Rights Act of 1964, Sec. 2000e, *et seq.*, 42 U. S. C. (“Title VII”).

2. This Court has jurisdiction over the employment discrimination claims pursuant to Sec. 2000e-5, 42 U. S. C., and Sec. 1331, 28 U. S. C.

B. PARTIES

3. At all times relevant to the matters set forth in the Complaint, Arthur Kirk, III (“Kirk”), Plaintiff, was an employee of the Baltimore City Fire Department (“BCFD”), and the Mayor & City Council (“City” & “City of Baltimore”) Defendants.

4. The BCFD, Defendant, is a department or agency of the City of Baltimore, Defendant, which employs more than 500 people.

5. The City of Baltimore, Defendant, is a municipality and political subdivision of the State of Maryland, which employs more than 500 people.

6. Defendants are persons within the meaning of Title VII, Sec. 2000e, 42 U. S. C.

7. Defendants are employers or agents of employers within the meaning of Title VII, Sec. 2000e, 42 U. S. C.

8. Defendants are collectively dual employers.

C. VENUE

9. Plaintiff resides in, and at all times relevant to this Complaint resided in, the State and District of Pennsylvania.

10. Defendants do business in, and at all times relevant to this Complaint did business in, the State and District of Maryland.

11. Venue properly lies in the State and District of Maryland.

D. BACKGROUND FACTS

12. From on or about May 2008, up to and including the present, Defendants, and their agents, servants, employees, members, supervisors, managers and officials discriminated against Plaintiff, an African American and a male, because of his race, sex and medical condition, in violation of Title VII, Sec. 2000e-2; retaliated against Plaintiff for filing charges of racial discrimination against Defendants, in violation of Title VII, Section 2000e-3; and, retaliated against him for exercising his civil rights, in that among other things and in various ways:

a. By repeatedly subjecting Plaintiff to disciplinary investigations and discipline without any valid or just cause, reason or foundation, including but not limited to:

(i) repeatedly investigating Plaintiff for alleged violence and misconduct in the workplace;

(ii) repeatedly requiring Plaintiff to undergo medical examinations in the City's clinic;

(iii) repeatedly harassing, embarrassing and humiliating Plaintiff in the workplace by disclosing to his fellow workers the false accusations against him by fellow employees, and the interin against against

(iv) repeatedly transferring Plaintiff and reassigning him;

(v) repeatedly depriving Plaintiff of the opportunity to work a shift out-of-title as an acting Lieutenant.

(vi) allowing females at Plaintiff's worksites to falsely accuse him of workplace violence and misconduct when they knew or should have known that the accusations were baseless

b. By maintaining a lengthy investigation of the females' claims.

13. Plaintiff did not do or say anything at the workplace which warranted such disciplinary and employment actions by Defendants and their agents, servants, employees, members, supervisors, managers and officials.

14. Nether Defendants nor their agents, servants, employees, members, supervisors, managers and officials initiated any such disciplinary actions or employment actions against similarly situated and employed white employees at the workplace who engaged in alleged behavior or conduct as Plaintiff was accused of being engaged in.

15. Defendants and their agents, servants, employees, members, supervisors, managers and officials knew or should have known that Plaintiff was being subjected to unlawful employment discrimination and violations of her civil rights as alleged herein.

16. Defendants and their agents, servants, employees, members, supervisors, managers and officials failed to act reasonably to prevent the employment discrimination against Plaintiff, and the violations of her civil rights as alleged herein.

17. Defendants and their agents, servants, employees, members, supervisors, managers and officials failed to act reasonably to correct the employment discrimination against Plaintiff, and the violations of her civil rights as alleged herein.

18. The employment discrimination and civil rights violations as alleged herein were intentional.

19. The employment discrimination and civil rights violations as alleged herein altered the terms and conditions of Plaintiff's employment.

20. The employment discrimination and civil rights violations as alleged herein created a hostile work environment in which Plaintiff had to work.

21. The employment discrimination and civil rights violations as alleged herein were the direct and proximate cause of her termination.

22. Defendants and their agents, servants, employees, members, supervisors, managers and officials engaged in intentional employment discrimination and employment practices that had the effect of discriminating against Plaintiff, as alleged herein, with malice, and with a reckless indifference to the federally protected rights of Plaintiffs under Title VII and the Fourteenth Amendment to the United States Constitution.

23. All conditions precedent to the filing of this Complaint, have been adhered to, performed and occurred in that, among other things:

- a. Plaintiff filed timely Charge of Discrimination against Defendants with the Equal Employment Opportunity Commission (“EEOC”).**
- b. Plaintiff also filed timely retaliation charges against Defendants with the Equal Employment Opportunity Commission (“EEOC”) which were included in her Charge.**
- c. Plaintiff filed a detailed statement of facts in support of his charges with the EEOC .**
- d. EEOC notified Defendants about the Charge and the information Plaintiff provided in support of the Charge, and conducted an official investigation.**
- e. At the conclusion of its investigation, EEOC issued an official Determination in favor of Plaintiff concerning the charge.**
- f. The EEOC declined initiate an enforcement action, and issued a right to Sue Letter to Plaintiff .**
- i. Plaintiff received the Notice, and has timely filed this suit.**

24. The conduct and actions of Defendants and their agents, servants, employees, members, supervisors, managers and officials, as alleged herein, were the direct and proximate causes of injuries, losses and damages suffered by Plaintiffs for which they are entitled to be compensated.

COUNT ONE

(Unlawful Employment Practices, Title VII)

(Race Discrimination, Hostile Work Environment)

25. Plaintiff reasserts, alleges and states under this Count One, Paragraphs 1 to 24 of the Complaint, and incorporates fully hereunder those allegations and statements.

26. Title VII of the Civil Rights Act of 1964, Sec. 2000e-2(a)(1) states in pertinent part, as follows:

(a) Employer practices

It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.

27. The BDFD and the City of Baltimore, Defendants, and their agents, servants, employees, members, supervisors, managers and officials engaged in intentional employment discrimination and employment practices that had the effect of discriminating against Plaintiff, as alleged herein, on the basis of race including but not limited to conditions creating a hostile work environment on the basis of race, in violation of Title VII.

28. Defendants conduct and actions were done with ill will, an evil purpose and malice.

29. Defendants conduct and actions were the direct and proximate causes of substantial injuries to Plaintiff, including, among other things, embarrassment, loss of prestige, humiliation, mental distress and emotional distress, and diminution

of her good name, reputation, honor and integrity, for which Defendants are liable for damages.

WHEREFORE Plaintiff prays that this Honorable Court will enter (a) a Declaratory Judgment in favor of Plaintiff declaring that Defendants violated Title VII on the basis of race; (b) a judgment in favor of Plaintiff and against Defendants for compensatory and consequential damages in the amount of \$1 Million; and, (c) a judgment in favor of Plaintiff and against Defendants for punitive damages in the amount of \$2 Million.

F. COUNT TWO

(Unlawful Employment Practices, Title VII)

(Sex Discrimination, Sexual Harassment, Hostile Work Environment)

30. Plaintiff reasserts, alleges and states under this Count Two, Paragraphs 1 to 29 of the Complaint, and incorporates fully hereunder those allegations and statements.

31. Title VII of the Civil Rights Act of 1964, Sec. 2000e-2(a)(1) states in pertinent part, as follows:

(a) Employer practices

It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.

32. The BDFD and the City of Baltimore, Defendants, and their agents, servants, employees, members, supervisors, managers and officials engaged in

intentional employment discrimination and employment practices that had the effect of discriminating against Plaintiff, as alleged herein, on the basis of sex, including but not limited to sexual harassment and conditions creating a hostile work environment on the basis of sex, in violation of Title VII.

33. Defendants conduct and actions were done with ill will, an evil purpose and malice.

34. Defendants conduct and actions were the direct and proximate causes of substantial injuries to Plaintiff, including, among other things, embarrassment, loss of prestige, humiliation, mental distress and emotional distress, and diminution of her good name, reputation, honor and integrity, for which Defendants are liable for damages.

WHEREFORE Plaintiff prays that this Honorable Court will enter (a) a Declaratory Judgment in favor of Plaintiff declaring that Defendants violated Title VII on the basis of race; (b) a judgment in favor of Plaintiff and against Defendants for compensatory and consequential damages in the amount of \$1 Million; and, (c) a judgment in favor of Plaintiff and against Defendants for punitive damages in the amount of \$2 Million.

G. COUNT THREE

(Unlawful Employment Practices, Title VII)

(Medical Condition, Hostile Work Environment)

35. Plaintiff reasserts, alleges and states under this Count Three, Paragraphs 1 to 34 of the Complaint, and incorporates fully hereunder those allegations and statements.

36. Title VII of the Civil Rights Act of 1964, Sec. 2000e-2(a)(1) states in pertinent part, as follows:

(a) Employer practices

It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.

37. The BDFD and the City of Baltimore, Defendants, and their agents, servants, employees, members, supervisors, managers and officials engaged in intentional employment discrimination and employment practices that had the effect of discriminating against Plaintiff, as alleged herein, on the basis of her medical condition, that is, suffered injuries and pain driving an official vehicle including but not limited to conditions creating a hostile work environment on the basis of her medical condition and pregnancy in violation of Title VII.

38. Defendants conduct and actions were done with ill will, an evil purpose and malice.

39. Defendants conduct and actions were the direct and proximate causes of substantial injuries to Plaintiff, including, among other things, embarrassment, loss of prestige, humiliation, mental distress and emotional distress, and diminution

of her good name, reputation, honor and integrity, for which Defendants are liable for damages.

WHEREFORE Plaintiff prays that this Honorable Court will enter (a) a Declaratory Judgment in favor of Plaintiff declaring that Defendants violated Title VII on the basis of her medical condition and pregnancy (b) a judgment in favor of Plaintiff and against Defendants for compensatory and consequential damages in the amount of \$1 Million; and, (c) a judgment in favor of Plaintiff and against Defendants for punitive damages in the amount of \$2 Million.

H. COUNT FOUR

(Other Unlawful Employment Practices, Title VII)

(Retaliation)

40. Plaintiff reasserts, alleges and states under this Count Six, Paragraphs 1 to 39 of the Complaint, and incorporates fully hereunder those allegations and statements.

41. Title VII of the Civil Rights Act of 1964, Sec. 2000e-3 (a) states in pertinent part, as follows:

(a) Discrimination for making charges, testifying, assisting, or participating in enforcement proceedings

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

42. The BDFD and the City of Baltimore, Defendants, and their agents, servants, employees, members, supervisors, managers and officials engaged in intentional employment discrimination, employment practices that had the effect of discriminating against Plaintiff, as alleged herein, on the basis of his race, sex and medical condition, that is including but not limited to conditions creating a hostile work environment against Plaintiff on the basis of his race, sex and medical condition and pregnancy, in violation of Title VII, knowingly, intentionally and willfully retaliated against him because, as alleged herein:

43. Defendants conduct and actions were done with ill will, an evil purpose and malice.

44. Defendants conduct and actions were the direct and proximate causes of substantial injuries to Plaintiff, including, among other things, embarrassment, loss of prestige, humiliation, mental distress and emotional distress, and diminution of her good name, reputation, honor and integrity, for which Defendants are liable for damages.

OTHER RELIEF

Plaintiffs pray that this Honorable Court will grant the following additional relief:

- A. Order Defendants to reinstate Plaintiff to her employment;
- B. Order Defendants to pay Plaintiff back pay, and to restore her benefits, sick leave, vacation leave, compensatory time, seniority and other entitlements,
- C. Order Defendants to take any other actions that will make Plaintiff whole.
- E. Award Plaintiff reasonable attorney's fees, costs and expenses; and,
- E. Afford Plaintiff such further and additional relief to as the justice of the cause requires under the circumstances.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury.

Respectfully Submitted

/S/ Neal M. Janey

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