

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

ROBERT J. KOCH
415 Third St.
Prairie Du Sac, WI 53578,

Plaintiff,

Case No. 11-CV-397

v.

CITY OF MILWAUKEE
200 E. Wells St.
Milwaukee, WI 53202,

MILWAUKEE BOARD OF FIRE AND POLICE COMMISSIONERS,
200 E. Wells St.
Milwaukee, WI 53202,

MICHAEL T. ROMAS, Deputy Fire Chief
711 W. Wells St.
Milwaukee, WI 53233, and

DOUGLAS HOLTON, former Fire Chief
711 W. Wells St.
Milwaukee, WI 53233,

Defendants.

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COMPLAINT

NOW COMES the above-named plaintiff, through his attorneys, Jardine Law Office LLC, and does hereby make the following allegations against the above-named defendants:

JURISDICTION

1. This action asserts claims under federal statutes, including 42 U.S.C. secs. 1981 and 1983, including Title VII of the Civil Rights Act of 1964, 42 U.S.C. sec. 2000e, et seq. (“Title VII”), and the Americans with Disabilities Act, 42 U.S.C. §§ 12101, *et. seq.* (the “ADA”); thus jurisdiction exists pursuant to 28 U.S.C. § 1331.

VENUE

2. The claims in this action arose in Milwaukee County, Wisconsin within the Eastern District of Wisconsin, so venue is proper in the Eastern District of Wisconsin, pursuant to 28 U.S.C. § 1391(b).

ALLEGATIONS/CLAIMS

3. Plaintiff Robert J. Koch (“plaintiff”) is an adult resident of the State of Wisconsin, residing at 415 Third Street, Prairie du Sac, WI 53578.

4. Defendant City of Milwaukee (“the City”) is a municipal body corporate, operating pursuant to Wisconsin statutes, with its principal place of operation being 200 East Wells Street, Milwaukee, WI 53202.

5. Defendant Milwaukee Board of Fire and Police Commissioners (“Fire and Police Commission” or “Commission”) is a municipal body corporate, operating pursuant to section 62.50 of the Wisconsin Statutes, with its principal place of operation being 200 East Wells Street, Milwaukee, WI 53202.

6. Defendant Michael T. Romas (“Romas”), at all times material herein, was the Deputy Chief for the City Milwaukee Fire Department (“Fire Department”). Defendant

Romas is an adult resident of the State of Wisconsin, residing within the Eastern District and employed at the Fire Department, with an address of (the Department being) 711 West Wells Street, Milwaukee, WI 53233.

7. Defendant Douglass Holton (“Holton”) at all times material herein was the Chief for the Fire Department. Defendant Holton is an adult resident of the State of Wisconsin, residing at an unknown current address.

8. Plaintiff was an employer of the Fire Department beginning May 22, 2006. By October 23, 2009, plaintiff was a Fire Equipment Dispatcher.

9. On September 9, 2009, plaintiff was involved in a highly-traumatic event of a highly-sensitive nature.

10. Plaintiff informed Romas of the event on or around September 25, 2009.

11. As a result of the aforementioned event, plaintiff began to experience severe stress (subsequently diagnosed as post-traumatic stress disorder (“PTSD”)), depression and severe anxiety.

12. On October 13, 2009, plaintiff sought assistance through an Employee Assistance Program (“EAP”) offered by the City. At this time, plaintiff signed a consent form which allowed the Department to know that plaintiff was seeking psychological care.

13. On October 20, 2009, plaintiff was notified by Romas that he was the subject of potential discipline for alleged untruthfulness relating to a sick leave request, which request was made on September 9, 2009.

14. On October 23, 2009, after a meeting including Romas, plaintiff was told by Romas that he (plaintiff) could either resign or be terminated.

15. Upon information and belief, Holton was contacted by Romas to confer about the termination decision, and may have exercised ultimate authority on the termination decision.

16. Plaintiff did not voluntarily resign, and his employment was terminated by Romas on October 23, 2009.

17. With respect to the formal paperwork that was forwarded by the Fire Department to the Fire and Police Commission, Holtan notified the Commission of the termination, and upon information and belief, approved of the termination.

18. Plaintiff is aware of two females of the Fire Department, Patricia Saavedra and Jasmine Salley, who were the subject of similar potential disciplinary actions at substantially the same time as plaintiff, and who received far less discipline than plaintiff's termination.

19. Upon information and belief, the aforementioned women are not disabled and are not perceived to be disabled.

20. Plaintiff sought review of his termination from the Fire and Police Commission, and a hearing was conducted by the Commission on May 12, 2010.

21. At the hearing, the Commission was informed of all of the above allegations, in sworn testimony and in far greater detail. Nonetheless, the Commission did not reverse the decision of Romas and/or Holtan.

22. Upon information and belief, the basis for plaintiff's termination and the upholding of that termination decision by the Commission was a discriminatory animus by Romas, Holtan, and/or the Commission members, all of them in their individual and official capacities, due to plaintiff's gender and/or disability.

23. The City and its Fire and Police Commission have adopted policies or customs which result in disparate treatment of men when compared to similarly-situated women employees of the Fire Department.

24. The City and its Fire and Police Commission have adopted policies or customs which result in disparate treatment of disabled persons when compared to similarly-situated employees of the Fire Department who are not disabled.

25. The actions of Romas and Holtan are imputed to the City and the Fire Department.

26. The actions of the defendants were a violation of 42 U.S.C. secs. 1981 and 1983, Title VII of the Civil Rights Act of 1964, 42 U.S.C. sec. 2000e, et seq., and the Americans with Disabilities Act, 42 U.S.C. §§ 12101, *et. seq.*

27. On August 19, 2010, plaintiff filed a Complaint of discrimination (based on gender and disability) with the State of Wisconsin's Equal Rights Division ("ERD"), which was also filed with the United States Equal Employment Opportunities Commission ("EEOC").

28. No earlier than January 26, 2011, plaintiff received his "right to sue" letter from the EEOC, which, according to the letter, was mailed to plaintiff on January 25, 2011.

29. Plaintiff has lost income by virtue of his discharge from employment, including lost wages following that discharge.

30. Plaintiff has also suffered emotional suffering, humiliation and embarrassment because of the discrimination.

31. Plaintiff seeks punitive damages against Defendants for their violation of the aforementioned laws.

WHEREFORE, plaintiff demands judgment against defendants for compensatory and punitive damages, together with taxable costs, attorney fees and such other relief as the court deems appropriate.

Dated this 25th day of April, 2011.

JARDINE LAW OFFICE LLC
Attorneys for Plaintiff

/s/ Daniel G. Jardine (#1000977)
119 S. Main St.
DeForest, WI 53532
(608) 846-7230
(608) 846-7232 (fax)