

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT, IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

RANDOLPH AIKENS,

Plaintiff,

vs.

CITY OF OPA-LOCKA, FLORIDA, a
Municipal corporation authorized to do
business under the laws of the State of Florida,
and YVETTE HARRELL, as an Individual,

Defendant.

CASE NO.:

CIRCUIT CIVIL DIVISION

VERIFIED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, RANDOLPH AIKENS ("Aikens" or "Plaintiff") files this Complaint and sues the City of Opa Locka Florida ("City") and Yvette Harrell ("Harrell") ("City" and "Harrell" are collectively referred to as "Defendants"), under Florida's Whistle Blower Act, and for Intentional Infliction of Emotional Duress and other damages, and demanding a trial by jury Plaintiff hereby states as follows:

1. This is an action seeking damages in excess of \$2,000,000.00 and other relief by a 38-year employee of the City of Opa Locka who was subjected to adverse personnel action and outrageous harassment by the City of Opa Locka and its City Manager Yvette Harrell to punish him for disclosing on his own initiative and in writing multiple acts of illegality, misconduct, and malfeasance by City Officials as outlined herein.
2. Plaintiff is *sui generis*, a resident of and an employee of the City who previously worked as Code Enforcement Supervisor.

3. The City of Opa Locka is a municipal government entity and as such, an "agency" as envisioned by Section 122.3187(3)(a), Florida Statutes.

4. Yvette Harrell is *sui generis*, the City Manager for the City of Opa Locka and is being sued in her individual capacity.

5. Venue is proper in this judicial circuit because Defendant Opa-Locka is located within Miami-Dade County, Florida and all of the tortious acts occurred within said county.

6. All conditions precedent to this cause of action have been met, waived, excused or would be futile.

GENERAL ALLEGATIONS

7. Plaintiff has been employed by the City of Opa Locka for over thirty eight (38) years.

8. In 2016, he was employed as Code Enforcement Supervisor, a position he had held as of approximately the beginning of 2009.

9. During 2016, Plaintiff met with the FBI, the U.S. Attorney's Office, and the Miami-Dade Commission on Ethics concerning his knowledge of rampant, widespread corruption in the City of Opa Locka.

10. This included his knowledge of misuse of code enforcement, including illegal forgiveness and reduction of fines in some cases, and politically motivated enforcement in other cases.

11. The City was on notice of these meetings.

12. In March of 2016, City Attorney Vincent Brown sent an email to the City Manager (Harrell), Mayor and Commission advising them that plaintiff was meeting with Federal Agents.

13. On August 2, 2016, Plaintiff discovered serious public safety issues and health hazards on a property owned by the Opa Locka Mayor and her family on a property located at 13720 NW 27th Avenue, in Opa Locka, Florida.
14. Plaintiff notified the City and issued code citations to protect the public health from a property that had no roof and contained unsafe structures.
15. As a result, the City Manager Yvette Harrell repeatedly chastised and humiliated Plaintiff. On one such occasion, she wagged a finger in Plaintiff's face in a threatening manner while repeatedly raising her voice.
16. In October 2016, Harrell Ordered that the tickets be voided.
17. After Plaintiff refused to void the tickets, Harrell eliminated his position and transferred him.
18. In November 2016, he was suspended for 30 days and prohibited from entering City property because he appeared at a Code Special master hearing at the request of the Special master and testified truthfully.
19. In January of 2017 Plaintiff was transferred out of code enforcement and prohibited from entering public areas of the city of Opa Locka.
20. Plaintiff was ordered to perform manual labor, including cleaning up garbage and standing in the hot sun for hours.
21. Plaintiff was filmed and his photos posted on Facebook.
22. Plaintiff almost collapsed from exhaustion.
23. Harrell has engaged in a pattern of abusing and humiliating the 59 year old plaintiff in a manner that is shocking and outrageous and beyond what any civilized person would view as appropriate.

24. Harrell forced plaintiff to sit in her office while she degraded and abused him verbally and stated that he was no longer a useful person and had no value to the city.

25. Plaintiff told Harrell that he was a whistleblower and that she could not do this to him.

26. Harrell was clear when she stated to the Plaintiff, in the presence of others, that she did not care about provisions of the personnel manual, including whistleblower, and that the Commission had given her the full authority to do whatever she wanted.

27. Harrell and the City would not let this citizen of the City and 38-year employee of the City take his grandchildren to public locations within the City.

28. He was humiliated in front of City staff and told that he could not even enter certain sections of the Opa Locka city hall, including the code department.

29. The actions Harrell took toward plaintiff were intended to cause plaintiff severe emotional duress.

30. The actions of Harrell and the city did in fact cause plaintiff to experience severe emotional suffering.

31. The conduct of Harrell was odious and utterly intolerable in a civilized society.

32. Under the City of Opa Locka Charter, as City Manager, Harrell owed Plaintiff a duty of care to provide him with a safe work environment free from harassment, unreasonable working conditions and emotion duress.

33. Harrell breach that duty both intentionally and negligently.

34. In addition, Harrell and the City took adverse action against the Plaintiff by removing him from code enforcement, suspending him and forcing him to perform manual labor.

35. This adverse action was to retaliate against the Plaintiff for his disclosures of misconduct and illegalities and for his steadfast refusal to turn a blind eye to code violations within the City.

36. Plaintiff has retained the undersigned attorneys and said lawyers are entitled to the recovery of their reasonable attorneys' fees and costs.

COUNT I
VIOLATION OF SECTION 112.3187, F.S.
(HARRELL & CITY)

37. Plaintiff hereby incorporates paragraphs 1 through 36 as if fully set forth herein.

38. The City of Opa-Locka is an agency, a term defined by Section 112.3187, Florida Statutes.

39. Plaintiff is an employee as that term is defined by Section 112.3187(3)(b), Florida Statutes.

40. The City of Opa-Locka took adverse personnel action against the Plaintiff, as that term is defined by Section 112.3187(2)(c), Florida Statutes.

41. The action was taken against Plaintiff included suspensions, and loss of his titles and positions within the City.

42. The actions taken by the City were prohibitive under Section 112.3187(4), Florida Statutes.

43. The prohibitive actions were taken because the Plaintiff disclosed information, as defined by Section 112.3187(5), Florida Statutes.

44. Specifically, Plaintiff participated in an investigation and other inquiry conducted by an agency of the State and Local government.

45. In addition, Plaintiff refused to participate in adverse actions prohibited by this section of the Florida Statutes.

46. In addition, Plaintiff refused to participate in unethical, illegal, and inappropriate violations of Federal, State, and local laws, rules, regulations and policies, and disclosed to City officials and officers such violations and misrepresentations to City and State officials.

WHEREFORE, Plaintiff is requesting immediate reinstatement to his position as Budget Administrator, along with reinstatement to his former position, with full pay including back pay and front pay, benefits, compensation, seniority rights, and any lost income and compensatory damages. Plaintiff is additionally seeking immediate payment of all attorneys' fees and costs.

COUNT II
INTENTIONAL INFLICTION OF EMOTIONAL DURESS
(HARRELL & CITY)

47. Plaintiff hereby incorporates paragraphs 1 through 36 as if fully set forth herein.

48. Defendants engaged in outrageous conduct.

49. The conduct was intended to inflict harm on the Plaintiff.

50. As a result of the Defendants' outrageous conduct, the Plaintiff has suffered both severe emotional and physical duress.

51. As a direct and proximate result of the negligence acts, as alleged herein, the Plaintiff, suffered injury, which resulted in pain and suffering, mental anguish, loss of capacity for the enjoyment of life, inconvenience, care and treatment, loss of earnings, and loss of the ability to earn money in the future. The losses are either permanent or continuing in nature and Plaintiff will suffer said losses in the future.

WHEREFORE, Plaintiff demands judgment for compensatory damages against Defendants, together with costs incurred herein, and all other relief the Court deems just and proper.

COUNT III
NEGLIGENT INFLICTION OF EMOTIONAL DURESS
(HARRELL & CITY)

52. Plaintiff hereby incorporates paragraphs 1 through 36 as if fully set forth herein.
53. Harrell and the City owed Plaintiff a duty of care.
54. They breached that duty of care, resulting in Plaintiff's severe emotional duress.
55. Their breach of that duty was the proximate cause the severe emotional duress.
56. As a direct and proximate result of the negligence acts, as alleged herein, the Plaintiff, suffered bodily injury, which resulted in pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, medical care and treatment, loss of earnings, and loss of the ability to earn money in the future. The losses are either permanent or continuing in nature and Plaintiff will suffer said losses in the future.

WHEREFORE, Plaintiff demands judgment for compensatory damages against Defendants, together with costs incurred herein, and all other relief the Court deems just and proper.

COUNT IV
RETALIATION
(HARRELL & CITY)

57. Plaintiff hereby incorporates paragraphs 1 through 36 as if fully set forth herein.
58. Plaintiff engaged in legally protected activity pursuant to the Florida Whistleblower Act, §§448.102(2) and 448.102(3), Fla. Stat., when he provided information to appropriate government agencies conducting an investigation or inquiry into alleged violations

of laws, rules or regulations by Defendants Harrell and the City and for objecting and refusing to participate in unlawful activities.

59. The entities complained to are governmental agencies or entities as defined by the applicable law.

60. During his employment, Plaintiff provided information regarding illegalities, misconduct and malfeasance on several occasions relating to the City and its employees.

61. Defendants repeatedly took adverse actions against Plaintiff in retaliation for engaging in such legally protected activity in violation of the Florida Whistleblower Act, §§448.102(2) and 448.102(3), Fla. Stat. when they subjected him to adverse employment actions described herein, including subjecting him to heightened scrutiny of work, unfavorable changes in work and schedule and conditions of employment, disciplinary threats and actions, unwarranted criticisms and humiliation, and other adverse actions and treatment.

62. The adverse employment actions were taken against Plaintiff by City officials with knowledge of his legally protected activity and within a very close temporal proximity of that legally protected activity.

63. The potential reasons, if any, for the adverse employment actions taken against Plaintiff are a pretext for Defendants' unlawful retaliation.

64. The aforementioned allegations amount to retaliation.

65. Defendants have engaged in intentional retaliation and have done so with malice and/or reckless indifference to the protected rights of the Plaintiff.

66. Defendants conduct was willful, malicious, oppressive, wanton and in complete disregard of the rights of the Plaintiff.


67. As a direct and proximate result of the foregoing, the Plaintiff has been damaged and continues to be damaged, including mental anguish, loss of status in his employment, emotional distress, and loss of compensation.

WHEREFORE, Plaintiff demands judgment against Defendants for all relief provided for under law including lost wages, benefits and other remuneration, front pay in lieu of reinstatement, back pay, all other compensatory damages available, attorneys' fees and costs of this action and such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff respectfully demands trial by jury for all issues so triable as a matter of law.

VERIFICATION



RANDOLPH AIKENS

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 16th day of February, 2017, by Randolph Aikens, Plaintiff, and who is personally known to me, and who did take an oath and states that he has read and understands the Verified Complaint, and he has acknowledged before me that he has personal knowledge of the facts contained therein and that the Verified Complaint is true and correct in all respects.



NOTARY PUBLIC

My Commission Expires:



Dated: February 16, 2017

Respectfully submitted,

LAW OFFICES OF DOUGLAS J. JEFFREY, P.A.

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