

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK ss.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO.:

SAVIEL COLON,

Plaintiff,

v.

CITY OF BOSTON

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

THE PARTIES

1. At all times hereinafter mentioned, the Plaintiff, Saviel Colon, (hereinafter, the “Plaintiff”), was and now is a citizen of the United States with a domicile located in Suffolk County, Massachusetts.
2. The Defendant, City of Boston, is a body politic having its principal office at 1 City Hall Square, Boston, Massachusetts 02118.
3. The Boston Police Department is a municipal department of the Defendant City of Boston, having its principal office at Boston Police Headquarters, 1 Schroeder Plaza, Boston, Suffolk County, Massachusetts 02118.

FACTS

4. The Plaintiff has been employed as a Police Officer for the City of Boston since December 2019.
5. Prior to being hired, the Plaintiff was a Jehovah’s Witness for more than ten (10) years and is still a practicing Jehovah’s Witness.
6. Plaintiff disclosed this fact to Defendant throughout his hiring process.

7. Throughout Plaintiff's practicing as a Jehovah's Witness, he did not take any vaccines because it is against his sincerely held religious beliefs.
8. On August 12, 2021, Plaintiff received by email a copy of Defendants COVID-19 Vaccination Policy (hereinafter, the "Vaccination Policy") requiring all employees to obtain the COVID-19 vaccine by October 4, 2022 or agree to submit to weekly testing. If the employee failed to comply, they would be placed on unpaid leave and be subject to discharge.
9. The Vaccination Policy included a process for requests for religious and medical exemptions.
10. On September 20, 2021, Plaintiff submitted a letter to Defendant requesting a Religious Exemption, to be exempt from the COVID-19 vaccine and testing due to his sincerely held religious beliefs.
11. Plaintiff received a confirmation that his request was received, and that Defendant would get back to him.
12. On October 18, 2021, Plaintiff received notification from Defendant that he would need to complete a specific form to request a religious exemption. Plaintiff completed, signed and returned the religious exemption form to Defendant that same day.
13. Plaintiff was on a scheduled vacation the week of October 23, 2021 through November 4, 2021.
14. During his vacation, he received an email from Defendant stating that, effective October 26, 2022, he was placed on unpaid administrative leave for reason of non-compliance with Defendant's vaccine policy and such communication did not specify when such leave would end.

15. On October 29, 2021, Plaintiff replied to Defendant's denial of his request for exemption and he requested an accommodation to complete the daily COVID-19 questionnaire.
16. On October 31, 2021, Plaintiff appealed Defendant's decision and remains on unpaid administrative leave. On January 3, 2022, the "Vaccine Policy" was suspended by Court action and the "Testing Policy" was reinstated pending further court action.
17. On or about October 27, 2021, Plaintiff was terminated and relieved of duty as the City of Boston denied his religious exemption.
18. Upon information and belief, other employees of Defendant similarly situated were not placed on unpaid administrative leave while their situations were determined.
19. Plaintiff was given a Hobson's choice by his employer, effectively placed in a boundless unpaid administrative leave, which is tantamount to termination, but far worse.
20. On November 16, 2021, Plaintiff applied for unemployment benefits which resulted in a Notice of Disqualification on December 28, 2021, stating that Plaintiff's claim was disqualified because of Defendant's placing him on an indefinite personal leave of absence.
21. Plaintiff appealed the Notice of Disqualification from DUA and same was reversed.
22. Plaintiff initiated a claim process with the EEOC on December 22, 2021. EEOC decided not to proceed and issued a "Right to Sue Letter" on August 30, 2022, a copy of which is attached hereto as "**Exhibit A**".

23. As a result of Defendant's actions, Plaintiff has suffered financial and emotional distress. Defendant's decision on disciplinary action was embarrassing and was made publicly in front of all his colleagues at the Police Station.

24. Plaintiff has suffered personal hardship and stress on his family and his marriage due to the Defendant's discriminatory practices. Plaintiff suffers physical effects of stress because of this including headaches, exhaustion and sleeplessness.

25. Plaintiff was openly ridiculed for his faith beliefs.

26. Plaintiff was wrongfully terminated on October 26, 2022.

27. Plaintiff's wrongful termination has caused him to lose retirement benefits because he was not fully vested.

COUNT I
DETRIMENTAL RELIANCE / PROMISSORY ESTOPPEL

28. The Plaintiff re-alleges the foregoing Paragraphs 1-27 as if set forth again here.

29. The Plaintiff relied on the promises of the Defendant, all to his great detriment.

COUNT II
INTENTIONAL MISREPRESENTATION / DECEIT

30. The Plaintiff re-alleges the foregoing Paragraphs 1-29 as if set forth again here.

31. Defendant, through its agents intentionally and knowingly made false representations to the Plaintiff and Defendant misrepresented the meaning of certain documents, Department conditions and ongoing Department practices.

32. Plaintiff relied on Defendant's material misrepresentations to his detriment.

33. Plaintiff, by relying on Defendant's misrepresentations, lost his employment, and lost any income generated therefrom, as well as future earnings, pension benefits and health insurance.

34. There was a process for filing an accommodation and Plaintiff's accommodation was wrongfully denied.

COUNT III
NEGLIGENCE

35. The Plaintiff re-alleges the foregoing Paragraphs 1-34 as if set forth again here.

36. Defendant through its agents negligently misrepresented to Plaintiff the Defendant's Department conditions, and Department policies.

37. Plaintiff relied on said misrepresentations to his detriment.

38. As a result of said misrepresentations Plaintiff lost his established employment and the income generated therefrom, as well as future earnings and pension benefits.

COUNT IV
TORTIOUS INTERFERENCE WITH BUSINESS RELATIONSHIP

39. The Plaintiff re-alleges the foregoing Paragraphs 1-38 as if set forth again here.

40. Defendant tortiously caused interference with Plaintiff's income, unemployment benefits and pension benefits, by denying his religious exemption to not get the COVID-19 vaccine causing him to be terminated from his job and relieved of duty.

COUNT V
INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS

41. The Plaintiff re-alleges the foregoing Paragraphs 1-40 as if set forth again here.

42. The Defendant's intentional conduct of given Plaintiff a Hobson's choice, fraudulently inducing Plaintiff to rely on its misrepresentations to his detriment and intentionally denying his religious exemption to not get the COVID-19 vaccine, was extreme and outrageous beyond all possible bounds of decency, and the type of conduct that is utterly intolerable.

43. The Defendant, with its retaliatory actions, intended to cause the Plaintiff to suffer emotional distress and/or knew or should have known, that severe emotional distress was likely to result based on its aforementioned conduct.

44. The actions of the Defendant were of such an egregious nature that no reasonable person should anticipate or be required to endure.

45. Plaintiff relied on said misrepresentations to his detriment.

46. As a result of said misrepresentations Plaintiff has suffered depression, anxiety, loss of trust in people, loss of trust in the City of Boston as an employer, low confidence and has experienced extreme mental anguish.

COUNT VI
GOOD FAITH AND FAIR DEALING

47. The Plaintiff re-alleges the foregoing Paragraphs 1-46 as if set forth again here.

48. The Defendant wrongfully terminated Plaintiff's employment, relieved him of duty, and caused him financial loss of income and pension benefits and mental distress because of his religious beliefs.

49. Said actions by Defendant were wrongful, intentional, and against public policy.

50. Defendant violated its duty of good faith and fair dealing.

COUNT VII
ASSAULT

51. The Plaintiff re-alleges the foregoing Paragraphs 1-50 as if set forth again here.

52. The actions of the Defendant placed the Plaintiff in fear and apprehension of imminent bodily harm.

WHEREFORE, PLAINTIFF PRAYS THAT THIS HONORABLE COURT:

Enter Judgment against the Defendant, finding that the Defendant's conduct was knowingly and intentionally in bad faith, with knowledge or reason to know that their acts would cause substantial hardship to the Plaintiff, and against public policy and common law, for damages as follows:

1. Two Million Dollars (“\$2,000,000.00”) for general damages and costs;
2. For general damages in an amount to be determined for emotional distress, embarrassment, humiliation, anxiety, sleeplessness, and emotional trauma;
3. For all reasonable attorney's fees;
4. For all applicable interests and related costs;
5. For the costs of suit incurred herein, and;
6. For all other relief this Honorable Court deems meet, and just.

The Plaintiff demands a trial by jury on all counts.

Respectfully submitted,
The Plaintiff,
Saviel Colon,
By his attorneys,

DATED: November 22, 2022

/s/ Richard C. Chambers, Jr., Esq.
Richard C. Chambers, Jr., Esq.
BBO#: 651251
Chambers Law Office
220 Broadway, Suite 404
Lynnfield, MA 01940
Office: (781) 581-2031
Cell: (781) 363-1773
Fax: (781) 581-8449
richard@chamberslawoffice.com

DATED: November 22, 2022

/s/ Joseph Spinale., Esq.
Joseph Spinale, Esq.
BBO#: 548547
Chambers Law Office
220 Broadway, Suite 404
Lynnfield, MA 01940
Office: (781) 581-2031
Cell: (781) 838-1411
Fax: (781) 581-8449
Joe@chamberslawoffice.com

EXHIBIT A



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Boston Area Office
15 New Dudbury St, Room 475
Boston, MA 02203
(617) 865-3670
Website: www.eeoc.gov

DETERMINATION AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161 & 161-A)

Issued On: 08/30/2022

To: Mr. Saviel Colon
213 W Broadway
SOUTH BOSTON, MA 02127
Charge No: 523-2022-00971

EEOC Representative and email: Anthony Pino
Supervisor
Anthony.Pino@EEOC.GOV

DETERMINATION OF CHARGE

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

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

On behalf of the Commission,

Digitally Signed By: Timothy Riera
08/30/2022

Timothy Riera
Acting District Director