

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JASON JANUARY,	§	
	§	
Plaintiff,	§	
	§	No. 4:21cv303
VS.	§	
	§	Jury Trial Demanded
CITY OF HUNTSVILLE,	§	
	§	
Defendant.	§	

COMPLAINT

Plaintiff Jason January files this Complaint against Defendant City of Huntsville.

Parties

1. Plaintiff Jason January is an individual residing in Texas.
2. Defendant City of Huntsville is a Texas municipality located in Walker County, Texas. City of Huntsville may be served through its Secretary, Brenda Poe, 1212 Avenue M Huntsville, TX 77340.

Jurisdiction and Venue

3. This Court has jurisdiction because the case arises under the Americans with Disabilities Act, the Rehabilitation Act, and the Age Discrimination in Employment Act.
4. Venue is proper because Defendant resides in this District and because the events at issue took place in this District.

Claim for Relief

5. The Huntsville Fire Department (HFD) is a department of the City of Huntsville. Mr. January began working for HFD as a volunteer around 1993. He became a full-time employee around 2000, and he continued working for HFD until he was terminated in April 2019.

6. Mr. January was a “qualified individual” and an “employee” within the meaning of the ADA. The City was an “employer” within the meaning of the ADA.

7. The City is a recipient of funds under federal programs or activities within the meaning of 29 U.S.C. § 794.

8. At all relevant times, Mr. January was over the age of 40.

9. Mr. January had gall bladder issues that necessitated surgery, which in turn led to complications. Over the last few years, Mr. January has seen numerous doctors and has received a variety of treatments. HFD was aware of all of this.

10. The gall bladder issues are an impairment that substantially limits major life activities, including eating, sleeping, and working. Mr. January takes medications and other mitigating that have an ameliorative effect on the impairment, but without these mitigating measures Mr. January would not be able to function normally in many respects. Even with the mitigating measures, the impairment sometimes flares up and causes difficulties for Mr. January. In addition, the gall bladder issues substantially limit a major bodily function, namely the biliary system. The gall bladder issues also cause occasional intestinal and blood sugar issues. These impairments are a disability within the meaning of the ADA.

11. Even though Mr. January was taking prescription medications for a known disability, HFD considered Mr. January to be a pill popper and harassed him about his medications. The harassment intensified in 2018, as Mr. January increasingly found himself treated differently from other employees because of his disability and the prescription medications.

12. Mr. January complained to HFD that he was being subjected to discrimination and harassment because of his disability, that he had been demoted from some positions including Captain and Training Officer, and that he had been passed over for promotions to positions

including Fire Chief and Training Officer due to his disability. Around November 2018, he made a PowerPoint presentation to management, explaining in detail that he believed that HFD was violating the ADA. For example, the presentation stated:

I told 2 fire chiefs, a total of at least 6 times that I was being retaliated against by the Assistant Chief. I explained to Human resources that the magnitude they keep asking for notes is not consistent or fair. I told Chief Mathis twice that I believed my medical issues aka medicine use (legal and prescribed) caused many ADA violations to occur and it caused me to be passed over for all the positions. His response was “we are going to have to move past that”.

Mr. January also specifically advised management of his blood sugar issue (“Because of intestinal issues, my blood sugar does drop from time to time.”). Significantly, he warned management that symptoms such as slurred speech could be the result of a disability and could be misconstrued as intoxication:

Many of the physical symptoms that are commonly associated with intoxication—slurred speech, disorientation, or a lack of coordination—can also be the result of a serious physical disability or medical condition.

Mr. January informed management that he was considering filing a lawsuit against the City.

13. The City Manager later confirmed in writing that Mr. January had presented his “claims of discrimination allegedly based on retaliation, disability, and age” on November 12, 2018. The City retained outside counsel (Jason Casell of the Houston office of Lewis Brisbois) to investigate Mr. January’s complaint. Mr. Casell interviewed numerous employees, including Mr. January, around the end of December 2018.

14. Despite conducting an internal investigation of the complaints, HFD did nothing in response to these complaints and would not discuss the matter with Mr. January. In February 2019, Mr. January told management that he intended to go to the EEOC. In fact, he did contact the Texas Workforce Commission – Civil Rights Division and began the process of filing a charge of discrimination with the TWC and the EEOC.

15. Only a few weeks later, HFD took steps to rid itself of Mr. January. On March 28, 2019, Mr. January visited City Hall while off duty. Unbeknownst to Mr. January, his blood sugar had dropped and (as he had warned management in November 2018) his speech had become slurred. Even though Mr. January was off duty, HFD seized this opportunity to declare that he was intoxicated on medications. HFD tried to compel Mr. January to take a drug test at a local pharmacy, which is contrary to HFD policy. Mr. January declined. HFD also claimed that Mr. January was insubordinate, which makes no sense, given that he was off duty. Mr. January later tested his blood sugar and found that it had dropped significantly. He also arranged for a professional drug test, which confirmed that he was not intoxicated. He informed HFD of the negative drug test and offered to provide a copy.

16. HFD nonetheless proceeded to terminate Mr. January. The Fire Chief initiated an administrative complaint against Mr. January on April 1, 2019, which was the Monday after the City Hall incident. Obviously realizing that this would generate a retaliation claim, the City Manager sent a letter to Mr. January on April 3, 2019. The City Manager claimed that the City's outside counsel had completed his investigation of the November 2018 complaints on April 1, 2019. In other words, even though its outside counsel had conducted interviews over three months earlier, the City Manager claimed that its outside counsel had magically completed the investigation on the same day that the Fire Chief was initiating a complaint against Mr. January. The City Manager also claimed that Mr. January had admitted that there was no legal or factual basis for his claims, which is absurd. The City proceeded to terminate Mr. January effective April 12, 2019. Mr. January appealed, and the City Manager upheld the termination on May 1, 2019.

17. When Mr. January filed for unemployment compensation, the City told the TWC that it fired Mr. January for work-related misconduct. The TWC rejected the City's argument.

18. Mr. January had contacted the TWC-CRD in February 2019, and a charge of discrimination had been in the works for several weeks. Mr. January signed and filed the formal charge of discrimination with the TWC on April 12, 2019, and this constituted filing with the EEOC pursuant to the workshare agreement between the TWC and the EEOC. Mr. January later amended the charge to add the termination. The EEOC mailed a right to sue letter to Mr. January on October 28, 2020.

19. All conditions precedent have occurred or been satisfied.

20. The City violated the ADA and the Rehabilitation Act by (a) harassing and discriminating against Mr. January because of his disability, or because it regarded him as disabled, by among other things denying him opportunities for advancement, treating him differently from employees without disabilities, and expressing hostility to his use of prescription medications and his need for medical treatment; (b) retaliating against Mr. January for his opposition to harassment and discrimination by terminating him and by taking actions that would dissuade a reasonable employee from opposing violations of the law; (c) interfering with the exercise of Mr. January's rights under the ADA and the Rehabilitation Act by failing to accommodate him, by harassing him about his medications, and by terminating him; and (d) by terminating him based on symptoms that the City knew were related to his disability.

21. Mr. January also opposed discrimination based on his age. This was included in the November 2018 PowerPoint presentation. To the extent that this opposition was a cause of his termination, the City violated the ADEA.

22. The City is therefore liable to Mr. January for (a) back pay, (b) loss of benefits, (c) compensatory damages under the ADA and the Rehabilitation Act or liquidated damages under

the ADEA, (d) reinstatement or in the alternative front pay, (e) attorneys' fees, (f) pre- and post-judgment interest as provided by law, and (g) all costs of court.

For the foregoing reasons, the City should be cited to appear and answer and, upon final hearing, the Court should enter judgment in favor of Mr. January and against the City for back pay (including unpaid overtime), loss of benefits, compensatory or liquidated damages, reinstatement or in the alternative front pay, attorneys' fees, pre- and post-judgment interest as provided by law, all costs of court, and any other relief to which he may be entitled.

Respectfully submitted,

/s/ David C. Holmes

David C. Holmes, Attorney in Charge

State Bar No. 09907150

Southern District No. 5494

13201 Northwest Freeway, Suite 800

Houston, Texas 77040

Telephone: 713-586-8862

Fax: 713-586-8863

dholmes282@aol.com

ATTORNEY FOR PLAINTIFF