

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA

EVENS OCCENAT,

Plaintiff,

v.

CITY OF DELRAY BEACH, FLORIDA, a municipality,
and DUANE D'ANDREA, individually,

Defendants.

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

Plaintiff, Evens Occenat, by and through undersigned counsel, sues the City of Delray Beach and Duane D'Andrea and states:

JURISDICTION, VENUE AND IDENTIFICATION OF THE PARTIES

1. This is an action for damages in excess of \$50,000, the minimum jurisdictional requirements of this Court, exclusive of attorney's fees and costs.
2. At all times material hereto, Plaintiff, EVENS OCCENAT, is a Black male of Haitian national origin residing in Palm Beach County, Florida.
3. Defendant CITY OF DELRAY BEACH ("the City") is a Florida municipality located to Palm Beach County, Florida.
4. At all times material hereto, Defendant DUANE D'ANDREA ("D'Andrea") was a resident of Palm Beach County, Florida and the City's Human Resources Director and at all relevant times acted under color of state law and as a final policymaker regarding employment decisions for the City.
5. All acts or omissions complained of occurred Palm Beach County Florida.

FACTS COMMON TO ALL COUNTS

6. Plaintiff began employment with the City in or about December 2015 and performed his job satisfactorily.
7. On March 5, 2024, Plaintiff suffered a work-related injury for which he submitted and filed a workers' compensation claim and received workers' compensation benefits.
8. . On May 7, 2024, Plaintiff's supervisor told him: "get your black ass back to work or go back to Haiti."
9. On May 8, 2024, a co-worker stated Plaintiff "needs to go back where he came from."
10. Plaintiff engaged in protected activity when he immediately complained of discrimination to the City based upon race and place of national origin in Haiti, placing Defendants on notice that he was a victim of workplace discrimination.
11. On June 3, 2024, Plaintiff was issued a retaliatory memorandum by the City and D'Andrea falsely labeling him "combative" and "insubordinate."
12. On July 2, 2024, Plaintiff was placed on administrative leave by the City and D'Andrea.
13. On July 11, 2024, the City and D'Andrea forced Plaintiff to undergo a psychological evaluation and labeled him "temporarily unfit," despite psychological findings of no risk of violence.
14. On July 25, 2024, Defendant D'Andrea placed Plaintiff on unpaid leave and required psychiatric treatment at his own expense. Plaintiff's health insurance plan required Plaintiff to obtain referral from his physician to consult with a psychiatrist.

15. On July 31, 2024, Plaintiff's went to a physician at the clinic where the City sent him for treatment for his work-related injuries to obtain referral to a psychiatrist in accordance with the request of the City and D'Andrea. At the clinic, Plaintiff's physician examined and evaluated Plaintiff and deemed referral to a psychiatrist unnecessary because the physician found "no evidence of a mental health disorder" and cleared Plaintiff for work.
16. The City and D'Andrea retaliated against Plaintiff for engaging in protected activity of making a workers' compensation and discrimination claims by ignoring his physicians' medical clearance. The City and D'Andrea did not refer Plaintiff to a psychiatrist. Instead, the City and D'Andrea refused to reinstate Plaintiff, placed him on administrative leave without pay and used Plaintiff's accrued vacation and sick leave without Plaintiff's consent, to compensate while on administrative leave, depriving Plaintiff of earned compensation and compensation benefits.
17. On August 1, 2024, the City coerced, intimidated and retaliated against Plaintiff for his protected activity of making a workers' compensation claim and workplace discrimination complaints by conditioned reinstatement and back pay on Plaintiff releasing all claims against the City and its employees
18. Plaintiff gave the City Notice of Claim per Fla. Stat. § 768.28 on July 30, 2024.
19. Plaintiff filed a Charge against the City with the Equal Employment Opportunity Commission (EEOC) and Florida Commission on Human Relations on January 17, 2025.
20. Plaintiff was terminated by the City on January 28, 2025.

21. On January 26, 2026, the United States Department of Justice issued Plaintiff a 90-day Right to Sue Notice on January 26, 2026
22. The temporal proximity between Plaintiff's protected activity and adverse actions demonstrates causation.
23. . At all times material hereto, the City maintained a policy, custom, or practice of tolerating discrimination and retaliatory conduct, or acted through final policymakers whose decisions represent official municipal policy.
24. At all times material hereto, D'Andrea exercised final policymaking authority regarding discipline, leave status, and termination.
25. At all times material hereto, the City failed to investigate complaints and ratified unlawful conduct despite notice.
26. The City acted with deliberate indifference to Plaintiff's constitutional rights
27. The City and D'Andrea's policies and decisions were the moving force behind Plaintiff's injuries.
28. All conditions precedent have occurred, been excused or waived.

COUNT I – 42 U.S.C. § 1983 (EQUAL PROTECTION) AGAINST D'ANDREA

29. Plaintiff sues D'Andrea under 42 U.S.C. § 1983 for violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, re-adopts and re-alleges paragraphs 1-28 as if set forth herein and further states:
 30. D'Andrea acted under color of state law.
 31. Plaintiff is a member of protected classes (Black, Haitian place of national origin and engaged in protected activity of being a complainant of employment discrimination in the workplace based upon race and place of national origin).

32. D'Andrea intentionally treated Plaintiff differently from similarly situated employees.
33. D'Andrea participated in adverse actions including unpaid leave, forced treatment, misuse of benefits, and termination. Statements and timing show discriminatory intent.
34. D'Andrea's aforesaid conduct deprived Plaintiff of equal protection rights.
35. D'Andrea is not entitled to qualified immunity because his conduct violated clearly established constitutional rights and was objectively unreasonable. At all material times, D'Andrea knew that intentional discrimination based on race and national origin violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, and that a public employer may not deprive an employee of protected property interests—including employment, wages, and accrued benefits—without due process of law in violation of the Equal Protection Clause of the Fourteenth Amendment.
36. D'Andrea's actions—including discriminatory statements, retaliatory discipline, placement on unpaid leave, misuse of Plaintiff's accrued benefits, and termination—were undertaken under color of state law and directly and proximately caused the deprivation of Plaintiff's constitutional rights. No reasonable official in Defendant's position could have believed that such conduct was lawful under clearly established law.
37. At all times material hereto, D'Andrea caused Plaintiff constitutional violations of the Equal Protection Clause of the Fourteenth Amendment.

38. As a direct and proximate result of Defendant's aforesaid acts or omissions, Plaintiff sustained pain and suffering, mental anguish, emotional distress, inconvenience, loss of capacity to enjoy life, loss of wages, loss of future earning capacity, loss of employment-related benefits, back pay, front pay, wage interference and aggravation of a pre-existing condition. Said losses occurred in the past and continue to occur in the future.

39. Plaintiff has retained undersigned counsel and is obligated to pay a reasonable attorney's fee.

WHEREFORE, Plaintiff demands judgment against D'Andrea for nominal damages, compensatory damages, interest, attorney's fees, pursuant to 42 U.S.C. § 1988, costs, interest and a trial by jury on all issues so triable as of right by a jury.

COUNT II – 42 U.S.C. § 1983 (DUE PROCESS) AGAINST D'ANDREA

40. Plaintiff sues D'Andrea under 42 U.S.C. § 1983 for violation of the Due Process Clause of the Fourteenth Amendment of the United States Constitution, re-adopts and re-alleges paragraphs 1-28 as if set forth herein and further states:

41. Plaintiff had property interests in employment, wages, and benefits.

42. D'Andrea deprived Plaintiff of property interests in employment, wages, and benefits without due process.

43. D'Andrea's actions were arbitrary and without hearing.

44. D'Andrea's aforesaid conduct deprived Plaintiff of due process.

45. D'Andrea is not entitled to qualified immunity because his conduct violated clearly established constitutional rights and was objectively unreasonable. At all material times, D'Andrea knew that intentional discrimination based on race and national

origin violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution, and that a public employer may not deprive an employee of protected property interests—including employment, wages, and accrued benefits—without due process of law in violation of the Due Process Clause of the Fourteenth Amendment.

46. At all times material hereto, D’Andrea caused Plaintiff constitutional violations of the Due Process Clause of the Fourteenth Amendment.

47. As a direct and proximate result of D’Andrea's aforesaid acts or omissions, Plaintiff sustained pain and suffering, mental anguish, emotional distress, inconvenience, loss of capacity to enjoy life, loss of wages, loss of future earning capacity, loss of employment-related benefits, back pay, front pay, wage interference and aggravation of a pre-existing condition. Said losses occurred in the past and continue to occur in the future.

48. Plaintiff has retained undersigned counsel and is obligated to pay a reasonable attorney’s fee.

WHEREFORE, Plaintiff demands judgment against D’Andrea for nominal damages, compensatory damages, interest, attorney’s fees pursuant to 42 U.S.C. § 1988, costs, interest and a trial by jury on all issues so triable as of right by a jury

COUNT III – 42 U.S.C § 1983 (EQUAL PROTECTION) AGAINST THE CITY

49. Plaintiff sues the City under 42 U.S.C. § 1983 for violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, re-adopts and re-alleges paragraphs 1-28 as if set forth herein and further states:

50. At all material times, the City acted under color of state law through its officials, agents, and employees, including but not limited to D'Andrea.
51. Plaintiff is a member of protected classes based on race (Black) and national origin (Haitian).
52. The City, through its policies, customs, and/or practices, intentionally discriminated against Plaintiff on the basis of race and national origin.
53. Specifically, the City maintained a policy, custom, or practice of tolerating discrimination and retaliatory conduct, including failing to adequately investigate complaints of discrimination, failing to discipline offending employees, and ratifying unlawful conduct after the fact.
54. In addition, the City acted through final policymakers—including D'Andrea—whose decisions regarding discipline, leave status, and termination constitute official municipal policy.
55. D'Andrea, acting as a final policymaker, participated in and/or directed adverse employment actions against Plaintiff, including placing Plaintiff on unpaid leave, requiring unnecessary psychological treatment, misusing Plaintiff's accrued benefits, and terminating Plaintiff's employment.
56. The City had actual or constructive knowledge of the discriminatory conduct and, despite such knowledge, failed to take corrective action, thereby ratifying and encouraging the unlawful conduct.
57. The policies, customs, and decisions of final policymakers described herein were the moving force behind the deprivation of Plaintiff's rights under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

58. At all material times, the City knew that intentional discrimination based on race and national origin violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, and that a public employer may not deprive an employee of protected property interests—including employment, wages, and accrued benefits—without due process of law in violation of the Equal Protection Clause of the Fourteenth Amendment.

59. At all times material hereto, the City's policies and customs caused Plaintiff constitutional violations of the Equal Protection of the Fourteenth Amendment.

60. As a direct and proximate result of the City's aforesaid acts or omissions, Plaintiff sustained pain and suffering, mental anguish, emotional distress, inconvenience, loss of capacity to enjoy life, loss of wages, loss of future earning capacity, loss of employment-related benefits, back pay, front pay, wage interference and aggravation of a pre-existing condition. Said losses occurred in the past and continue to occur in the future.

61. Plaintiff has retained undersigned counsel and is obligated to pay a reasonable attorney's fee.

WHEREFORE, Plaintiff demands judgment against the City for nominal damages, compensatory damages, interest, attorney's fees pursuant to 42 U.S.C. § 1988, costs, interest and a trial by jury on all issues so triable as of right by a jury

COUNT IV – 42 U.S.C § 1983 (DUE PROCESS) AGAINST THE CITY

62. Plaintiff sues the City under 42 U.S.C. § 1983 for violation of the Due Process Clause of the Fourteenth Amendment of the United States Constitution, re-adopts and re-alleges paragraphs 1-28 as if set forth herein and further states:

63. At all material times, the City acted under color of state law through its officials, agents, and employees.
64. Plaintiff possessed constitutionally protected property interests, including his continued employment, earned wages, and accrued sick leave and vacation benefits.
65. The City, through its policies, customs, and/or practices, deprived Plaintiff of these protected property interests without due process of law.
66. Specifically, the City, acting through its final policymaker D'Andrea, placed Plaintiff on unpaid leave, used Plaintiff's accrued benefits without consent, ignored medical clearance, and terminated Plaintiff's employment.
67. These deprivations occurred without adequate procedural safeguards, including notice and a meaningful opportunity to be heard.
68. The City maintained a policy, custom, or practice of permitting arbitrary and capricious employment actions and failing to implement procedures to protect employees' property rights.
69. The City had actual or constructive knowledge of the unconstitutional conduct and, despite such knowledge, failed to take corrective action, thereby ratifying the unlawful conduct.
70. The policies, customs, and decisions of final policymakers described herein were the moving force behind the deprivation of Plaintiff's rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.
71. At all material times, the City knew that intentional discrimination based on race and national origin violates the Due Clause of the Fourteenth Amendment to the United States Constitution, and that a public employer may not deprive an employee

of protected property interests—including employment, wages, and accrued benefits—without due process of law in violation of the Due Process Clause of the Fourteenth Amendment.

72. At all times material hereto, the City’s policies and customs caused Plaintiff constitutional violations of the Due Process Clause of the Fourteenth Amendment.

73. As a direct and proximate result of Defendant’s aforesaid acts or omissions, Plaintiff sustained pain and suffering, mental anguish, emotional distress, inconvenience, loss of capacity to enjoy life, loss of wages, loss of future earning capacity, loss of employment-related benefits, back pay, front pay, wage interference and aggravation of a pre-existing condition. Said losses occurred in the past and continue to occur in the future.

74. Plaintiff has retained undersigned counsel and is obligated to pay a reasonable attorney’s fee.

WHEREFORE, Plaintiff demands judgment against the City for nominal damages, compensatory damages, interest, attorney’s fees pursuant to 42 U.S.C. § 1988, costs, interest and a trial by jury on all issues so triable as of right by a jury

COUNT V – AGAINST THE CITY UNDER FLA. STAT. 760.10(1)(a)
(RACE DISCRIMINATION)

75. Plaintiff sues the City under Fla. Stat. § 760.10(1)(a) for race discrimination, re-adopts and re-alleges paragraphs 1-28 as if set forth herein and further states:

76. Plaintiff is a member of a protected class based on his race (Black).

77. The City is an “employer” within the meaning of the Chapter 760 of the Florida Civil Rights Act.

78. The City discriminated against Plaintiff with respect to the terms, conditions, and privileges of employment, including but not limited to discipline, leave status, benefits, and termination of employment.
79. Plaintiff's race was a motivating factor in the City's adverse employment actions, including Plaintiff's termination.
80. The City's conduct constitutes unlawful employment discrimination in violation of Fla. Stat. § 760.10(1)(a) based upon race.
81. The City's stated reasons for its actions were pretextual and not the true reasons for Plaintiff's termination and other adverse actions.
82. As a direct and proximate result of the City's aforesaid acts or omissions, Plaintiff sustained pain and suffering, mental anguish, emotional distress, inconvenience, loss of capacity to enjoy life, loss of wages, loss of future earning capacity, loss of employment-related benefits, back pay, front pay, wage interference and aggravation of a pre-existing condition. Said losses occurred in the past and continue to occur in the future.
83. Plaintiff has retained undersigned counsel and is obligated to pay a reasonable attorney's fee.

WHEREFORE, Plaintiff demands judgment against the City for nominal damages, compensatory damages, interest, attorney's fees pursuant to Fla. Stat. § 760.11, costs, interest and a trial by jury on all issues so triable as of right by a jury

COUNT VI – AGAINST THE CITY UNDER FLA. STAT. 760.10(1)(a)
(NATIONAL ORIGIN DISCRIMINATION)

84. Plaintiff sues the City under Fla. Stat. § 760.10(1)(a) for National Origin Discrimination, re-adopts and re-alleges paragraphs 1-28 as if set forth herein and further states:
85. Plaintiff is a member of a protected class because on his place of national origin is Haiti (National Origin).
86. The City is an “employer” within the meaning of the Chapter 760, Florida Statutes.
87. The City discriminated against Plaintiff with respect to the terms, conditions, and privileges of employment, including but not limited to discipline, leave status, benefits, and termination of employment.
88. Plaintiff’s national origin was a motivating factor in the City’s adverse employment actions, including Plaintiff’s termination.
89. The City’s conduct constitutes unlawful employment discrimination in violation of Fla. Stat. § 760.10(1)(a) based upon race.
90. The City’s stated reasons for its actions were pretextual and not the true reasons for Plaintiff’s termination and other adverse actions.
91. As a direct and proximate result of the City’s aforesaid acts or omissions, Plaintiff sustained pain and suffering, mental anguish, emotional distress, inconvenience, loss of capacity to enjoy life, loss of wages, loss of future earning capacity, loss of employment-related benefits, back pay, front pay, wage interference and aggravation of a pre-existing condition. Said losses occurred in the past and continue to occur in the future.
92. Plaintiff has retained undersigned counsel and is obligated to pay a reasonable attorney’s fee.

WHEREFORE, Plaintiff demands judgment against the City for nominal damages, compensatory damages, interest, attorney's fees pursuant to Fla. Stat. § 760.11, costs, interest and a trial by jury on all issues so triable as of right by a jury

WHEREFORE, Plaintiff demands judgment for damages, fees, and costs.

COUNT VII – AGAINST THE CITY UNDER FLA. STAT. 760.10(7)(a)
(RETALIATION)

93. Plaintiff sues the City under Fla. Stat. § 760.10(1)(a) for retaliation, re-adopts and re-alleges paragraphs 1-28 as if set forth herein and further states:

94. Plaintiff engaged in statutorily protected activity, including complaining about discrimination and filing a charge of discrimination against the City.

95. The City is an “employer” within the meaning of Chapter 760, Florida Statutes.

96. The City took materially adverse employment actions against Plaintiff, including but not limited to unwarranted discipline, placement on unpaid leave, misuse and misappropriation of accrued employment benefits, and termination of employment.

97. Plaintiff engaged in protected activity and suffered retaliation.

98. Plaintiff's protected activity was a but-for cause of Defendant's adverse employment actions.

99. The City's conduct constitutes unlawful retaliation in violation of Fla. Stat. § 760.10(7).

100. Defendant's stated reasons for its actions were pretextual and not the true reasons for the adverse employment actions.

101. As a direct and proximate result of Defendant's aforesaid acts or omissions, Plaintiff sustained pain and suffering, mental anguish, emotional distress,

inconvenience, loss of capacity to enjoy life, loss of wages, loss of future earning capacity, loss of employment-related benefits, back pay, front pay, wage interference and aggravation of a pre-existing condition. Said losses occurred in the past and continue to occur in the future.

102. Plaintiff has retained undersigned counsel and is obligated to pay a reasonable attorney's fee.

WHEREFORE, Plaintiff demands judgment against the City for nominal damages, compensatory damages, interest, attorney's fees pursuant to Fla. Stat. § 760.11, costs, interest and a trial by jury on all issues so triable as of right by a jury

COUNT VIII – AGAINST THE CITY UNDER FLA. STAT. § 440.205
(RETALIATION, COERCION AND INTIMIDATION)

103. Plaintiff sues the City under Fla. Stat. § 440.205 for retaliation, coercion and intimidation, re-adopts and re-alleges paragraphs 1-28 as if set forth herein and further states:

104. Plaintiff made a valid workers' compensation claim under Chapter 440, Florida Statutes, arising from a job-related injury .

105. At all times material hereto, Plaintiff has had a pending workers' compensation claim under Chapter 440 pending against Defendant for medical care.

106. At all times material hereto, the City was subject to, and Plaintiff was a beneficiary of, Florida's Worker's Compensation Law under Chapter 440, Florida Statutes, including but not limited to Fla. Stat. § 440.205 which stated: "No employer shall discharge, threaten to discharge, intimidate, or coerce any employee by reason of such employee's valid claim for compensation or attempt to claim compensation under the Workers' Compensation Law."

107. To coerce, intimidate and retaliate against Plaintiff for making a valid workers' compensation claim, the City took materially adverse employment actions against Plaintiff, including but not limited to unwarranted discipline, placement on unpaid leave, administrative leave, referral for psychiatric treatment, misuse and misappropriation of accrued employment benefits and termination of employment.
108. The City's stated reasons for its adverse actions were pretextual and not the true reasons for the adverse employment actions.
109. As a direct and proximate result of Defendant's aforesaid acts or omissions, Plaintiff sustained pain and suffering, mental anguish, emotional distress, inconvenience, loss of capacity to enjoy life, loss of wages, loss of future earning capacity, loss of employment-related benefits, back pay, front pay, wage interference and aggravation of a pre-existing condition. Said losses occurred in the past and continue to occur in the future.
110. Plaintiff has retained undersigned counsel and is obligated to pay a reasonable attorney's fee.

WHEREFORE, Plaintiff demands judgment against the City for nominal damages, compensatory damages, interest, attorney's fees pursuant to Chapter 440, Florida Statutes, costs, interest and a trial by jury on all issues so triable as of right by a jury.

COUNT IX – AGAINST THE CITY FOR CONVERSION

Plaintiff sues the City for conversion, re-adopts and re-alleges paragraphs 1-28 as if set forth herein and further states:

111. Plaintiff possessed vested and identifiable property interests in his accrued sick leave and vacation benefits, which constituted earned compensation and employment-related benefits.
112. The City, without Plaintiff's knowledge or consent, intentionally and wrongfully exercised dominion and control over Plaintiff's accrued sick leave and vacation benefits by applying such benefits as substitute wages while Plaintiff was placed on administrative leave.
113. The City's conversion of Plaintiff's accrued sick leave and vacation benefits for its own use were unauthorized and inconsistent with Plaintiff's ownership rights in those benefits.
114. As a direct result of Defendants' conduct, Plaintiff was deprived of the use and value of his accrued employment benefits.
115. As a direct and proximate result of Defendant's aforesaid acts or omissions, Plaintiff sustained pain and suffering, mental anguish, emotional distress, inconvenience, loss of capacity to enjoy life, loss of wages, loss of future earning capacity, loss of employment-related benefits, back pay, front pay, wage interference and aggravation of a pre-existing condition. Said losses occurred in the past and continue to occur in the future.
116. Plaintiff has retained undersigned counsel and is obligated to pay a reasonable attorney's fee.

WHEREFORE, Plaintiff demands judgment against the City for nominal damages, compensatory damages, interest, attorney's fees, costs, interest and a trial by jury on all issues so triable as of right by a jury

DATED: APRIL 24, 2026

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