

LUCAS COUNTY COMMON PLEAS COURT
CASE DESIGNATION

FILED LUCAS COUNTY
08/31/2020 06:49 PM
COMMON PLEAS COURT
BERNIE QUILTER, CLERK
efile id 58455

TO: Bernie Quilter, Clerk of Courts

CASE NO. _____

JUDGE _____

The following type of case is being filed:

Professional Malpractice

- Legal Malpractice (L)
- Medical Malpractice (M)

Product Liability (B)

Other Tort (C)

Workers' Compensation

- State Funded (D)
- Self Insured (K)

Administrative Appeal (F)

Commercial Docket

G-4801-CI-0202002935-000

Judge

LINDSAY D. NAVARRE

By submitting the complaint, with the signature of the Attorney, the Attorney affirms that the name of person with settlement authority and his/her direct phone number will be provided upon request to a party or counsel in this matter

Other Civil

- Consumer Fraud (N) Forfeiture
- Appropriation (P) Court Ordered
- Other Civil (H) Certificate of Title
- Copyright Infringement (W)

This case was previously dismissed pursuant to CIVIL RULE 41 and is to be assigned to Judge _____, the original Judge at the time of dismissal. The previously filed case number was CI _____.

This case is a civil forfeiture case with a criminal case currently pending. The pending case number is _____, assigned to Judge _____.

This case is a Declaratory Judgment case with a personal injury or related case currently pending. The pending case number is _____, assigned to Judge _____.

This case is to be reviewed for consolidation in accordance with Local Rule 5.02 as a companion or related case. This designation sheet will be sent by the Clerk of Courts to the newly assigned Judge for review with the Judge who has the companion or related case with the lowest case number. The Judge who would receive the consolidated case may accept or deny consolidation of the case. Both Judges will sign this designation sheet to indicate the action taken. If the Judge with the lowest case number agrees to accept, the reassignment of the case by the Administration Judge shall be processed. If there is a disagreement between the Judges regarding consolidation, the matter may be referred to the Administrative Judge.

Related/companion case number _____ Assigned Judge _____

Approve/Deny

Date

Approve/Deny

Date

Attorney

Norman A. Abood, Esq.

Address

136 N. Huron Street, Suite 101

Toledo, Ohio 43604

Telephone

419-724-3700

IN THE COURT OF COMMON PLEAS, LUCAS COUNTY, OHIO

G-4801-CI-0202002935-000

SIERRA ADEBISI
908 Manhattan
Toledo, Ohio 43608

Plaintiff,

v.

CITY OF TOLEDO
ONE GOVERNMENT CENTER
640 JACKSON STREET
TOLEDO, OHIO 43604

AND

WADE KAPSZUKIEWICZ, MAYOR
CITY OF TOLEDO
ONE GOVERNMENT CENTER, SUITE
2200
640 JACKSON ST.
TOLEDO, OH 43604,

AND

BRIAN BYRD, CHIEF
C/O CITY OF TOLEDO FIRE AND RESCUE
DEPARTMENT
545 N. HURON ST.
TOLEDO, OH 43604,

Defendants.

) CASE No.

) JUDGE: HON.

) COMPLAINT WITH DEMAND FOR JURY
) TRIAL ENDORSED HEREUPON

) Norman A. Abood, Esq. (0029004)
) LAW OFFICE OF NORMAN A. ABOOD
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) Toledo, OH 43604
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) *Attorney for Plaintiff, Sierra Adebisi*

NOW COMES the Plaintiff, Sierra Adebisi, by and through her undersigned attorney, Norman A. Abood, and for her Complaint against the City of Toledo (“City”), Wade Kapszukiewicz (“Kapszukiewicz”), and Brian Byrd (“Byrd”) states as follows:

I. PRELIMINARY STATEMENT.

1. Plaintiff, Sierra Adebisi (“Plaintiff”, “Sierra” or “Ms. Adebisi”) is an African American female who was accepted into the City of Toledo Fire & Rescue Department’s Firefighter Training Academy (“Academy”). She began training on February 27, 2019. Almost immediately she began experiencing harassment from male Caucasian instructors which she later learned was because of their desire to run her out of the Academy so that her “seat” in the class could be filled by another Caucasian recruit. To facilitate the plan, the Academy subjected Sierra to a gender and race motivated hostile work environment through repeated harassment by singling her out for unjustified discipline and humiliation by instructors in front of the class, subjecting her to training and testing conditions not required of Caucasian trainees, unfair labeling as insubordinate, shunning and ultimately the Academy with the knowledge and consent of the City Administration wrongful terminated her in violation of the policies and procedures mandated by the Collective Bargaining Agreement between the City and IAFF Local 92, in which Sierra was a member, based on her race and gender.
2. On August 6, 2019, while still a trainee in the Academy, Sierra filed her claims for gender and race based unlawful discrimination with the Ohio Civil Rights Commission.
3. On Friday, August 23, 2019, after having passed all Academy testing requirements and after having been provided her badge, uniform and station assignment, just hours before

graduation, after her friends and family had been notified of her scheduled graduation and many had travelled to attend the same, Fire Chief Brian Byrd, despite the recommendation from the City Office of Diversity and Inclusion that Sierra be allowed to graduate, summarily terminated her for “unsatisfactory performance”.

4. On August 27, 2019, Sierra filed her charge for retaliatory action perpetrated against her for complaining about the race and gender-based discrimination perpetrated against her including, but not limited to, her wrongful termination
5. Following an extensive investigation, by findings dated July 2, 2020, the Ohio Civil Rights Commission determined that it was probable that the City of Toledo had engaged in unlawful discriminatory practices including race and gender based discrimination and retaliation in violation of Ohio Revised Code Chapter 4112.
6. Ms. Adebisi seeks redress economic and personal injuries arising from the Defendants’ unlawful discriminatory acts against her as well as for the false light in which the City has cast her thereby imputing and damaging her professional reputation; and further for the conduct of the Defendants Kapszukiewicz and Byrd, in knowingly and deliberately, wrongfully, discriminating against her on the basis of her race and gender, and in retaliation for her complaining of the race and gender motivated hostile work environment to which she was subjected..

II. THE PARTIES

7. Plaintiff repeats and reiterates each and every allegation set forth in paragraphs 1 through 6 hereinabove as if fully rewritten herein.
8. Plaintiff, Sierra Adebisi is an African American female who at all times relevant hereto has resided within the City of Toledo, Lucas County, Ohio.

9. The Defendant, City of Toledo (hereinafter alternatively referred to as either the, “City”, or “City of Toledo”), operates as a municipality, organized and existing under the laws of the State of Ohio.
10. The Defendant, City of Toledo, is in entity, whether licensed or not, whether incorporated or not, doing business within the County of Lucas, State of Ohio at all times material herein.
11. At all times material herein, Defendant Wade Kapszukiewicz (“Kapszukiewicz”) was and has been the duly elected and sitting Mayor of the City of Toledo and was and has been acting under color of law in the course and scope of his employment at the time of the acts and/or omissions complained of herein.
12. At all times material herein, Defendant Wade Kapszukiewicz, was the “Appointing Authority” as that title is defined by law, for the City of Toledo.
13. At all times material herein, the Defendant City of Toledo Fire & Rescue Department was a Municipal Fire & Rescue Department of the Defendant City of Toledo.
14. Defendant, Brian Byrd (“Byrd”), at all times relevant herein, was and has been the duly appointed and sitting Chief of the City of Toledo Fire & Rescue Department.
15. Defendant Byrd, has, at all times relevant herein, resided within Lucas County, Ohio.

III. JURISDICTION AND VENUE

16. Plaintiff repeats and reiterates each and every allegation set forth in paragraphs 1 through 15 hereinabove, as if fully rewritten herein.

17. This action is brought pursuant to O.R.C. §4112.02¹, O.R.C. §4112.99² and Rule 18 (A)³ of the Ohio Rules of Civil Procedure.
18. O.R.C. §4112.02 (A) prohibits employment discrimination on the basis of, amongst other matters, race and disability. Ms. Adebisi is a female African American citizen of the United States.
19. Defendants, individually and collectively, have no immunity from liability or from punitive damages by virtue of Revised Code Chapter 2744 pursuant to the provisions of O.R.C. § 2744.09 (A), (B), and (C).
20. In addition to the Parties being resident of Lucas County, Ohio, at all relevant times herein, the actions of which Ms. Adebisi complains occurred in Lucas County, Ohio. Venue in this Court is, therefore, proper.

IV. OPERATIVE FACTS

21. Plaintiff repeats and reiterates each and every allegation set forth in paragraphs 1 through 20 hereinabove as if fully rewritten herein.

¹ O.R.C. § 4112.02 provides in pertinent part as follows:

It shall be an unlawful discriminatory practice:

(A) For any employer, because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any person, to discharge without just cause, to refuse to hire, or otherwise to discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment.

...

(J) For any person to aid, abet, incite, compel, or coerce the doing of any act declared by this section to be an unlawful discriminatory practice, to obstruct or prevent any person from complying with this chapter or any order issued under it, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful discriminatory practice.

² O.R.C. § 4112.99 provides as follows:

Civil remedies for violation.

Whoever violates this chapter is subject to a civil action for damages, injunctive relief, or any other appropriate relief.

³ Ohio Rule of Civil Procedure ("ORCP") 18 (A) provides as follows:

Joinder of Claims and Remedies

(A) Joinder of claims. A party asserting a claim to relief as an original claim, counterclaim, cross-claim, or third-party claim, may join, either as independent or as alternate claims, as many claims, legal or equitable, as he has against an opposing party.

22. After having her educational transcripts reviewed by the City and having been physically and academically qualified by the City of Toledo, Plaintiff, Sierra Adebisi, was accepted into Class 293, being the 2019 of the City of Toledo Fire & Rescue Department Training Academy.

23. Plaintiff was hired by the City as a classified employee effective February 27, 2019.

24. Almost immediately after being hired by the City instructors under the control Mayor Kapszukiewicz and Fire Chief Byrd, began harassing and attempting to intimidate Sierra by amongst other means,

- a. Subjecting her to unfair and disparate testing conditions;
- b. Subjecting her to unfair and disparate testing requirements;
- c. Subjecting her to unfair and disparate discipline;
- d. Subjecting her to a racially motivated hostile work environment;
- e. Subjecting her to a gender motivated hostile work environment;
- f. Failing to provide her with assistance as required by the Collective Bargaining Agreement between the Union of which she was a member in good standing and the City

- These claims of hostile, unfair and disparate treatment are more fully detailed in the Ohio Civil Rights Commission Letters of Determination, dated July 2, 2020, in case no. TOL72(40039)08062019/22A-2019-03022C, a true and accurate copy of which is attached hereto and made a part hereof as **Exhibit A**, and in case no. TOL72(40082)08272019/22A-2019-03273C a true and accurate copy of which is attached hereto and made a part hereof as **Exhibit B**.

25. Defendants, City of Toledo, Kapszukiewicz and Byrd, jointly and/or severally provided other non-African American and Caucasian trainees in Ms. Adebisi's same class with more favorable treatment than they afforded Ms. Adebisi. Specifically, but not by way of limitation, this more favorable treatment included:
- a. allowing non-African American trainees in Ms. Adebisi's class additional points necessary to obtain passing grades on tests; and
 - b. allowing non-African American trainees in Ms. Adebisi's class opportunities to retake tests thereby allowing them to pass those tests;
 - c. allowing non-African American trainees in Ms. Adebisi's class more lenient treatment with regard to discipline.
26. Defendants jointly and/or severally provided other non-African American and Caucasian trainees in Ms. Adebisi's same class with more favorable treatment than afforded Ms. Adebisi with regard to employment conditions and/or adherence to established policies and procedures.
27. Although fully aware of Ms. Adebisi's disability, her rights to performance enhancement plans, and/or stepped discipline and/or the policies and procedures required for removal of a classified employee from the Fire Department, on August 23, 2019, Defendant Byrd issued a correspondence to Ms. Adebisi removing her from the Academy effective immediately (the "Byrd Termination Letter").
28. The City and Defendant Byrd wrongfully terminated Ms. Adebisi in violation Collective Bargaining Agreement ("CBA") between the City of Toledo and IAFF Local 92, the Toledo Firefighters Union.

29. Pursuant to the CBA, Section 2125.20, between the City of Toledo and IAFF Local 92, the Toledo Firefighters Union, Defendant Byrd did not have the authority to terminate Ms. Adebisi unless and until he issued a recommendation for termination to the City's Director of Public Safety, who was, at all times material herein, acting under the direct supervision and control of Defendant Kapszukiewicz, and the City's Director of Public Safety then approved the termination.
30. Defendant Byrd did not request approval for terminating Ms. Adebisi until after terminating Ms. Adebisi.
31. Although Defendant Kapszukiewicz later approved Sierra's termination, neither the City's Safety Dir. nor Defendant Kapszukiewicz, although aware Sierra had been terminated without their approval on August 23, 2019, they wrongfully, knowing that their approval was required as a prerequisite to termination, after the fact, approved Ms. Adebisi's termination.

**COUNT ONE
(DISCRIMINATION)**

32. Plaintiff repeats and reiterates each and every allegation set forth in paragraphs 1 through 31 hereinabove as if fully rewritten herein.
33. Defendant City of Toledo is an Ohio employer.
34. Plaintiff, Ms. Adebisi, is a member of a protected class under Ohio law based upon her race.
35. Plaintiff, Ms. Adebisi, is a member of a protected class under Ohio law based upon her gender.
36. That Defendants, jointly and/or separately, knew Ms. Adebisi was a member of a protected class based upon her race and/or gender, but despite that knowledge treated her so

differently and to her disadvantage from the treatment Defendants afforded other similarly situated but non-African-American employees as to constitute disparate treatment as that term is defined under the laws of the State of Ohio.

37. At all times material herein, Defendants Kapszukiewicz and Byrd were acting within the scope of their duties for and on behalf of the City of Toledo.

38. At all times material herein, Defendants Kapszukiewicz and/or Byrd knew that Sierra was being subjected to race and/or gender based discrimination, but, despite having the power and authority to correct such treatment, they jointly and/or severally refused to take any steps to mitigate or otherwise stop or prevent the same.

39. At all times material herein, Defendants Kapszukiewicz and/or Byrd, having the power and authority to correct the wrongful, discrimination and disparate treatment being perpetrated by Academy instructors against Sierra, refused to take any effective steps to mitigate and/or otherwise stop or prevent the same.

40. That the reasons stated by the Defendants, jointly and/or severally, for terminating Ms. Adebisi were false and/or pretextual.

41. Defendants, jointly and/or severally, knowingly discriminated against Ms. Adebisi in violation of O.R.C. 4112.02 (A) because of her race.

42. Defendants, jointly and/or severally knowingly discriminated against Ms. Adebisi in violation of O.R.C. 4112.02 (A) because of her gender.

43. Defendants Kapszukiewicz and/or Byrd, jointly and/or severally, knowingly discriminated against Ms. Adebisi in violation of O.R.C. 4112.02 (J).

44. That Defendants joint and/or several actions against Ms. Adebisi were undertaken with such knowledge, malice, intent to injure and/or with such reckless or wanton disregard for Ms. Adebisi's rights as entitle her to an award of punitive damages, and/or attorney fees.
45. As a direct and proximate result of Defendants, joint and/or several, discrimination against Ms. Adebisi as aforesaid, Ms. Adebisi was wrongfully terminated from her professional work and was humiliated in the eyes of her peers in the community.
46. As a direct and proximate result of Defendants joint and/or several discrimination against Ms. Adebisi as aforesaid, Ms. Adebisi is entitled to reinstatement of her position, restoration of all lost wages and benefits, and an award of other actual and/or compensatory damages and attorney fees, jointly and/or severally, against all Defendants.
47. As a direct and proximate result of the Defendants Kapszukiewicz and/or Byrd's joint and/or several outrageous conduct as detailed hereinabove against Ms. Adebisi, Ms. Adebisi is entitled to an award of punitive damages and attorney fees, jointly and/or severally, against Defendants Kapszukiewicz and/or Byrd.

**COUNT TWO
(FALSE LIGHT)**

48. Plaintiff repeats and reiterates each and every allegation set forth in paragraphs 1 through 47 hereinabove as if fully rewritten herein.
49. Defendants, jointly and/or severally, individually and/ or in combination publicized Plaintiff's alleged failures and performance deficiencies so widely and to so many people that the matter was substantially certain and did in fact become one of general public knowledge.
50. Defendants, jointly and/or severally, individually and/or in combination publicized false allegations against Plaintiff to the general population of the Northwest Ohio region, and to

the Toledo and Ohio and/or firefighter communities. Plaintiff's public image will be forever stained as that of one who is incompetent and/or incapable of performing firefighter duties.

51. Defendants had knowledge of and/or acted with reckless disregard as to the falseness of the publicized charges and the false light in which such publications would place Plaintiff.
52. That Defendants joint and/or several actions against Ms. Adebisi as aforesaid were undertaken with such knowledge, malice, intent to injure and/or with such reckless or wanton disregard for Ms. Adebisi's rights as entitle her to an award of punitive damages, and/or attorney fees.
53. The aforesaid conduct of Defendants was undertaken, jointly and/or severally, with malicious purpose, in bad faith, and/or in wanton and/or in a reckless manner, which they jointly and/or severally intended, knew, and or reasonably should have known, would cause grievous injury to Ms. Adebisi.
54. Ms. Adebisi has been injured as a direct and proximate result of the joint and/or several unlawful conduct of these Defendants through the loss of employment status, through the loss of income and employment benefits, through the loss of professional reputation and career impairment, and through their joint and/or several infliction upon her of extreme emotional distress.
55. As a direct and proximate result of the Defendants joint and/or several outrageous conduct as detailed hereinabove against Ms. Adebisi, Ms. Adebisi is entitled to reinstatement in her position, restoration of all lost wages and benefits, and an award of other compensatory damages and attorney fees, jointly and/or severally, against all Defendants.

56. As a direct and proximate result of the Defendants Kapszukiewicz and/or Byrd's joint and/or several outrageous conduct as detailed hereinabove against Ms. Adebisi, Ms. Adebisi is entitled to an award of punitive damages and attorney fees, jointly and/or severally, against Defendants Kapszukiewicz and/or Byrd.

WHEREFORE, Plaintiff, Ms. Sierra Adebisi, respectfully prays as follows:

- (A) that she be allowed a trial by jury on all issues so triable herein.
- (B) That on Count One (Discrimination) she be awarded judgment against Defendants jointly and/or severally for actual and compensatory damages, including, but not limited to, the amount of all salary and the value of all benefits lost due to the Defendants, joint and/or several discrimination against her, both racial and based upon her gender, in an amount in excess of \$25,000, the full extent of which shall be proven at trial, and that she have an award of punitive damages against Defendants Kapszukiewicz and Byrd, jointly and/or separately, in an amount determined by the jury but not less than 3 times the amount of the actual compensatory damages awarded to her, and further that she be awarded her reasonable attorney fees and costs;
- (C) That on Count Two (False Light) she be awarded judgment against Defendants jointly and/or severally for actual and compensatory damages in an amount in excess of \$25,000, the full extent of which shall be proven at trial, and that she have an award of punitive damages against Defendants Kapszukiewicz and Byrd, jointly and/or separately, in an amount determined by the jury but not less than 3 times the amount of the actual compensatory damages awarded to her, and further that she be awarded her reasonable attorney fees and costs;

(D) That she be awarded such other and further judgment against the Defendants, jointly and/or severally, as the Court deems just or equitable.

Dated: August 31, 2020

Respectfully Submitted.

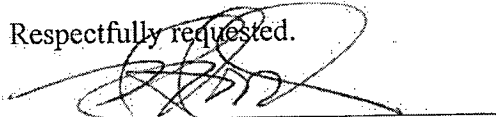


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136 N. Huron St.
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Phone: 419.724.3700
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E-mail: norman@nabood.com
Attorney for Plaintiff, Sierra Adebisi

JURY DEMAND

Plaintiff respectfully request trial by jury on all issues so triable herein.

Respectfully requested.



Norman A. Abood, Esq.

PRAECIPE

To the Clerk of Court

Dear Clerk:

PLEASE SERVE THE FOREGOING COMPLAINT, WITH SUMMONS, UPON ALL NAMED DEFENDANTS AS SET FORTH IN THE CAPTION TO THIS PLEADING BY 1ST CLASS UNITED STATES CERTIFIED MAIL, POSTAGE PREPAID, WITH RETURN RECEIPT REQUESTED.

Respectfully requested.



Norman A. Abood, Esq.

EXHIBIT 1



OHIO CIVIL RIGHTS COMMISSION

Governor Mike DeWine

Commissioners: Lori Barreras, Chair | Juan Cespedes | William Patmon, III | Dr. Carolyn Peters | Madhu Singh
Executive Director Angela Phelps-White

July 2, 2020

Date Mailed July 2, 2020

Sierra Adebisi
524 Nicholas Street
Toledo, OH 43609

Dale R. Emch, Law Director
City of Toledo
One Government Center, Suite 2250
Toledo, OH 43604

LETTER OF DETERMINATION

Sierra Adebisi v. City of Toledo, Mayor & Toledo Fire & Rescue Department
TOL72(40039)08062019/22A-2019-03022C

FINDINGS OF FACT:

Charging Party filed a charge of discrimination with the Ohio Civil Rights Commission alleging Respondent engaged in an unlawful discriminatory practice. All jurisdictional requirements for filing a charge have been met.

After receiving the charge, the Commission conducted an investigation into Charging Party's allegation against Respondent. During the investigation, the Commission considered relevant documents and testimony. The information gathered does support a recommendation that Respondent unlawfully discriminated against Charging Party.

Charging Party is an African American female person who was accepted into the Toledo Fire Department's firefighter academy. Charging Party alleges that she was discriminated against concerning discipline and harassment (hostile work environment) based on race and sex. Charging Party believes she was harassed due to being more closely scrutinized, monitored, disciplined, and in the manner in which she was treated by Caucasian trainers.

It is Respondent's position that Charging Party failed to appear for a meeting scheduled with the Diversity and Inclusion Office to address the harassment complaint on June 20, 2019. Respondent indicated Charging Party was disciplined for various violations and routinely ignored the carpooling directive and drove herself to the academy.

Information shows Charging Party began as a Fire-Trainee (hereinafter referred to as a "recruit") with the firefighter academy on February 27, 2019. Charging Party took a written test on Chapters 6 and 25 on March 8, 2019, failed the test, and received a written counseling on March 11, 2019. Subsequently, on March 20, 2019, Charging Party did not have sufficient time to study for the retest, requested sufficient study time and Captain Michael Romstadt, a Caucasian trainer, refused said request. Another African American female recruit complained that she did not receive sufficient study time to retake the test. Another trainer, who is African American, granted her request.

On or about March 20, 2019, Charging Party complained several times to academy leadership that she was being discriminated against and harassed. On May 24, 2019, Charging Party filed a complaint with the Office of Diversity and Inclusion alleging sex and racial harassment. Subsequently, on June 25, 2019, Charging Party notified Chief Brian Byrd that she, along with several other African American recruits, had been subjected to intentional racial discrimination resulting in a hostile employment and working environment.

On March 29, 2019, Charging Party received a written reprimand for failing a test on Chapter 14 (second test failure). On April 1, 2019, Charging Party received a written counseling for leaving her gear and not following the chain of command. On June 18, 2019, Charging Party received a written reprimand for violation of the carpool policy and a missing assignment. On June 24, 2019, Charging Party received a written reprimand for a missed assignment. On June 25, 2019, Charging Party received a written counseling for covering her eyes, leaving without permission, and turning sideways during a lecture. Witness information shows that other recruits made rookie mistakes, left their gear, and carpool violations, however, were not counseled and/or disciplined.

Documents show the Toledo Fire and Rescue Department Training Bureau Policy is as follows:

Test Failures

- 1st Counseling Session with the Captain of Training and performance improvement plan will be developed.
- 2nd Written reprimand from the Battalion Chief of Training, performance improvement plan reviewed and developed.
- 3rd Recommendation for dismissal from program.

Information and documents show that Charging Party did not receive a performance improvement plan. Information shows two recruits, not of Charging Party's protected classes, received more lenient treatment in terms of discipline for failed tests. Each failed test can result in written counseling up to a recommendation for dismissal from the program.

Information shows the male recruits were permitted to retake the tests with sufficient time between the failed test and the retaking of the test. *All* Caucasian male recruits who had to retake tests were given sufficient notice to do so. As previously stated, Charging Party was given a one-day notice to retake a test.

Only African American recruits received written reprimands. Further, African American recruits were more often than not required to provide written communications and were admonished for conduct and/or performance while Caucasian recruits for the same or similar performance and conduct were not. Written communications are not discipline and simply acknowledge a violation or mistake.

Witness information shows that in previous academy classes, and also in the current academy class the Charging Party participated in, Caucasian males and females were given numerous chances to pass academy tests.

Information shows African American female recruits were made fun of and ridiculed for violations or asking too many questions while Caucasian male recruits were not. At least one other African American female recruit and Charging Party were closely scrutinized and monitored. Witness information revealed at one point during class, Charging Party was taken out into the hall by Captain Romstadt. The witness further stated, "Captain Romstadt just destroyed her in the hallway over an issue with workout attire." Charging Party was so distraught and upset that she burst out into tears and EAP had to be contacted.

Witness information also revealed that Lieutenant/Acting Captain John Rodriguez, Hispanic, and Battalion Chief Matthew Brixey, Caucasian, continued to lead the recruits to believe that carpooling was still required even after Chief Byrd indicated it was not a violation. This further created division between Charging Party and the other recruits.

Information shows a Caucasian male recruit used the "N-word" on May 17, 2019, and an investigation was conducted by the Professional Standards Bureau on or about June 28, 2019. However, the Caucasian male recruit received no discipline during his training period in the academy. Witness information shows that two other Caucasian male recruits each received a counseling for harassing and discriminatory comments against legally protected classes. Witness information indicates that the use of discriminatory language, including the n-word, is a terminable offense.

Witness information shows that when Charging Party and another African American female recruit asked too many questions, they were labeled as insubordinate. Academy instructors interpreted this as attitude, and they were not sensitive to the culture. This was used as one of the grounds for Charging Party's dismissal.

Information shows that as early as Charging Party's first week in the academy, Lieutenant/Acting Captain Rodriguez stated Charging Party was not going to make it through the academy. Rodriguez and other academy instructors began discussing potential alternate replacement recruits and were relishing the thought of replacing Charging Party.

Charging Party as well as other African American recruits complained on numerous occasions about racial harassment. Complaints were made to the Office of Diversity and Inclusion, academy leadership, and Chief Byrd. On July 17, 2019, Charging Party had indicated to Battalion Chief Brixey and Lieutenant/Acting Captain Rodriguez that she had continuous discipline and recruits not of her protected classes that were being treated more favorably.

Charging Party did not appear for the meeting with the Office of Diversity and Inclusion because she was told by David Thornton, Senior EEO Professional, that she could not have representation at the meeting. Witness information indicates that the harassment complaints were placed in a drawer, and little or no action was taken by Thornton. A witness indicated that employees had very little faith in the Office of Diversity and Inclusion because they believe that very little would be done if they complained.

Charging Party was subjected to repeated harassment by senior management. In addition, the use of the "N-word" created a hostile environment. Charging Party was shunned by fellow recruits and senior management knew of the harassment and tolerated it. Charging Party and other African Americans made repeated complaints about harassment.

Witness information shows that training was conducted "boot camp" style, but particularly apparent was the treatment of yelling and the singling out of the Charging Party. Information shows African Americans and Charging Party have been singled out for adverse treatment, but Charging Party as an African American female had been treated differently. For example, witness information revealed that in one case a Caucasian female was provided multiple chances when attempting to pass academy requirements. However, when Charging Party and another African American female attempted to ask questions, conflict resulted, and they were viewed as insubordinate. Further, records show only African Americans have been disciplined.

The interaction of two characteristics resulted in Charging Party's adverse treatment. Charging Party was not discriminated against solely based on race or sex, but because she was an African American female. Therefore, compound discrimination was the end result because race and sex discrimination proved to be present in the adverse treatment of the Charging Party. Moreover, discipline escalated when Charging Party complained of discrimination, and management became offended and further targeted Charging Party for discipline. Upon discovery, Charging Party was also discriminated against when she complained of discrimination based on retaliation. Subsequent to her complaints, the harassment escalated.

DECISION:

The Ohio Civil Rights Commission determines it is **PROBABLE** that Respondent has engaged in an unlawful discriminatory practice in violation of Ohio Revised Code Chapter 4112. Therefore, the Commission hereby orders that this matter be scheduled for **CONCILIATION**.

In accordance with Ohio Revised Code § 4112.05(A) and Ohio Administrative Code § 4112-3-03(C), the Commission invites you to participate in conciliation by informal methods of conference, conciliation and persuasion. Enclosed is a draft Conciliation Agreement and Consent Order for your consideration. Brad Adams has been assigned as Conciliator and can be reached by telephone at 419-245-2911 or by email at brad.adams@civ.ohio.gov. **Please contact the Conciliator to discuss the conciliation process.** If the Commission's attempts at conciliation are unsuccessful, a formal complaint will be issued, and the case will be scheduled for a public hearing.

NOTICE OF RIGHT TO REQUEST RECONSIDERATION:

Pursuant to Ohio Administrative Code § 4112-3-04, you have the right to request reconsideration of this determination of the Commission. The application must be in writing and state specifically the grounds upon which it is based. If you wish to appear before the Commissioners to present oral arguments supporting your request, you must specifically make a request to appear in writing.

This request must be sent to the Compliance Department, Ohio Civil Rights Commission, 30 East Broad Street, 5th Floor, Columbus, Ohio 43215. You must submit the request for reconsideration, along with all additional evidence or supporting documentation, within **TEN (10) days** of the date of mailing of this notice. Any application for reconsideration or additional materials received by the Compliance Department in the Commission's Columbus Central Office after the ten-day period has expired will be deemed untimely filed. Extensions of this ten-day filing period are not permitted.

FOR THE COMMISSION,

Inder F. LeVesque

Inder F. LeVesque
Toledo Regional Director
IFL/sms

cc: **Representative for Charging Party:**

Norman A. Abood
Attorney at Law
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EXHIBIT 2



OHIO CIVIL RIGHTS COMMISSION

Governor Mike DeWine

Commissioners: Lori Barreras, Chair | Juan Cespedes | William Patmon, III | Dr. Carolyn Peters | Madhu Singh
Executive Director Angela Phelps-White

July 2, 2020

Date Mailed July 2, 2020

Sierra Adebisi
524 Nicholas Street
Toledo, OH 43609

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LETTER OF DETERMINATION

Sierra Adebisi v. City of Toledo, Fire & Rescue Department
TOL72(40082)08272019/22A-2019-03273C

FINDINGS OF FACT:

Charging Party filed a charge of discrimination with the Ohio Civil Rights Commission alleging Respondent engaged in an unlawful discriminatory practice. All jurisdictional requirements for filing a charge have been met.

After receiving the charge, the Commission conducted an investigation into Charging Party's allegation against Respondent. During the investigation, the Commission considered relevant documents and testimony. The information gathered does support a recommendation that Respondent unlawfully discriminated against Charging Party.

Charging Party is an African American female person who engaged in protected activity and was accepted into the Toledo Fire Department's firefighter academy. Charging Party alleges that she was discriminated against concerning harassment (hostile work environment) and termination based on race, sex, and in retaliation for participating in statutorily protected activity. Charging Party made internal complaints of discrimination and also filed a discrimination charge with the Ohio Civil Rights Commission on August 6, 2019 (TOL72 (40039)08062019/22A-2019-03022C).

Respondent asserts Charging Party was terminated because she demonstrated a pattern of inability to follow orders, rules, and directives of the Fire and Rescue Department. Respondent further asserts that Charging Party demonstrated a lack of responsibility for her actions, a lack of respect for authority, and was terminated due to unacceptable performance while in the academy. Respondent asserts Charging Party consistently performed poorly regarding classroom disruption and the physical fitness component of the firefighter academy.

Information shows Charging Party began as a Fire-Trainee (hereinafter referred to as a "recruit") with the firefighter academy on February 27, 2019. The Commission's investigation with regard to Charging Party's previous charge (TOL72(40039)08062019/22A-2019-03022C) revealed information supporting Charging Party's allegations of harassment.

Charging Party, as well as other African American recruits, complained on numerous occasions about racial harassment. Complaints were made to the Office of Diversity and Inclusion, academy leadership, and Chief Brian Byrd, African American. On July 17, 2019, Charging Party had indicated to Battalion Chief Matthew Brixey, Caucasian, and Lieutenant/Acting Captain John Rodriguez, Hispanic that she had continuous discipline and recruits not of her protected classes were being treated more favorably.

Witness information shows that Charging Party was yelled at to the point she had to seek EAP services. She was made to believe she was violating the carpooling policy when in fact, the policy was illegal. Respondent's carpool policy required recruits to ride together and report for work prior to the paid start time. On July 18, 2019, Chief Byrd acknowledged that the carpooling policy was in fact illegal. Recruits were not made aware of the illegal policy and isolated Charging Party from their group because they thought she was still in violation. On June 25, 2019, Charging Party advised Chief Byrd that she believed she was discriminated against concerning training, and a lack of opportunity to ask questions and receive guidance. She further stated to Chief Byrd that she received differential treatment in terms of discipline. She also told Chief Byrd that Battalion Chief Brixey and Acting Captain Rodriguez had a conversation about replacing her with someone from the alternate list. This conversation took place during the first week of Charging Party's employment. This information conveyed to Chief Byrd by Charging Party is supported by witness information. Chief Byrd took no remedial action to resolve Charging Party's complaint.

Witness information shows Charging Party was singled out regarding her work performance, made to feel like she could not ask questions, and was separated from the group to be yelled at. Witness information shows that Charging Party was held to a work standard that others were not. Another African American female recruit who witnessed the hostile work environment Charging Party was subjected to, became so intimidated that she stopped asking questions of the instructors. The African American female told Commission staff that she attempted to ask a question, was told it was a bad question, and therefore, she had to drop and give the Caucasian male instructor pushups. The female African American witness felt like she was treated like Charging Party because of her race as well. Although this witness became silent in training classes, she noticed Charging Party continued to ask questions and document her treatment. Charging Party and this African American female were labeled as insubordinate and attitudinal when questioning instructors. There was a Caucasian male recruit who went back-and-forth with a Caucasian instructor, became disruptive in class, and was not disciplined. For similar behavior, an African American female received a written reprimand. A witness revealed that the training is ran paramilitary style, and that they (Caucasian senior management) use it as an excuse to mistreat African American recruits and reward the Caucasian recruits. On one occasion, Charging Party indicated her back went out and she was made to ride a stationary bike all day long.

On or about March 20, 2019, Charging Party complained several times to academy leadership that she was being discriminated against and harassed. On May 24, 2019, Charging Party filed a complaint with the Office of Diversity and Inclusion alleging sex and racial harassment. Subsequently, on June 25, 2019, Charging Party notified Chief Byrd that she, along with several other African American recruits, had been subjected to intentional racial discrimination resulting in a hostile employment and working environment.

On March 29, 2019, Charging Party received a written reprimand for failing a test on Chapter 14. On April 1, 2019, Charging Party received a written counseling for leaving her gear and not following the chain of command. On June 18, 2019, Charging Party received a written reprimand for violation of the carpool policy and a missing assignment. On June 24, 2019, Charging Party received a written reprimand for a missed assignment. On June 25, 2019, Charging Party received a written counseling for covering her eyes, leaving without permission, and turning sideways during a lecture. Witness information shows that other recruits made rookie mistakes, left their gear, and had carpool violations, however were not counseled and/or disciplined.

Information shows that when there is a violation, the recruit may be required to write a communication which identifies the violation or performance error and indicates it will be corrected in the future. Information reveals only African American recruits were disciplined, while more often than not, Caucasians merely had to write communications instead of receiving discipline. A witness disclosed that "Adebisi did dumb rookie stuff that all the rookies did all the time and she was the only one they went after to get fired for that stuff." Three Caucasian males made discriminatory and disparaging remarks and were not disciplined as recruits in training. Information shows in a previous class, a Caucasian female was given numerous chances to pass testing requirements, unlike Charging Party.

The investigation shows Charging Party was treated differently concerning discipline, which led to her termination. A Caucasian recruit used the "N-word" on May 17, 2019. Witness information indicates this should be considered a dischargeable offense. On May 20, 2019, Battalion Chief Brixey forwarded the matter to the Office of Diversity and Inclusion and the Professional Standards Bureau for an investigation. An investigation ensued almost a month after the complaint. Documents show the investigation and discipline had been prolonged until this recruit had union protection as a probationary employee. On August 6, 2019, the union and Respondent reached an agreement concerning the discipline of the aforementioned recruit, now a probationary employee, stating that he would be suspended and trained. He did not serve his suspension until September 8, 2019, more than three months after the incident involving the use of the "N-word". The employee, as part of the agreement, was to receive training by the Office of Diversity and Inclusion. He did not receive training until after Commission staff inquired on more than one occasion between November 2019, and March 2020 about the training pursuant to the letter of agreement. On March 19, 2020, the Caucasian probationary employee finally received training conducted by the Director of Diversity and Inclusion, Matthew Boaz, African American. Boaz declared to Commission staff, "I lit his a** up."

Charging Party and one other African American have been terminated from this class. No Caucasians have been terminated from this class or the previous class. There were no African American females in the previous class. Respondent failed to provide the Commission with hiring records, although requested more than once.

Witness information shows that Charging Party was targeted almost immediately after being hired because she complained of racial discrimination. Witness information indicates Charging Party was singled out, closely monitored, isolated from other recruits, subjected to harassment in the form of discipline, and scrutinized more closely after complaining about racial discrimination. Trainers created division between Charging Party and other recruits.

Charging Party passed all testing requirements, and had already been provided her badge, uniform, and station assignment, when she was terminated hours before graduation. It is noted that Diversity and Inclusion made the recommendation to allow Charging Party to graduate and be evaluated during her probationary period. This appears to be the acceptable manner in which Caucasian employees are treated with performance and conduct issues, as shown by numerous communications, i.e. memos from recruits.

To this day, recruits tend to ridicule Charging Party and referred to her as "Ade-greasy" in a group text, just as similar behavior was exhibited in a classroom setting when African American females were ridiculed for asking questions.

This case involved retaliation due to Charging Party engaging in protected activity, as well as compound discrimination (race and sex together). Charging Party was excluded from certain aspects of training and interaction with male instructors because she was an African American female. Charging Party and other African Americans were treated differently also because of singular race discrimination. Charging Party was terminated based on compound discrimination and in retaliation for complaining about the discrimination.

DECISION:

The Ohio Civil Rights Commission determines it is **PROBABLE** that Respondent has engaged in an unlawful discriminatory practice in violation of Ohio Revised Code Chapter 4112. Therefore, the Commission hereby orders that this matter be scheduled for **CONCILIATION**.

In accordance with Ohio Revised Code § 4112.05(A) and Ohio Administrative Code § 4112-3-03(C), the Commission invites you to participate in conciliation by informal methods of conference, conciliation and persuasion. Enclosed is a draft Conciliation Agreement and Consent Order for your consideration. Brad Adams has been assigned as Conciliator and can be reached by telephone at 419-245-2911 or by email at brad.adams@civ.ohio.gov. **Please contact the Conciliator to discuss the conciliation process.** If the Commission's attempts at conciliation are unsuccessful, a formal complaint will be issued, and the case will be scheduled for a public hearing.

NOTICE OF RIGHT TO REQUEST RECONSIDERATION:

Pursuant to Ohio Administrative Code § 4112-3-04, you have the right to request reconsideration of this determination of the Commission. The application must be in writing and state specifically the grounds upon which it is based. If you wish to appear before the Commissioners to present oral arguments supporting your request, you must specifically make a request to appear in writing.

This request must be sent to the Compliance Department, Ohio Civil Rights Commission, 30 East Broad Street, 5th Floor, Columbus, Ohio 43215. You must submit the request for reconsideration, along with all additional evidence or supporting documentation, within **TEN (10) days** of the date of mailing of this notice. Any application for reconsideration or additional materials received by the Compliance Department in the Commission's Columbus Central Office after the ten-day period has expired will be deemed untimely filed. Extensions of this ten-day filing period are not permitted.

FOR THE COMMISSION,

Inder F. LeVesque

Inder F. LeVesque
Toledo Regional Director
IFL/sms

cc: **Representative for Charging Party:**

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