

Fairfax, VA 222035)
 Phyllis Schwartz)
 12000 Government Center Parkway)
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 Terry Hall)
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 John Caussin)
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 Richard Bowers)
 12000 Government Center Parkway)
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 Brian Edmonston)
 12000 Government Center Parkway)
 Fairfax, VA 222035)
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 Defendants.)
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COMPLAINT FOR CIVIL CONSPIRACY, INTENTIONAL MALICIOUS INTERFERENCE WITH HER EMPLOYMENT RELATIONSHIP, AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

INTRODUCTION

Plaintiff Patricia Tomasello (hereinafter “Plaintiff”) hereby complains through undersigned counsel about the civil conspiracy which the various Defendants named herein instigated, encouraged, and participated in for the past 20 years. Their goal was to continue a twenty-year-long vendetta instigated by Chief Reilly and directed at her by senior officials and line-duty firefighters. This vendetta was encouraged by a number of fire chiefs and other subordinates located in the Fairfax County Fire Department (hereinafter the “department”). The civil conspiracy had two goals: (1) maliciously and intentionally interfere with her ongoing employment relationship with the department’s fire investigations unit; and (2) have her removed from the department on whatever pretext senior officials could come up with, including planting marijuana in her vehicle and accusing her of various unprofessional conduct, e.g., lying about activities that her son, who was a recruit

firefighter, had engaged in without her knowledge. They have succeeded in this conspiracy because she has been transferred out of the fire investigations unit, stripped of her position and rank status and forced into to a civilian office with a resultant significant loss in annual pay and retirement benefits, with no hope of further promotion within the department.

All Defendants: (a) despised and resented Plaintiff because she reported unprofessional conduct, e.g., scantily-clad Hooters girls partying with firefighters on a truck in public; (b) made life miserable for her on the job by constantly bullying her and other female firefighters, calling her a “bitch”, and refusing to talk to her or train her in any fire-related aspects of investigative skills; (c) accused her of securing employment as a firefighter only because she was black and female; (d) collaborated with each other making up phony charges against her to besmirch her reputation and portray her as a troublemaker in the department. Some Defendants named herein, specifically Pullins and Young, resented her for an additional reason, i.e., they had each approached her for sexual favors and had been rebuffed repeatedly. She had timely reported this unprofessional and lewd conduct, i.e., explicit sexual comments, to the Progressive Firefighters’ Association (hereinafter “PFA”); (e) made Plaintiff participate in exaggerated training to further belittle, demoralize and harass her; (f) made Plaintiff participate in strenuous activities while she was fighting a potentially deadly illness (Stage III Lymphoma cancer) and while she was on light duty. Requiring Plaintiff to participate in such strenuous activities specifically contradicted departmental rules and regulations, and all Defendants knew this to be the case. Like all of the complaints she had filed during the past 20 years, her complaint regarding participating in unnecessary training activities went nowhere. The chief conspirator, Chief Reilly, and his longtime friend and colleague, Chief Barrero, made sure that was the case.

VENUE

1. Venue is appropriate in this Court because all the activities that Plaintiff has complained about

have occurred in Fairfax County, Virginia. All the Defendants reside and live here in Fairfax County.

JURISDICTION

2. This Court has jurisdiction over all of the parties named herein because they all work and most of them are domiciled in Fairfax County and the other Defendants are domiciled in Virginia based on information and belief. Based on Virginia Code § 8.01-328.1, this Court has jurisdiction over all of the Defendants.

PARTIES

3. Plaintiff is currently employed with Fairfax County Fire Department and has been employed for twenty years. She has recently been transferred from a Uniform Fire Officer position to a civilian job sector position. She did not ask for such a transfer.
4. Defendant Michael Reilly has been a fire chief with the Fairfax County Fire Department for a number of years. He started off as a line firefighter approximately thirty years ago. Based on information and belief he is now retired. He is domiciled in Fairfax County, Virginia.
5. Defendant Peter Pullins has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. He is recently retired.
6. Defendant Timothy Young has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. He is domiciled in Fairfax County, Virginia.
7. Defendant Edward Brinkley has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. He is recently retired.
8. Defendant Glen Jackson has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. He is domiciled in Fairfax County, Virginia.

9. Defendant Michael Louis has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. He is domiciled in Fairfax County, Virginia.
10. Defendant Daniel Kwiatkowski has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. He is domiciled in Fairfax County, Virginia.
11. Defendant Sheryl Hemmingway has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. She is domiciled in Fairfax County and is currently dating a fire chief.
12. Defendant James Sobota has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. He is domiciled in Virginia.
13. Defendant John Diamantes has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff and based on information and belief he is domiciled in Virginia.
14. Defendant Anthony Barrero has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. He is domiciled in Fairfax County, Virginia.
15. Defendant Guy Morgan has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. He is domiciled in Fairfax County, Virginia.
16. Defendant Phyllis Schwartz has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. She is domiciled in Virginia.
17. Defendant Terry Hall has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. He is domiciled in Virginia.

18. Defendant John Caussin has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. He is domiciled in Virginia.
19. Defendant Richard Bowers has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. He is domiciled in Virginia.
20. Defendant Brian Edmonston has been an employee for the Fairfax County Fire Department for a number of years and on occasion has served with Plaintiff. He is domiciled in Virginia.

COMMON ALLEGATIONS

21. In 1996, Plaintiff commenced working with Fairfax County Fire Station 29, having passed all tests, which were also given to her male counterparts. Right from the outset at Station 29, she had experienced hostility from her coworkers (for example, being called a “bitch” and being labeled as disrespectful of authority) and had received undue criticism from supervisory officials despite having secured positive annual evaluation ratings and numerous awards. She was transferred from Station 29 to another station due to the allegation that she had made friends with a sympathetic black chief. The department claimed as a result of that close relationship that she would receive preferential treatment.
22. Plaintiff was singled out for being friends with that particular chief, even though all her white male counterparts routinely hung out with fire chiefs off duty. Her white male counterparts and fire chiefs would party together, often drinking to excess, and attend numerous sporting events and golf tournaments. All of these fire chiefs and firefighters still work together and are still employed today; the sole exception is the young firefighter by the name of Todd Cable who reported such unprofessional conduct to his superior. As a result of reporting such conduct, the firefighter became subject to daily harassment and substantial bullying. This firefighter, like Ms. Nicole Mittendorf, eventually committed suicide due to the severe harassment and bullying that he was subjected to after reporting the unprofessional misconduct.

23. In September 2001 Plaintiff was promoted to a technician slot, and she was one of the few black females to be elevated to that position. In 2002, she participated in a three-day conference for the PFA, acting as the women's advocate and representative. The first night at around 3:00 am, a young firefighter, Defendant Tim Young, knocked on Plaintiff's hotel door and asked if she wanted company, to which Plaintiff replied that she did not. The next night around midnight, Defendant Pullins knocked on her door and asked her the same thing. Plaintiff again rebuffed this proposition and thought that would be the end of it. These propositions had obviously been rehearsed before hand by Defendants Young and Pullins. The harassment did not stop, however. On the third night Pullins knocked on her door again and this time used his foot to block her from closing the door. Plaintiff was terrified of his physical violence and was afraid that he would break down the door. The disgusting remarks and lewd propositions showed a complete lack of respect for a working colleague. Plaintiff did not know it at that time, but she learned that such behavior was the norm for the department, and was encouraged with respect to female firefighters.
24. She reported Defendant Pullins' behavior to the President of PFA. He said that he would take care of it, but nothing resulted from the filing of her complaint, i.e., Defendant Pullins wasn't even verbally reprimanded. Consistent with Chief Reilly's directive, firefighters Young and Pullins started to circulate two false rumors about Plaintiff: (a) that she was a troublemaker; and (b) the only reason she was selected for her slot was her sex and race. They successfully turned other Association members and firefighters against her once they found out that she had reported their sexual harassment behavior to the PFA.
25. When Pullins became President of the PFA, he took the women's empowerment program away from Plaintiff. She had founded the program years earlier and was the program's staunch women's advocate. Defendant Pullins gave the program to another female firefighter, and told

Plaintiff that she would have nothing to do with the program in the future. He did that to retaliate and get back at her for reporting him and his colleague for making lewd sexual propositions. He knew how much the program meant to Plaintiff and was desirous of sending her a message, i.e. since she was a female she did not belong in the fire department, and if she stayed she would be subjected to daily harassment, bullying, and sexual and racist remarks.

26. From 2001-2005, while working on duty as a technician at Fire Station 08, Plaintiff was constantly harassed on a number of occasions by Chief Ed Brinkley, Lt. Glen Jackson, Master Tech. Mike Lewis, firefighter Daniel Kwiatkowski, and Lt. Sheryl Hemingway. Plaintiff was a witness to the constant harassment and bullying of firefighter Dawn Miller. Her station chief had called her "A fat piece of shit" upon learning that she was assigned to his station. He made her climb ladders during inclement weather and late at night because she had stated on occasion that she was afraid of heights. The station chief engaged in this conduct not because it would improve firefighter Miller's skill set. He was hoping it would convince her to quit the department. Plaintiff learned early on this kind of behavior was the norm in regards to treatment of new female firefighter recruits.
27. Plaintiff had testified for Miller about the harassment charges, and from then onwards Brinkley, Jackson, Lewis, and Hemingway started frequently harassing her. Hemingway was ordered by Brinkley to write Plaintiff up on a number of occasions for baseless reasons. Plaintiff fought those frivolous charges, and the complaints were later dismissed. However, the belief persisted that she was a troublemaker, and was looking to embarrass senior officials in the department. Thereafter, Defendant Reilly and other supervisors, including Deputy Chief Barrero and assistant chiefs, encouraged that belief on the part of all firefighters. Consistent with Chief Reilly's directive, they continued to badmouth Plaintiff, making it difficult for her to work in any location she went to throughout her career.

28. In 2005, Plaintiff took a promotional test for Fire Suppression Lieutenant and passed. She was the first black female to become Suppression Lieutenant for Fairfax County Fire Department. Soon after that Plaintiff applied for the open position of Fire Investigator, and passed with high scores and got the position. As a result, she broke barriers for the third time and became the first black female to work in the Fire Investigations unit, a prestigious position. Within a week of being on duty and without being properly trained in investigative skills, Plaintiff was being sent to investigate fires by herself. Department standard operating procedure calls for two investigators to work a fire incident together for safety reasons. She was assigned to work with Fire Lieutenant Barry Harlow, who, along with other investigators, did not share any of his experience with her on orders from his superiors, which was consistent with Chief Reilly's directive. Chief Reilly had no intention of keeping her in investigations. As a result, Plaintiff had to learn everything there was to know about investigating fire incidents on her own, and she risked her life on daily basis doing so. She was repeatedly ordered out on live fire calls by herself even though that practice jeopardized the safety and lives of the Fairfax County general public.
29. On September 12, 2007, while working in Investigations for over a year, Plaintiff was required by Chief Reilly and Captain James Sobota to take a test that was fabricated by them and not part of the required test that she had already taken. She was told she had to pass or be sent back to the field. She passed the tests, much to Chief Reilly's disgust. No other investigator before her or to this day has had to take such exams.
30. Since her field performance had never been questioned by anyone, she complained to Chief Reilly and Captain Sobota, stating that she did not understand why she had to take the test when no one else did. These tests and training exercises were in retaliation for her reporting unprofessional conduct on the part of her colleagues while she was working at Station 8, including the aforementioned Hooters incident and a heated confrontation between Plaintiff and

Mike Louis. Officer Steve McFarland separated them.

31. As detailed herein, Plaintiff has made a number of complaints over the years to supervisors, battalion chiefs, deputy chiefs, assistant chiefs and fire chiefs based on daily bullying tactics and vicious comments made by firefighter colleagues disrespecting minorities and females. Because of Chief Reilly's instructions, none of those complaints have ever been acted upon. Not a single colleague has ever been verbally reprimanded for making such rude remarks or engaging in explicit sexual harassment or for failing to train her in investigative skills. Chief Reilly made sure of that, and that was one of the roles he played in the conspiracy. He encouraged and protected all of his subordinates who had engaged in unprofessional conduct toward Plaintiff or refused to train her in investigative skills. He also protected the subordinates who had sent her out by herself on fire incident fieldwork, which was inherently dangerous and jeopardized the safety of herself along with the general public.

COUNT I: CONSPIRACY TO TERMINATE PLAINTIFF'S EMPLOYMENT IN THE INVESTIGATIVE UNIT AGAINST ALL DEFENDANTS

32. Plaintiff repeats and realleges paragraphs 1-31 as if fully recited herein.

33. As detailed herein, the Defendants named in this lawsuit played various roles in terms of advancing the goals of the civil conspiracy. In the case of Defendants Reilly and Barrero, they were the instigators of the conspiracy, and made it known to all of the subordinates that if they could besmirch Plaintiff's reputation, make sexist and racist remarks, make life difficult for her on the job, have her son removed from the fire academy, and send her out on dangerous missions alone, eventually she would have no choice but to leave the department. Both Reilly and Barrero intensified those efforts once Plaintiff successfully secured a position in the investigative unit.

34. In the case of the other Defendants named herein, they basically, at the direction of chief conspirator Reilly, engaged in conduct designed to convince Plaintiff to leave the

department. Defendants, like Brian Edmonston for example, harassed her every day and shortened her one-year entitlement to light duty status to six months by backdating relevant documents. Some of them propositioned Plaintiff for sexual favors, some of them insulted her, calling her a “bitch”, some of them claimed that she was only on the job because she was a black female, and some of them complained to her that she was taking a position away from white colleagues. This was a consistent pattern in the department. For example, a female firefighter, Ms. Bailey, filed a lawsuit against the department, citing a daily pattern of sexual harassment and bullying starting with Ms. Bailey finding glass in her boots when she was ready to go out on a run.

35. Some of the Defendants intentionally engaged in potentially serious criminal behavior by depositing a plastic bag containing a marijuana-like substance in Plaintiff’s department vehicle, hoping that the bag would be discovered by someone and that she would be brought up on charges of possessing marijuana on the job. She would be immediately terminated based on such a serious charge, and she would potentially face criminal prosecution. The other conduct was petty in one sense, but nonetheless demoralizing, i.e., unlike other investigators, Plaintiff was not allowed to park on the upper level of the parking garage, which meant she had to manually climb stairs encumbered with heavy equipment. Other behavior included denying her a suitable office space even though there were lots of other office spaces available, which her colleagues occupied at will. As already recited, there were requirements imposed uniquely upon her once she became part of the investigative unit that she engage in rigorous training exercises. No other member in the investigative unit had to do so at any time.

36. The elements of a civil conspiracy under Virginia law are:

- a. Conspirators must be aware of what their colleagues are doing to ensure that

Plaintiff's employment in the investigative unit would be terminated. That is the common purpose of the civil conspiracy instigated by Chief Reilly and Chief Barrero. All of the Defendants named herein knew at all relevant times what each of them were doing, i.e., harassing and bullying Plaintiff on a daily basis and making up phony charges of professional misconduct in order to ultimately convince her to resign from the investigative unit. All of the Defendants were emboldened by the fact that whenever Plaintiff filed a complaint against them, nothing ever happened. They were not reprimanded or written up at any time, so they continued to engage in constant workplace harassment and bullying directed at Plaintiff, hoping she would quit the investigative unit.

- b. The civil conspiracy must have an illegal purpose in mind, i.e., the purpose here was the removal of Plaintiff and the malicious intentional interference with her employment relationship. All Defendants named herein intended to secure the termination of Plaintiff from the investigative unit and maliciously interfere with her employment relationship with the Department.
- c. The civil conspiracy must be successful in terms of achieving the goal of the conspiracy. In the instant case, the goal of these conspirators was to have Plaintiff removed from the investigative unit, which they achieved in October 2015.
- d. Finally, some acts in furtherance of the conspiracy must have occurred in the County. All of the acts complained of herein occurred in this jurisdiction.

37. Plaintiff has had a distinguished career at the Fairfax County Fire Department, and was resented for being such a professional, dedicated firefighter. Because of her excellent conduct on the job, she broke many barriers and achieved incredible milestones. Plaintiff

was one of only a couple of black females to become an EMT technician, the first black female to become Fire Investigator, and the first black female to become Suppression Lieutenant for the Fairfax County Fire Department. She had to take a written test, and she passed with high scores. In the past, she was the first and only black female to work in fire investigations. In the past, predominantly white males had held this prestigious position. She was preceded by only two black males.

38. She became the only black investigator in that unit. She was the first female advocate for the Professional Women's Empowerment program that was supported by PFA and she served on the Women and Public Safety Task force for Fire Chief Neuhard. In 2011 she received the career achievement award. She helped the department design a new firefighter entrance exam, mentored disadvantaged kids through PFA, and received awards, letters, and certificates for excellent performance. She stayed current with all certifications for Fire, Police Emergency Medical Response (EMS), and investigations. She was one of only a few to take and pass the National Certified Fire and Explosion Investigator (CFEI) program. She has attended many fire academy programs and received many certifications. All of this success guaranteed daily harassment on the job and continued bullying.

39. As already alleged herein, she was constantly harassed, bullied, and reprimanded by her superiors at the specific direction of Chief Reilly. And whenever she filed a complaint about any conduct including bullying tactics, outright sexual harassment, and disgusting sexual propositions, nothing was ever done to investigate that conduct. As a result, none of her colleagues were ever reprimanded and therefore they all felt they could continue bullying her and making sexist and racist remarks without any repercussions. She eventually realized that no matter what happened to her on the job, even incidents of

demeaning sexual harassment, if she did file a complaint, it would not be acted on.

Therefore, she knew that she would continue to be sent out on fire calls alone and would become the target of additional verbal attacks, racist and sexual remarks, bullying, and demeaning comments, i.e. “You’re a bitch”. Based on their conduct, Plaintiff feared for her safety on a daily basis. Chief Reilly wanted to send her a message and secure her removal from the investigative unit, and eventually from the department itself. He knew that transfer over to a civilian unit would mean no further uniform promotions for Plaintiff, and he and his colleagues also knew that once she became a captain it would be virtually impossible to have her removed from the investigation unit.

40. As detailed herein, when Plaintiff started working in the investigations unit, the Defendants herein had already been very successful in terms of portraying her as a troublemaker and someone whose agenda was to make senior officials look bad. When Chief David McKernan announced that Plaintiff had been selected for an open position as investigator, all of her colleagues started to display their dislike that she was coming into the investigations unit. They claimed that Plaintiff had gotten the position because “she was a black female” and that there were other qualified male firefighters who were passed up because of their race.

41. The meeting got so loud and out of hand that Chief McKernan had to call out and demand order from her future coworkers, who openly resented the fact that she was coming aboard. To get back at her and make sure she wouldn’t succeed, her colleagues intentionally sent her out on her own on fire investigation fieldwork without any assistance. That was at the express directive of Chief Reilly. Plaintiff believed that her reputation had already been so damaged by the Defendants named herein that her colleagues refused to work with her, even on crucial fire incident assignments involving

potential criminal arsonists. Isolating Plaintiff from her colleagues literally put Plaintiff's life in danger as well as citizens of Fairfax County because firefighters must rely on one another to survive life-threatening emergency situations.

42. Standard operating procedure in the investigations unit at that time, for safety reasons was that at least two investigators would work a fire-report incident together with one having significant experience. She was eventually assigned to work with Barry Harlow, but he refused to train her in investigative skills. At the urging of Fire Chief Reilly and Defendants named herein, he did not share any of his critical fieldwork experience with her. He had been told by his colleagues and supervisors that she was a troublemaker, and that if he helped her in terms of learning the ropes of the new position, she would be able to remain in the investigative unit and eventually make trouble for everyone.
43. In September 2007 while Plaintiff was working in the investigative unit, she was directed by Chief Reilly to take a test by the next day. The consequence for Plaintiff if she did not pass the test was to be sent back out into the field and removed from the investigative unit. She of course passed the test with flying colors, but after inquiring, it appeared no other investigator before her or to this day had to ever take such a test and engage in practical exercises to ensure that they could stay in the unit. No explanation was ever given by either Captain Sobota or Chief Reilly as to why she had to take additional tests, given the fact that she had already been promoted to Lieutenant.
44. Because of this harassment and her belief that it would continue, she desired some documentation confirming that she had passed the test so she would not be bothered again about her qualifications. She requested Captain Sobota to send her a letter stating she had passed the first and only test given to investigators. He reluctantly did that in order to shut her up. A colleague, Lieutenant Harlow, another investigator, told her the

next day that Chief Reilly was hoping that she had failed the tests and the training exercises. Chief Reilly thought that would give him a reason to get rid of Plaintiff and confirm his suspicion that Plaintiff was only in the investigative unit, or had been promoted into the unit, simply because of her race and sex. Once more, she complained to Chief Reilly and Captain Sobota, and nothing was done about it, consistent with the treatment she had received ten years prior.

45. Moreover, no superior had ever questioned her field performance or dedication to the investigative unit. Plaintiff continued to keep up training despite light duty and working out of operations. Other firefighters being out of operations for years extending way past her own out-of-operations status were not required to the same training. In other words, there was no basis for her to take any more tests or engage in the additional practical training exercises at the fire academy. She knew that if she had to return to the fire academy she would be working under Chief Barrero who would continue to order her to take meaningless tests. This activity was all done at the specific direction of Chief Reilly and other chiefs and supervisors. They were hoping this constant harassment, retaliation, and bullying would force her to resign from the investigations unit.
46. In 2009, while working in investigations, Plaintiff was informed that she had to take a call, which was part of her regular job duties. That call pertained to an incident where there were a number of criminal suspects who may have started a suspicious fire, which needed to be investigated thoroughly. Since she had been working alone and had multiple suspects to interview, she concluded, as any officer would, that she needed more information from Chief Diamantes to determine if she needed police backup. She asked the chief some sensible questions about the status of the fire scene, concerned that she would have to possibly make an arrest, and therefore need back up from Fairfax

County Police.

47. Chief Diamantes immediately became frustrated with her questions, and told her not to go out on the run. As a result of Plaintiff simply asking questions to secure critical information, Chief Diamantes complained about her so-called “failure to cooperate” to Chief Reilly. This was simply another made-up charge of professional misconduct. He reprimanded her verbally and did not ask her for her side of the story. She tried to tell him it was a matter of officer safety, and that she needed critical information, and was not trying to disrespect or embarrass Chief Diamantes at all. As was his usual practice, Chief Reilly dismissed her with an angry expression on his face after hearing about the incident. He specifically told her that in the future that she was not to ask any chiefs any questions concerning the status of any fire scene. This was of course the investigative unit’s major priority—investigating suspicious fires. He then brushed past her on his way out of the office, even more intent on removing Plaintiff from the investigative unit at all costs.

48. In 2009, a similar incident occurred. Plaintiff had been called out to a house fire with a confirmed fatality. When this type of incident occurs, in order to do a complete investigation, it is standard operating procedure that the investigative unit works with other agencies such as Virginia’s detective homicide division. Plaintiff approached Chief Reilly to give him a situation report after being on the scene for an hour, and he informed her “I would like a more experienced investigator to handle this because we need to make a good impression with the police and media.” At the time, Plaintiff had three years’ experience in the investigative unit and had done a great job working other fire fatalities prior, and felt she could competently handle the incident even by herself. Chief Reilly was trying to embarrass her, and he thought he could use her alleged

incompetence to force her out of the investigative unit.

49. Contrary to Chief Reilly's wishes, Paul Massiello, her immediate supervisor, told her that she was and would still be the lead investigator, and "that she was doing a great job," and to continue with the investigation of the homicide. Chief Reilly resented the fact that Officer Massiello had actually commended Plaintiff for her investigative skills and as a result further resented Plaintiff for what appeared to him to be an attempt to disrespect him. Thus, he had all the more reason to repeat his directive to his subordinates—essentially "do whatever it takes, make up some charges if necessary, and get rid of Officer Tomasello."

50. It became painfully obvious to Plaintiff that Chief Reilly had very little respect for Plaintiff either as a firefighter or as a black female. This hostile and immature attitude was evidenced by the fact that he and Lt. Lauer suggested to Plaintiff during a field investigation that she "use her female persuasions and race" to lure a black suspect into admitting that he started a fire that the unit was investigating. She told Chief Reilly in no uncertain terms that she would interview the suspect according to standard protocol, but she was not going to employ sexism or her racial identity to secure a confession. Plaintiff knew that if she interrogated the suspect in that manner that would ensure a botched prosecution of a criminal arson complaint. That only served to further irritate Chief Reilly and convince him that his subordinates had to continue to engage in daily on-the-job harassment, bullying, personal insults and belittling comments to get her out of investigations.

51. Based upon specific instruction from Chief Reilly, Chief Barrero informed Plaintiff in November 2010 that she had to leave the investigative unit after finding out she was diagnosed with cancer. This was only one of many attempts to remove her from the

investigative unit. He explained that she would shortly be receiving a letter from the county to resign, apply for alternative placement, or quit. Defendant Barrero knew Plaintiff could not meet “alternative placement standards” and therefore would have to either resign or quit. Captain Massiello informed Chief Barrero that he was being unfair to Plaintiff, because even though she was on light duty, she had been performing all her duties.

52. Because Chief Barrero could not get rid of Plaintiff on that pretext, he intentionally made life on the job miserable for Plaintiff by repeatedly sending her out on work fire calls by herself even though she was on light duty and on some occasions had returned from chemotherapy feeling exhausted, as her doctor predicted would be the case. Sending her out on fire calls while she was on light duty specifically contradicted the department’s regulations and rules. In fact, no personnel had ever in the history of the department went out on live fire calls while they were on light duty. And especially not while fighting a potentially terminal illness.
53. Chief Barrero was so irresponsible, reckless, and thus derelict as a commanding officer, that he would order Plaintiff to respond to hazmat calls and arson complaints all by herself on a daily basis knowing she was fighting cancer. In doing so, Defendant Barrero knowingly jeopardized the safety and lives of Fairfax citizens. That harassment and bullying continued on a daily basis at Chief Reilly’s instruction, despite her undergoing chemotherapy for Stage III cancer. Even though she constantly complained about the treatment, asking for someone in the department to speak with Chief Barrero about her treatment, nothing was ever done. This was the pattern she encountered for 20 years. Even though she had valid complaints, no one ever took action or reprimanded her colleagues, like the two officers who had propositioned her for sexual favors at the hotel

during the PFA program.

54. Chief Barrero continued to harass Plaintiff at the instigation of Chief Reilly. In 2012, he came to her office, ordered her to turn in her weapon, and have it locked up. Plaintiff tried to explain to him that standard operating procedure dictated that she could carry her concealed weapon while on light duty. This was especially the case if the officer was performing investigative duties and feared for her personal safety, which Plaintiff did. Chief Barrero dismissed Plaintiff with the remark “he didn’t care what standard operating procedure was,” and that she had to turn in her weapon immediately. Plaintiff subsequently discussed this issue with Deputy Chief Baker, who agreed with her that under the circumstances she did not need to turn in her weapon. This of course only served to further infuriate Chief Barrero and convinced him that he had to increase his efforts to have Plaintiff removed from the investigation unit.
55. Chief Baker also opined that Chief Barrero was not authorized to, and could not make up his own department rules regarding gun safety issues. Chief Barrero, much like Chief Reilly, encountered Plaintiff thereafter and remarked to her that she had once more made him look bad. At the time, Chief Barrero was trying to secure a promotion within the department, and any complaints about his conduct towards his subordinates affected his performance evaluation and his ability to be promoted. She tried to explain again that a local police gang unit was constantly receiving threats and alerts and they were located only a few feet from where she was working. Thus, she had to constantly deal with a number of potentially threatening incidents while in the field, and that was why she felt she needed a weapon for her personal safety.
56. In August 2012, at the specific direction of Chief Reilly, Chief Barrero called Plaintiff into his office and told her she was being transferred to another section permanently,

and that “he was tired of dealing with the situation.” Plaintiff tried to elicit an explanation, but Chief Barrero said he had talked to other chiefs, and that would be the end of the conversation. When Plaintiff told him that she felt threatened about his directive, Barrero stated that she was “selfish and did not respect authority.” That is the exact sentiment that Chief Reilly had repeatedly expressed to her whenever she raised an issue about hostility in the work place, sexist and racist comments, and bullying tactics, for example forcing firefighter Miller to climb up on a ladder during inclement weather and late at night hoping she would have a mishap.

57. Chief Barrero told her that she was not to talk to anyone outside of the investigative unit about the matter, because his decision was permanent. To convince Plaintiff to leave the unit, thereafter Chief Barrero continually denied her the right to participate in routine training activities that were offered and used to keep firefighters up to date on firefighting skills. He told her that he needed her in the office for staffing purposes, which was a complete fabrication, i.e firefighters who are assigned light duty status are not obligated to assist in minimum office staffing.

58. Even though Plaintiff made numerous complaints to Deputy Chief Baker and the Progressive Firefighters’ Association (PFA) regarding Chief Barrero’s threatening behavior and constant harassment, nothing was ever done about it. At the time the president of the PFA was Captain Pullin, and he did not follow up on this claim of harassment because Plaintiff had complained and filed sexual harassment charges against him years ago, as already detailed herein. Chief Barrero continued with the on-the-job harassment, and told Plaintiff that she was “jeopardizing his promotion with her complaints, that he handles complaints in-house, and that he did not need a reason to transfer her out of investigations.” This statement from a commanding officer terrified

Plaintiff, thinking she would be summarily removed from investigations, which would mean a transfer to a civilian office with no possibility of being promoted to a captain position.

59. Just like Defendant Barrero, Defendant Edmonston played a significant role in the conspiracy. He was the one that told the administrative secretary to change and backdate the documents pertaining to her one-year entitlement to light duty status to six months. Department regulations mandated light duty employees to have a full year entitlement of light duty status. He constantly harassed Plaintiff about how much work she was doing and wanted to know where she was at all times. He was not similarly concerned about other firefighters' schedules and work assignments; he was only targeting Plaintiff. Defendants Caussin and Bowers would constantly email Defendant Edmonston asking him about Plaintiff's work ethics and attitude. Their attempt to get some evidence against her which was negative and unprofessional failed because she was always early to work, and the last to leave work. Despite years of trying, the only negative thing they could come up with was the fact that she had filed numerous complaints against her colleagues about unprofessional conduct they had engaged in, for example propositioning her for sexual favors.
60. In the case of Defendant Chief Edward Brinkley, he played an active role in the conspiracy as well. He resented the fact that Plaintiff had taken a phone call from an irate Fairfax County citizen who reported that firefighters working under his supervision had invited Hooters girls to take pictures with them while sitting on the fire trucks wearing helmets. He resented the fact that she had actually reported this phone call, even though that was part of her job requirements. He also feared that she would report to his superior that she had witnessed him and his colleagues deleting incriminating pictures of

the Hooters girls from the camera. He had stated that he did not want to make it appear that his guys looked bad under his watch. He also expressed the fact that they were all friends and did not want to disrupt those relationships. Shortly thereafter, he, with the help of Lt. Sheryl Hemmingway and Lt. Jackson, had initiated an investigation to remove Plaintiff from the EMT test committee. The investigation proved that the allegations of work misconduct were false, but he still resented the fact that she remained on the committee.

61. He did not like Plaintiff, as he expressed it, because she had repeatedly stood up to him and made complaints about him and the manner in which he organized his shift. Chief Brinkley and other chiefs knew about the fact that she had reported the Hooters event. They also knew about her complaint about an EMT test incident and her standing up for firefighter Dawn Miller when they tried to fire her. Chief Brinkley made no attempt in hiding his animosity for Plaintiff. He made many comments to other chiefs during a chiefs' meeting that Plaintiff was a troublemaker, did not respect authority, and "needed to be taught a lesson." This was a verbatim explanation given to him by Chief Reilly as the reason why it was necessary to remove her from investigations and, ultimately, from the department. When Plaintiff asked Sheryl Hemmingway, a colleague, what Chief Brinkley had meant by that, she said "I guess they'll try to get you fired." Truer words were never spoken.

62. In the case of Defendants Terry Hall and Guy Morgan, they have worked for a number of years in the internal affairs office, and they were very close to Chiefs Barrero, McNamara, and Reilly. They knew that the chiefs desired to have Plaintiff removed from her position by hook or by crook, and a possible occasion presented itself in November 2013 for Defendants Morgan and Hall to accuse Plaintiff of conduct unbecoming a

firefighter. They accused her of lying about a situation involving her son. Apparently her son had misrepresented his employment status to a Fairfax County housing provider. They both tried to make it appear that she had conspired with her son to deceive the housing provider and convince him to lie about her participation in the matter.

63. During a one-hour closed-door tirade, Defendant Morgan stood over Plaintiff in an intimidating and threatening manner. Defendant Hall purposefully sat right at the door to make it appear that Plaintiff had no right or ability to leave and was under detainment. Defendants Morgan and Hall repeatedly accused her of convincing her son to lie about the issue to protect her and prevent her removal from the department. During this interrogation, she repeatedly denied that she had done anything wrong, and she even offered to take a lie-detector test three times. She had requested to meet with the fire chief, Chief Bowers, concerning these allegations, but she was immediately disciplined and transferred out of investigations.
64. Chief Reilly in fact stated that “because you lied about your son being an employee, you cannot work in investigations anymore.” He also emphasized that he was going to make sure that Plaintiff “didn’t come back to investigations.” This, of course, was consistent with the goal of the conspiracy that he instigated—eventually secure her removal from the fire department. She would be viewed by other units in the department as being a troublemaker and as having a history of disciplinary problems and lack of respect for superiors. That would ensure that she could not possibly transfer out of the investigative unit into another department. Defendants using her son to retaliate against Plaintiff was nothing new. In 2000, Defendant Barrero illegally forced her son out of the fire academy. That decision was reversed when the son appealed his removal.
65. When she spoke to her son about this incident, he told her that Defendant Morgan had

called him up and, despite him admitting to the allegations, Morgan tried to convince him to state that Plaintiff had convinced him to lie on her behalf. This was another instance whereby Defendants Hall and Morgan were attempting to besmirch Plaintiff's in-house reputation and fulfill Chief Reilly's goal to have her resign or be fired for conduct unbecoming a fire official.

66. She had requested to see the fire chief, and after several rejections, she finally was able to meet with him. She wanted to report to him that no attempt was made by Guy Morgan to investigate in a professional manner the allegations made against her. She wanted him to determine whether or not her son had actually, on his own, misrepresented his employment status to the housing provider. Chief Reilly, in his usual rush to judgment concerning Plaintiff, told her in connection with this incident that her son had done nothing, and that Plaintiff "did all of the accused allegations." In short, she was accused of serious misconduct, threatened with immediate dismissal if "she didn't come clean." She was not even allowed to make any statements in order to defend herself during this closed-door session. These Defendants were attempting to fulfill Chief Reilly's wish and have her removed from the department, and they succeeded initially in removing her from investigations. This incident was simply one of many concerning senior fire officials who were attempting to besmirch her reputation and have her removed from the investigative unit.

67. Chief Reilly and Chief Barrero intentionally fostered an atmosphere within the department encouraging her colleagues to think of her as a troublemaker who has no respect for her superiors and does not belong in the department. This attitude was prevalent in the department and was exemplified by one Daryl Casey. He was a white male, a colleague of Plaintiff, and he told her that he "did not believe women could be

firefighters because they could not do the job and were just distractions. When Plaintiff commented that women take the same physical tests as the men do, he mumbled the letters “B-I-T-C-H” to himself and left the room.

68. Another example of retaliation directed at Plaintiff occurred when Chief Caussin and the Fire Department Chief Richard Bowers decided to deny Plaintiff the benefit of the rules and regulations governing light duty. They decided to cut Plaintiff off from light duty status knowing she would miss paychecks. They backdated the documents pertaining to the initial designation of light duty status to make it appear that she had been on light duty for one full year even though that was not the case. Department regulations afforded her a full one-year light duty status. The department fire chief, Chief Bowers participated in the conspiracy by ordering others to ambush Plaintiff into having a meeting with him without any representation. He gave those orders despite the fact that Plaintiff had specifically requested to have representation with her in any such meetings concerning her employment status. In issuing those orders, he was knowingly violating Plaintiff’s rights based on department rules that specifically allowed her representation at those meetings. Fire Chief Bowers also ordered that Plaintiff be denied access to department computer sites because she could then see all of the vacancies for open positions despite her being a department employee.

69. During 2014, the on-the-job harassment continued for Plaintiff. This time it was Defendant Phyllis Schwartz who started to harass Plaintiff about health issues knowing she was currently on chemotherapy because of Stage III cancer. On a number of occasions Defendant Schwartz barged into Plaintiff’s office and demanded that she give her the name and number of her doctor. At the time, the department’s medical doctor had already been in dialogue with Plaintiff’s medical doctor who had shared with him Plaintiff’s confidential medical information. Plaintiff was made to produce additional

medical information not required for others and at times made to resubmit medical documents. As a result, Plaintiff could perceive no need to discuss health issues with Defendant Schwartz. However, Defendant Schwartz kept up her harassment and continued to demand the name and number of her doctor, knowing that would increase the level of Plaintiff's emotional distress.

70. It was obvious to Plaintiff that there was no need for Defendant Schwartz to have the name and number of her doctor. Plaintiff believed she was only doing that at the direction of Chief Reilly, Guy Morgan, Fire Chief Bowers and other conspirators to secure potentially negative information about Plaintiff's health condition. Defendant Schwartz thought that if she started to engage in a dialogue with Plaintiff's doctor he would state something to her that she could incorporate in a memorandum to Chief Reilly recommending Plaintiff's removal from the investigative unit. Plaintiff's removal from the investigative unit would mean that she had no further right to return to that unit in the future and no opportunity to be promoted to captain.
71. Plaintiff eventually gave her the name and number of her doctor out of sheer frustration and concern that a continued heated dialogue with Schwartz would only result in her filing a complaint with Chief Reilly about Plaintiff's insubordinate conduct. Defendant Morgan would rubber stamp that complaint as being valid. Defendant Morgan's finding would give Chief Reilly and his colleagues another excuse to have her removed from the investigations unit and eventually the department itself. To further bully and intimidate her Defendant Morgan forcefully and intentionally brushed up against Plaintiff while passing her in the hall, almost knocking paperwork out of her hand. He made no attempt to apologize for this battery, and actually relished the physical confrontation hoping she would start an altercation. Fire Chief Bowers has refused for a number of years to act

upon the numerous complaints made by female firefighters to remove Guy Morgan from Internal Affairs. He was and is a close friend of Defendant Morgan and wanted to make sure that he kept him in an important position. The female firefighters had complained about Defendant Morgan due to his in-person and online bullying, sexist and racist remarks, and threatening, inept and unorthodox investigative skills. For the Court's edification, Defendant Morgan is the same individual who has posted on his Facebook page inappropriate illustrations like a six-foot snow penis and half-naked women. He is in charge of the office of Professional Standards at the Fairfax County Fire and Rescue Department. Ironically, his main job is to investigate work place misconduct. Even though Defendant Morgan's conduct is nothing short of outrageous, Fire Chief Bowers continues to do nothing about any complaints filed by female firefighters—consistent with standard operating procedure in the department.

WHEREFORE Plaintiff requests entry of judgment in an amount not less than two million dollars, \$2,000,000, against all the Defendants named herein for the damages that she incurred as a result of the Defendants' participation in the aforementioned civil conspiracy. As a direct and proximate result of the Defendants conduct as described herein, Plaintiff has suffered injuries and will continue to suffer injuries in the form of lost wages, reduced retirement benefits, not being promoted to a captain rank, having a personnel file replete with complaints of professional misconduct, personal and professional humiliation and embarrassment, loss of enjoyment of life, as a well as other emotional distress, pain, and suffering. Plaintiff also requests an award of attorney fees and an award of punitive damages in light of the intentional malicious conduct of the conspirators identified in this cause of action.

**COUNT II: MALICIOUS INTENTIONAL INTERFERENCE WITH AN
EMPLOYMENT RELATIONSHIP AGAINST ALL DEFENDANTS**

72. Plaintiff repeats and realleges paragraphs 1-71 above as if fully set forth in this Count.
73. In order to successfully state a claim for tortious interference with his employment rights, a Plaintiff must allege that: (1) a legal contract existed; (2) the Defendant had knowledge of this contract; (3) the Defendant intentionally procured the contract's breach; and (4) damages resulted from the Defendant's actions. Plaintiff can satisfy these elements as detailed herein, and thus can state a claim for tortious interference with her employment relationship.
74. At all times pertinent to this Complaint, all Defendants knew that Plaintiff had a valid and ongoing employment agreement with Fairfax County Fire Department. They all knew the terms and conditions of that agreement because they themselves had been employed by the Fire Department. They knew that Plaintiff was a competent firefighter and had received numerous awards and commendations. Thus the only way to have her discharged from her occupation was to besmirch her reputation with false accusations of professional misconduct, sexual innuendos, and by spreading the rumor that she was a troublemaker and had no respect for authority. Chief Reilly had reported to senior subordinates that she did not have any respect for authority due to the various complaints she had filed. She had filed complaints for good cause based on the pattern of unprofessional conduct that she had been subjected to by the Defendants named herein, including being sexually propositioned.
75. Acting with malice and deliberate intent to injure Plaintiff, Defendants named herein caused Fairfax County Fire Department to breach her employment agreement by engaging in the following conduct:
- a. In 2002, during Plaintiff's time at Fire Station #8, Defendant Pullins, who has served as President of the Progressive Firefighters, spitefully removed Plaintiff from her position with the women's empowerment program without cause.

- b. From 2001-2003, during Plaintiff's time at Fire Station #8, Plaintiff was on the promotional exam committee for EMS technicians. Defendant Lieutenant Glen Jackson maligned Plaintiff's reputation with the Fire Station by falsely accusing her of cheating by giving answers to another firefighter. As a result, Chief Brinkley requested an investigation to remove her from the committee as well as reprimand her for actions she did not commit. The investigation proved the allegations were false, but nonetheless the accusation was a stain on her record, much like the other ten baseless charges that had been filed against her.
- c. Proof of the existence of the malicious interference complained of herein came years later when Sheryl Hemingway apologized to Plaintiff and informed her that Chief Brinkley was purposefully trying to create trouble for her. She further stated that Brinkley had made numerous malicious comments about her during chiefs meetings, falsely claiming she was a troublemaker and did not respect authority. He was making these comments consistent with Chief Reilly's directive that all department personnel be informed of her lack of respect for authority and the fact that she was a troublemaker.
- d. The reason for Lieutenant Jackson's malicious behavior was retaliation for Plaintiff's testimony against his harassment of a fellow female department employee. The reason for Defendant Brinkley's malicious behavior was retaliation for Plaintiff filing complaints against him for creating a hostile work environment and engaging in extremely unprofessional workplace behavior.
- e. In 2006, during Plaintiff's time in investigations, Defendants spitefully displayed their dislike of Plaintiff receiving the prestigious position of Investigator. Even though two investigators usually worked together, they forced her to be sent out to fires by herself without any training or experience by purposefully refusing to work with her. The reason

for Defendants' behavior was simply the fact that she was an African American female and they felt any white man would be better qualified than her. They were also trying to curry favor with Chief Reilly and other chiefs by setting her up for failure in difficult circumstances.

- f. In 2007, During Plaintiff's time in investigations, after a year of employment in the division, without any questions regarding her performance, Defendant Captain Sobota, under the direction of Defendant Reilly, attempted to have her discharged by requiring her to pass a test and engage in practical training exercises. He only informed her of this assignment the day before he demanded her to complete it. He added that if she did not pass the exam and the exercises, she would be sent back into the field. Defendant Chief Reilly was present at all times, but did not say anything contrary to Sobota's statements. Chief Reilly was hoping that she would fail the test and the training exercises, and that would give him a pretext for transferring her out of investigations and, ultimately, out of the department.
- g. No other investigators were ever required to take such exams and perform routine training exercises. Plaintiff was never given a valid explanation as to why she was given such a burdensome assignment. The only explanation she received from Captain Sobota was, "because." Chief Reilly did not comment at all on Captain Sobota's behavior or insist that he cease the on-the-job harassment of Plaintiff and singling her out for punitive training exercises. Lieutenant Harlow, another investigator, later informed Plaintiff that Chief Reilly was actually hoping she would fail so that the Fairfax County Fire Department would discharge her.
- h. This on-the-job harassment, constant bullying tactics, and racist and sexist comments continued through 2009. During Plaintiff's time in investigations, Defendant Chief

Diamantes intentionally attempted to make her seem unqualified, disobedient, and someone who wanted to embarrass her superior officers. In fact, he filed a complaint with Chief Reilly to this effect. The facts pertaining to this incident have already been described in paragraphs 46-47.

- i. In 2009, during Plaintiff's time in investigations, after three years of employment in the division, Plaintiff was a lead investigator on a house fire involving a fatality. After being on the scene for an hour, she approached Defendant Reilly simply to give him a situation report. He abruptly dismissed her stating she was not qualified to investigate the situation. Even though Chief Reilly knew this was not Plaintiff's first investigation involving a fatality, he persisted in trying to secure a different investigator. He wanted to use this situation to embarrass her, and as a pretext to recommend the termination of her employment in investigations.
- j. In 2009, Plaintiff applied to participate in classes so that she could qualify to take the promotional exam for captain. The Fire department interfered with her plans even though participating in those classes would make her a better department employee and would enhance her value to the department. They informed her that she could not take the classes because they did not have records of her attending the prerequisites for those classes. Plaintiff showed them her transcripts and even had the college send her records to Defendants. Defendants nonetheless refused to accept this evidence of her completion of the prerequisites, citing a made-up excuse, namely that she had not attended the requisite courses. This is just another example of Plaintiff's colleagues desiring to fulfill Chief Reilly's wish that she be removed from the investigative unit and not be promoted to captain.
- k. In 2010, during Plaintiff's time in investigations, Plaintiff was diagnosed with Stage III

Lymphoma Cancer. She reported her illness to Defendant Battalion Chief Barrero. He harshly responded that she would have to be transferred out of investigations. In other words, he was going to remove her from the position. This action, based only on Plaintiff's sickness and not on her performance, was clearly illegal as subsequently confirmed by Captain Masiello and Terry Hall, one of her colleagues.

- l. Despite both Masiello and Hall speaking with Defendant Barrero, Barrero continued to harass Plaintiff. He even increased her workload, despite the fact that she had been approved directly by the department for light duty due to her diagnosis of Stage IV cancer and the need for chemotherapy treatment. Defendant Barrero intentionally made work stressful and difficult for Plaintiff by routinely assigning her to go out on working calls, hazmat calls, and complaints to handle by herself, even on days that she had just returned from chemotherapy. He knew that by sending her out on those calls she would be under additional stress and strain. He had to have known that it would affect her healing process. In fact, he knew that she had been transferred to Fairfax County Hospital at least three times for on the job stress-related medical issues. This behavior was done with malicious intent in order to force Plaintiff to leave her job and to show Plaintiff's superiors that she could no longer perform her job duties competently. All the Defendants knew that this would be a credible basis for her removal initially from the investigative unit and eventually from the department.
- m. Based upon all of the malicious and intentional conduct described herein, Defendants were able to secure Plaintiff's removal from the investigations unit. Today, she has been transferred from the uniform Fire Officer position to a civilian office, with a resultant significant loss in annual pay and retirement benefits. This transfer was a direct result of the Defendants' malicious and intentional interference with Plaintiff's employment

relationship as described herein. This conduct was engaged in order to have her removed from the investigations unit.

- n. Because Plaintiff is now in a civilian office, she has no ability to return to a firefighting unit or an investigations unit. Thus, for the next ten years, at least, she will have a significantly diminished income stream and resultant diminished retirement benefits, and no chance of making captain. Evidence of the malicious intentional interference engaged in by the Defendants herein is the recent transfer of firefighter Kathleen Stanley. She had been working on the civilian side for the department, but a special position had recently been created for her in order to return her to the firefighting side. She has had at least three strokes and is unable to work in the field so it is difficult to conceive how she could work in a uniform fire position. In an effort to justify Plaintiff's transfer out of investigations, Plaintiff had been told by Fire Chief Bowers and Assistant Chief Caussin that they did not have a uniform spot for her, which was a complete lie. Because Officer Stanley had dated many chiefs and socialized with them and their families, she received this special status. The Fire Chief continues to create positions for selective personnel with non-job related injuries and to bring back favored retired personnel. The Fire Chief continues to set his own personal employment guidelines in order to let friends with non-related injuries or unfit personnel work in a light duty status for years. In the case of Gene Beach, he worked in a light duty status in the warehouse for over nine years. In the case of Nick Pancione, while recovering from cancer he was allowed to work in the wellness fitness center until he retired. What this shows is that if the fire chiefs actually wanted to retain Plaintiff as a firefighter, they certainly could have done so. It also confirms the malicious and intentional nature of the Defendants' conduct as described in this Court.

WHEREFORE, as a result of the Defendants named herein securing the Fire Department's breach of her employment relationship, Plaintiff has been damaged in the amount of not less than two million dollars, \$2,000,000, and respectfully requests that this Court enter judgment accordingly. As a direct and proximate result of the Defendants conduct as described herein, Plaintiff has suffered injuries and will continue to suffer injuries in the form of lost wages, reduced retirement benefits, not being promoted to a captain rank, having a personnel file replete with complaints of professional misconduct, personal and professional humiliation and embarrassment, loss of enjoyment of life, as a well as other emotional distress, pain, and suffering. Plaintiff also requests an award of attorney fees and an award of punitive damages in light of the intentional malicious conduct of the conspirators identified in this cause of action.

COUNT III: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AGAINST DEFENDANTS REILLY, BARRERO, MORGAN, AND SCHWARTZ.

76. Plaintiff hereby repeats and realleges Paragraphs 1-75 as fully recited herein.

77. The elements of Intentional Infliction of Emotional Distress are: (1) the wrongdoer's conduct was intentional or reckless; (2) the conduct was outrageous or intolerable; (3) there was a causal connection between the wrongdoer's conduct and the resulting emotional distress; and (4) the resulting emotional distress was severe.

78. As shown by the allegations contained in Count I herein, Plaintiff has endured twenty years of severe mental harassment, bullying tactics, and belittling racist and sexist comments while trying to be the best firefighter she could be for the county. She has won a number of awards as already detailed herein. All she ever wanted to do was to serve the Fairfax County public with pride and dedication.

79. Her colleagues resented her from the beginning of her first assignment and although she continued to perform admirably in an adverse environment she had to from time-to-time file complaints against her colleagues because of their unprofessional conduct. Defendants named

herein resented her for doing so even though she had racist remarks hurled at her almost every day, was the victim of sexual harassment, unwanted sexual overtures, and was constantly sent out on dangerous missions by herself.

80. There are four Defendants named in this particular count: Reilly, Barrero, Morgan, and Schwartz. In contrast to the other Defendants, they engaged in conduct which under Virginia law constitutes intentional infliction of emotional distress.
81. With respect to Defendant Reilly, he initiated a vendetta against Plaintiff going back twenty years. He enlisted and encouraged the other Defendants named herein to make sure everyday on the job was a living hell for Plaintiff even though he received a number of complaints filed by Plaintiff. Defendant Reilly never took any action even though the complaints were meritorious. He had close friends working for him and took no action to secure their appropriate reprimand for various activities engaged in to force Plaintiff to resign from the fire department. He engaged in this activity intentionally and recklessly knowing that his subordinates would do anything possible to fulfill his agenda, i.e. make life miserable for fire officer Tomasello every day on the job and eventually convince her to resign from investigations.
82. Defendant Reilly knew that his close friend Defendant Morgan was in charge of investigating workplace misconduct complaints. He knew that Defendant Morgan would make sure that not a single workplace misconduct complaint filed by Plaintiff would ever be acted upon. Defendant Morgan's job is to investigate workplace misconduct complaints and act upon them accordingly. Plaintiff knew about Defendants Reilly and Morgan's close relationship and was fearful of having Defendant Morgan review and investigate any of her complaints knowing that the individuals she complained about would never be reprimanded. She also knew that Defendant Morgan made it a practice of broadcasting the nature of her complaints to all members of the department. He did this to encourage daily antagonistic behavior on the part of her colleagues,

which conduct jeopardized the life and safety of Plaintiff and that of the Fairfax County general public.

83. With respect to Defendant Barrero, he worked hand-in-hand with Defendant Reilly to make sure that Plaintiff understood she was not wanted in the department and should resign forthwith. Knowing she was undergoing chemotherapy, Barrero was so insensitive that he actually sent Plaintiff out on dangerous missions by herself. He did this despite the fact that he knew: (a) she was undergoing Stage IV cancer therapy; (b) she had been assigned light duty status and; (c) she had been rushed to Fairfax County Hospital on three occasions due to stressful working conditions.
84. As a result of being assigned light duty status, she was supposed to remain within the firehouse or administrative office and attend to various light duties until she was fully able to perform. Defendant Barrero however wanted to make sure that the stresses on the job would be magnified by not only holding her up to daily ridicule, bullying her, and making fun of her, but by sending her out on dangerous missions. He knew on certain occasions she had just come back from chemotherapy and was in a depleted physical condition. He nonetheless sent her out on the missions alone not only jeopardizing Plaintiff's life but also the lives and safety of all Fairfax citizens.
85. With respect to Defendant Schwartz, like Defendants Barrero and Morgan, she knew that Plaintiff was undergoing chemotherapy and would on occasion come back to the firehouse in an exhausted condition. Nonetheless Defendant Schwartz would berate her about securing confidential medical information at all relevant time. Defendant Schwartz knew that Plaintiff's doctor had already communicated with the department's doctor and knew all about the medical issues that impacted her work performance. However, every day Defendant Schwartz would insist that Plaintiff disclose vital and confidential medical information to her.

86. Defendant Schwartz not only harassed Plaintiff about confidential medical information but also encouraged the bullying and intimidation by her colleagues. For example, she knew that Guy Morgan wanted to stand in his doorway that was located across from Schwartz's office while Schwartz was verbally attacking Plaintiff with respect to confidential medical information. He displayed a threatening and defiant demeanor while Plaintiff was being harassed in her office. To further intimidate her, Defendant Morgan followed Plaintiff to the elevator when the meeting was over. Fearing that he would intentionally bump into her or say something nasty and demeaning, she took the stairs to keep from being trapped in an elevator with him. Defendant Schwartz, in demanding sensitive medical information from Plaintiff, had wanted to see if there was a pretext Chief Reilly could use to get rid of Plaintiff. Defendant Morgan encouraged her efforts in this regard, knowing that Defendants Reilly and Barrero would approve of their efforts.

87. Like Defendant Morgan, she resented Plaintiff because: (a) she had filed various complaints against her colleagues for unprofessional conduct, (b) she had been assigned light duty status, (c) she had received numerous awards and achievements, and (d) she had been promoted to lieutenant and was getting ready to sit for the Captain's test. She and other Defendants like Edmonston were able to curtail Plaintiff's period of light duty status to six months instead of the generally-allotted one year, and Plaintiff had to use sick days to take off, sick days that she did not have. In the case of Defendant Morgan, he made sure that his investigation resulted in the finding that Plaintiff had been lying about her son's activities involving a Fairfax County-based housing provider. See Paragraphs 62-65 *supra*. He always displayed a threatening and defiant demeanor whenever he encountered Plaintiff. As noted above, he even followed her to an elevator one time, hoping to be confined in a space with her where he could threaten her once more with removal from investigations.

88. At all relevant times, both Schwartz and Morgan knew and enjoyed inflicting emotional distress on Plaintiff to retaliate against her for not being a team player and convince her that resigning her position in investigations would be in her best interest. The term “team player” was defined in the fire department as someone who did not file charges against her colleagues and sucked up to her superiors. Both Morgan and Schwartz knew that berating, insulting, and putting additional stress on Plaintiff would take an enormous toll on her physical and mental health. They did it because they both knew that such conduct would be approved by both Reilly and Barrero. They knew that fostering good relations with them meant more favorable annual reviews, more promotions, and significant salary increases.

89. Based upon the allegations listed herein and those contained in Count I and II, Plaintiff has made out a prima facie case against Defendants Reilly, Barrero, Morgan, and Schwartz for the intentional infliction of emotional distress.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against Defendants Reilly, Barrero, Morgan, and Schwartz in a sum of two million dollars, \$2,000,000. As a direct and proximate result of the Defendants’ conduct as described herein, Plaintiff has suffered injuries, and will continue to suffer injuries, in the form of lost wages, reduced retirement benefits, not being promoted to a captain rank, having a personnel file replete with complaints of professional misconduct, personal and professional humiliation and embarrassment, loss of enjoyment of life, as a well as other emotional distress, pain, and suffering.

JURY DEMAND

Plaintiff hereby requests jury trial as to all factual issues raised herein.

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