

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

SCOTT V. PHILLIPS-GARTNER,

Plaintiff,

V.

Civil Action No.: 2:18cv565

CITY OF NORFOLK, VIRGINIA,

Defendant.

COMPLAINT

COMES NOW the plaintiff, Scott V. Phillips-Gartner (hereinafter "Gartner") and for his Complaint against City of Norfolk, Virginia (hereinafter "Norfolk"), states as follows:

The Parties

1. At all times relevant to this action, Gartner was an individual and a resident of Suffolk, Virginia and an employee of Norfolk.
2. At all times relevant to this action, Norfolk was a municipal corporation employing more than 500 individuals in the Norfolk, Virginia area. At all times relevant to this action, Norfolk was an "employer" within the meaning of Title VII §701, 42 U.S.C. §2000e(b) in that Norfolk was a person engaging in an industry affecting commerce and had fifteen or more employees for each working day in each of the twenty or more calendar

weeks during the years that it employed Gartner or the preceding calendar year.

Jurisdiction and Venue

3. This case involves an action discrimination in employment based on sex, hostile work environment based upon gender and retaliation pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq.
4. This Court has subject matter jurisdiction pursuant to 42 U.S.C. §2000e-5(f) and 28 U.S.C. §1343(4).
5. Gartner timely filed charges of gender discrimination and retaliation with the United States Equal Employment Opportunity Commission (“EEOC”) on March 15, 2017 (See Attached Exhibit A, charge number 437-2017-00543), on September 5, 2017 (See attached Exhibit B, charge number 437-2017-01088) on November 9, 2017 (See attached Exhibit C, charge number 437-2018-00127) and again on February 15, 2018 (See attached Exhibit D, charge number 437-2018-00568).
6. On December 7, 2017, Norfolk advised Gartner that his employment would be terminated. As a result of this advice, Gartner resigned in lieu of termination advising Norfolk that his employment would end on December 31, 2017. The retirement dates was eventually extended to January 31, 2018.
7. On July 25, 2018, Gartner received Notice of Right to Sue letters from the United States Department of Justice on each charge.

8. Gartner has exhausted his administrative remedies prior to filing this action.
9. Venue is proper in this Honorable Court as all acts giving rise to plaintiff's cause of action occurred within the Eastern District of Virginia in the Norfolk division.

Facts

10. Gartner became employed by Norfolk in April of 1991 as a telecommunications officer. In 2013, Gartner was promoted from firefighter cardiac technician to Assistant Fire Marshall for the City of Norfolk. During his tenure in the Norfolk Fire Department, Gartner was an Assistant Fire Marshall for Norfolk and a senior member of the Norfolk Bomb Squad.
11. Gartner is a veteran of the United States Navy with war time service.
12. Gartner is a homosexual male and a member of a protected class within the meaning of Title VII of the Civil Right Act of 1964.
13. In October of 2014, a female employee of the Norfolk Fire Department named Karen Baka solicited a large number of staff to write letters of complaint regarding Chief Burris and Captain Ansell of the Norfolk Fire Department disparate treatment of female employees.
14. At all times relevant to this action, Chief Burris and Chief Wise were direct supervisors of Gartner.
15. Another female employee of the Norfolk Fire Department, Karen Barnes, filed a complaint with the City of Norfolk alleging gender discrimination by Chief Burris in the fall.

16. In October 2014, Gartner, a male, married his longtime partner whom is also male.
17. After his marriage, Gartner updated his personnel records with the city via its computer system. Chief Burriss and Chief Wise of the Norfolk Fire Department had access to these records.
18. In October of 2014, in the presence of Gartner and others, Captain Ansell with the Norfolk Fire Department made a disparaging comment about gay marriage when a television commercial was broadcast in a common area of the fire department.
19. Throughout 2015, Chief Burriss routinely subjected Gartner and Barnes to verbal attacks and treated them less favorably than similarly situated heterosexual male employees.
20. In December 2015, Chief Burriss verbally attacked Gartner's sexuality during an open staff meeting by asking "Where is Ms. Gartner?" which prompted other coworkers to laugh. Gartner made a complaint about this conduct to Norfolk.
21. In January 2016, Chief Wise of the Norfolk Fire Department advised Gartner and Karen Barnes that he was "looking into" their complaints about the conduct of Chief Burriss at the December 2015 meeting.
22. In February 2016, Chief Mann was brought in to investigate the complaints of discrimination by Gartner and Barnes. Chief Mann and Chief Burriss would go to lunch often during this period and Chief Mann advised Gartner that Chief Burriss was a friend of his.

23. From January 2016 through March 2016, Chief Wise routinely belittled Gartner in front of colleagues.
24. In May, 2016, Gartner and Karen Barnes brought their complaints about Chief Burris and the hostile work environment at the fire department to Norfolk's City Auditor, John Sanderlin. Gartner specifically advised Sanderlin that ever since he was married and Chief Burris became aware that he was in a homosexual marriage, he had been treated far less favorably than his similarly situated heterosexual male coworkers. Gartner also advised Sanderlin that he had been retaliated against for his opposition to said discrimination.
25. In July 2016, Chief Burris said that he was going to place Gartner "in the middle of a large crowd of demonstrators holding up a sign" implying that he wished he could set Gartner up to be attacked by protestors that opposed homosexual marriage. During this same encounter, Chief Burris asked Gartner if he "knew what was going on" with the gender discrimination complaint that had been filed by Karen Barnes.
26. On March 6, 2017, Gartner was suddenly called in to a meeting with Chief Wise and Chief Brooks. Chief Wise demanded that Gartner turn in his city issued firearm, computer and cell phone and was handed a letter stating that Gartner's police powers had been removed. Chief Wise also stripped of his duties as an Information Technology administrator for the department. Gartner was also no longer allowed to use Norfolk vehicles.

Gartner was demoted and reassigned to a temporary facility miles from his usual office with little to no job duties.

27. On March 16, 2017, Gartner filed his first charge of discrimination based on gender and retaliation with the U.S. Equal Employment Opportunity Commission ("EEOC"). Gartner also filed nine (9) internal grievances with the City of Norfolk complaining of discrimination based on sexual orientation and retaliation.
28. After Gartner filed his first discrimination charge with the EEOC, the City of Norfolk continued to retaliate against Gartner. On March 23, 2017, the City denied Gartner's request for routine bomb squad training and denied Gartner the ability to maintain various work certifications that directly resulted in Gartner losing pay and benefits.
29. On March 24, 2017 Norfolk ordered Gartner to retire his service dog in a deliberate attempt to hurt Gartner.
30. From April 1, 2017 through November 2017, Norfolk kept Gartner on temporary work assignments with little or no work to do and never restored his police powers or ability to complete training or certification activities. During this time period, Norfolk refused to restore Gartner's former job privileges (use of City issued firearm, vehicle, computer, cell phone and IT duties).
31. Finally, on November 3, 2017, Chief Wise advised Gartner that we was actively attempting to have Gartner terminated.

32. Rather than be terminated as Chief Wise indicated, on December 7, 2017, Gartner reluctantly tendered his written resignation to Chief Wise ending his 27 year career with the City of Norfolk. (See attached Exhibit E).

Count I (Title VII--Hostile Work Environment)

33. Paragraphs 1 through 32 of the Complaint are hereby fully incorporated by reference as if fully re-alleged herein.

34. As a term and condition of his employment, Norfolk subjected Gartner to an offensive, demeaning, humiliating and hostile work environment based upon Gartner's sexual orientation (a homosexual male).

35. The conduct of Norfolk was unwelcome, was based upon Gartner's gender and sexual orientation (a homosexual male) and was severe and pervasive enough to create an objectively hostile, offensive and abusive working environment based upon sex/gender so as to alter the conditions of Gartner's employment.

36. The offensive conduct of Norfolk was severe and pervasive enough to cause Gartner to suffer humiliation and stress at work as well as psychological harm that interfered with his job performance.

37. Even after Gartner and others reported the severe and pervasive harassment by Gartner's supervisors to Norfolk's human resources department and the City Auditor, Norfolk took no remedial action.

38. As a direct and proximate result of the hostile and offensive work environment based upon gender/sexual orientation that was created and maintained by Norfolk, Gartner has suffered damages including denial of

job promotions, termination of employment, pain and suffering and loss of enjoyment of life.

Count II (Title VII—Gender Discrimination)

39. Paragraphs 1 through 32 of the Complaint are hereby fully incorporated by reference as if fully re-alleged herein.
40. Norfolk routinely treated its male homosexual employees less favorably than similarly situated heterosexual male employees.
41. Norfolk, through its supervisors, routinely discriminated against its male homosexual employees, including Gartner, subjected them to harsh and demeaning terms and conditions of employment while not subjecting similarly situated male heterosexual employees to those same terms and conditions of employment.
42. At all times that Gartner was subjected to the foregoing adverse employment actions, Gartner performed his job duties at a level that reasonably met Norfolk's legitimate expectations.
43. As a direct and proximate result of Norfolk's actions, Gartner was subjected to adverse employment actions based upon his gender and sexual orientation.
44. As a direct and proximate result of Norfolk's actions, Gartner suffered damages including lost salary and benefits as well as pain and suffering, inconvenience and loss of enjoyment of life.

Count III (Title VII—Retaliation—Oppositional Activities)

45. Paragraphs 1 through 33 of the Complaint are hereby fully incorporated by reference as if fully re-alleged herein.
46. Norfolk knowingly and intentionally retaliated against Gartner, including but not limited to constructively terminating his employment, in direct retaliation for Gartner's actions taken to oppose gender discrimination against Karen Barnes and in direct retaliation for Gartner's actions taken to oppose gender and sexual orientation discrimination against himself. Those actions include, but are not limited to: Gartner's actions in supporting Karen Barnes' complaints of general discrimination to management and for reporting gender and sexual orientation discrimination at Norfolk Fire Department both to management at Norfolk's City Auditor and Human Resources Department and to the EEOC.
47. In fact, the retaliatory conduct by Norfolk towards Gartner increased and became more severe after Gartner complained to management at Norfolk's City Auditor and Human Resources Department and to the EEOC.
48. As a direct and proximate result of Norfolk's retaliation against Gartner, he has suffered damages including lost salary and benefits as well as pain and suffering, inconvenience and loss of enjoyment of life.

Count IV (Title VII—Retaliation—Participation Activities)

49. Paragraphs 1 through 33 of the Complaint are hereby fully incorporated by reference as if fully re-alleged herein.
50. Norfolk knowingly and intentionally retaliated against Gartner, including but not limited to constructively terminating his employment, in direct retaliation for Gartner's filing complaints for gender discrimination with the EEOC and for supporting Karen Barnes in her efforts to report and oppose gender discrimination through the EEOC.
51. As a direct and proximate result of Norfolk's retaliation against Gartner for participating in EEOC proceedings, he has suffered damages including lost salary and benefits as well as pain and suffering, inconvenience and loss of enjoyment of life.

Jury Demand

52. Gartner demands a trial by jury on all issues so triable in this action.

Relief Sought

WHEREFORE, Gartner moves this Honorable Court to enter judgment in his favor against Norfolk and to award:

- A. All of Gartner's lost salary and benefits from March 16, 2017 until entry of judgment in this action plus interest on such back pay;
- B. Gartner's lost future salary and benefits;
- C. Damages for emotional pain and suffering, inconvenience and loss of enjoyment of life;

- D. An award of Gartner's attorney's fees and costs incurred in this action as well as other costs incurred in this action.

Respectfully Submitted,

SCOTT V. PHILLIPS-GARTNER

A handwritten signature in black ink, appearing to read 'W. Barry Montgomery', is written over a solid horizontal line.

Of Counsel

W. Barry Montgomery, Esquire (VSB# 43042)
KALBAUGH, PFUND & MESSERSMITH
Counsel for Scott V. Phillips-Gartner
901 Moorefield Park Drive, Suite 200
Richmond, Virginia 23236
Tel: (804) 320-6300
Fax: (804) 320-6312
E-mail: barry.montgomery@kpmlaw.com

EEOC Form 5 (11/09)

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|---|---|
| <p>CHARGE OF DISCRIMINATION</p> <p>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p> | <p>Charge Presented To: Agency(ies) Charge No(s):</p> <p><input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 437-2017-00543</p> |
|---|---|

Virginia Division of Human Rights and EEOC
State or local Agency, if any

| | | |
|--|---|------------------------------|
| Name (indicate Mr., Ms., Mrs.) Mr. Scott V. Phillips-Gartner | Home Phone (Incl. Area Code) (757) 663-2554 | Date of Birth 1963 |
|--|---|------------------------------|

Street Address City, State and ZIP Code
2716 Nanesmond Cres, Suffolk, VA 23435

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

| | | |
|--|---|-------------------------------|
| Name CITY OF NORFOLK DEPARTMENT OF FIRE/RESCUE | No. Employees, Members Over 500 | Phone No. (Include Area Code) |
|--|---|-------------------------------|

Street Address City, State and ZIP Code
100 Brooke Ave, Suite 400, Norfolk, VA 23510

| | | |
|------|------------------------|-------------------------------|
| Name | No. Employees, Members | Phone No. (Include Area Code) |
|------|------------------------|-------------------------------|

Street Address City, State and ZIP Code

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| <p>DISCRIMINATION BASED ON (Check appropriate box(es).)</p> <p><input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN</p> <p><input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION</p> <p><input type="checkbox"/> OTHER (Specify)</p> | <p>DATE(S) DISCRIMINATION TOOK PLACE</p> <p>Earliest Latest</p> <p style="text-align: right;">03-06-2017</p> <p><input checked="" type="checkbox"/> CONTINUING ACTION</p> |
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THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

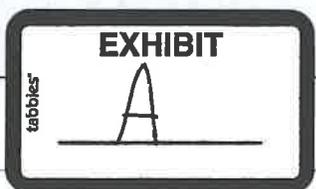
I. I began employment on April of 1991, as a Telecommunicator. In 2013, I was subsequently promoted to Assistant Fire Marshal. On May of 2016, I complained to John Sandurlin, the City Auditor because I felt that because I was in a same sex marriage, and ever since I got married my treatment was substandard to my coworker who is not in a same sex marriage. On July of 2016, Chief Burriss said that he was going to specifically place me in the middle of a large crowd of demonstrators holding up a sign. This led me to believe that he was going to set me up to be attacked. On August of 2016, Chief Roger Burriss asked me what was going on with Karen Barnes. He stated that he knew that I knew about her complaint with the EEOC. On March 6, 2017, I was removed of my Law Enforcement powers and reassigned to a temporary duty assignment.

II. I was not given a reason why I was removed from my Law Enforcement duties and placed in a new temporary assignment.

III. I believe I was harassed and my wages were reduced because of my sexual orientation, Gay and/or on the basis of sex stereotyping, in that my employer took my gender into account for gender non-conforming appearance and behavior, and in retaliation for participating in the investigation of Charge No. 437-2017-00164, in violation of Title VII of the Civil Rights Act of 1964, 704 (a) as amended.

| | |
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| <p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p> <p>I declare under penalty of perjury that the above is true and correct.</p> | <p>NOTARY – When necessary for State and Local Agency Requirements</p> <p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</p> |
|--|--|

Mar 15, 2017
 Date Charging Party Signature



EEOC Form 5 (11/09)

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| <h2 style="margin:0;">CHARGE OF DISCRIMINATION</h2> <p style="font-size: small; margin: 5px 0;">This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p> | Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 437-2017-01088 |
|---|--|

Virginia Division of Human Rights and EEOC

State or local Agency, if any

| | | |
|--|---|------------------------------|
| Name (indicate Mr., Ms., Mrs.) Mr. Scott V. Phillips-Gartner | Home Phone (Incl. Area Code) (757) 663-2554 | Date of Birth 1963 |
|--|---|------------------------------|

Street Address City, State and ZIP Code
2716 Nansemond Crest, Suffolk, VA 23435

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

| | | |
|--|--|--|
| Name NORFOLK CITY OF FIRE DEPARTMENT | No. Employees, Members 500 or More | Phone No. (Include Area Code) (757) 664-6000 |
|--|--|--|

Street Address City, State and ZIP Code
810 Union St Suite 100, Norfolk, VA 23510

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|------|------------------------|-------------------------------|
| Name | No. Employees, Members | Phone No. (Include Area Code) |
|------|------------------------|-------------------------------|

Street Address City, State and ZIP Code

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| DISCRIMINATION BASED ON (Check appropriate box(es).) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify) | DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 03-06-2017 <input checked="" type="checkbox"/> CONTINUING ACTION |
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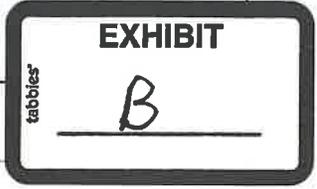
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

The last position I held was Assistant Fire Marshall. On or about March 23, 2017, I mailed a letter to my employer advising them that I was being discriminated against because of my sexual orientation. On March 16, 2017, I filed EEOC Charge 437-2017-00543. Since the filing of my charges, I am being subjected to continuous retaliation. I was relieved of all of my duties as Assistant Fire Marshall. I was put in a building miles away from my office. My gun was taken away and I am no longer allowed to use a take-home vehicle. I was advised not to touch any other computer other than the shared computer. I have been given limited computer access and I am being denied access to work related emails and 1.4 bit of data is missing from my H: drive. I am continuously being denied various training related to maintaining my work related certifications. This impacts my pay and other benefits. My K-9 pay was cut in half because I was denied the ability to bring my K-9 on the job. Since March 2017, I have filed six grievances addressing discrimination and retaliation based on my sexual orientation. I am no longer being allowed to provide IT service as I had prior to filing my charges. Most recently, I have been falsely accused of the unauthorized acquisition of a K-9. The harassment

| | |
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| I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. | NOTARY - When necessary for State and Local Agency Requirements |
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| | |
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| I declare under penalty of perjury that the above is true and correct. <div style="text-align: center;"> _____ Charging Party Signature </div> | I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year) |
|--|---|

Sep 05, 2017
Date



EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

FEPA

EEOC

437-2017-01088

Virginia Division of Human Rights

and EEOC

State or local Agency, if any

is continuing.

Chief Wise told me that he was taking the IT admin duties from me because I was a risk and he did not know what I would do if given access rights back.

I believe that I am being subjected to the above described harassment and terms and conditions of employment in retaliation for my complaints and grievances of my employer's discriminatory employment practices in violation of Title VII of the Civil Rights Act of 1964, as amended.

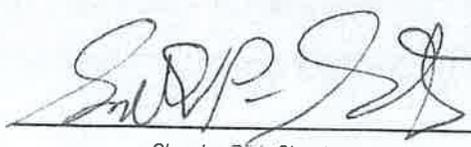
2017 SEP -5 PM 3:27
RECEIVED
MIRIAM M. HFC

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Sep 05, 2017

Date



Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

EEOC Form 5 (11/09)

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| <p>CHARGE OF DISCRIMINATION</p> <p>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p> | <p>Charge Presented To: Agency(ies) Charge No(s):</p> <p><input type="checkbox"/> FEPA</p> <p><input checked="" type="checkbox"/> EEOC 437-2018-00127</p> |
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Virginia Division of Human Rights and EEOC

State or local Agency, if any

| | | |
|--------------------------------------|------------------------------|---------------|
| Name (indicate Mr., Ms., Mrs.) | Home Phone (Incl. Area Code) | Date of Birth |
| Mr. Scott V. Phillips-Gartner | 757-663-7123 | |

Street Address City, State and ZIP Code

2716 Nansemond Crescent, Suffolk, VA 23435

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

| | | |
|------------------------|------------------------|-------------------------------|
| Name | No. Employees, Members | Phone No. (Include Area Code) |
| CITY OF NORFOLK | Unknown | |

Street Address City, State and ZIP Code

810 Union St, suite 100, Norfolk, VA 23510

| | | |
|------|------------------------|-------------------------------|
| Name | No. Employees, Members | Phone No. (Include Area Code) |
| | | |

Street Address City, State and ZIP Code

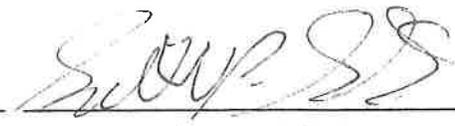
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| <p>DISCRIMINATION BASED ON (Check appropriate box(es).)</p> <p> <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify) </p> | <p>DATE(S) DISCRIMINATION TOOK PLACE</p> <p style="text-align: center;">Earliest Latest</p> <p style="text-align: right;">11-3-2017</p> <p><input type="checkbox"/> CONTINUING ACTION</p> |
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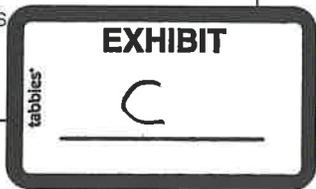
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I. I began employment on or around April 1991, as 911 Dispatcher. I laterally moved to the Fire Department and I have held several positions within the organization. My current position is Assistant Fire Marshall. I previously filed charges 437-2017-01088 and 437-2017-00543. Since then there has been constant harassment, belittling and retaliation by Management; Chief Wise, Chief Brooks and Chief Burris. I am yelled at, criticized, and denied normal day to day privileges. As recent as September 14, 2017, I was told I could not conduct PT although it is General Order ADM-051. I grieved the process and was told I can only PT for 30 minutes. I have reached out to HR, Marva Smith on two occasions and the only communication I have received is that someone will get back with you. I have been stripped of all my duties and do not have access to even view my benefits. On November 3, 2017, Chief Wise called me to his office and said that I was being charged with a plethora of violations for an incident with a K9 that occurred on or around February 2016. I have been reprimanded at least 3 times for this incident that I had minimal participation. November 3, 2017, Chief Wise said he was seeking to terminate me for the charges.

II. The reason I was given for being disciplined and charged with violations is because of an incident with a K9 that occurred on or around February 2016.

III. I believe I have been subjected to a different terms and conditions, a hostile work environment and disciplined without merit with threat of being discharged because of my sex-sexual orientation, in retaliation for participating in protected activity, in violation of Title VII of the Civil Rights Act of 1964, 704 (a), as amended.

| | |
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| <p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p> <p>I declare under penalty of perjury that the above is true and correct.</p> | <p>NOTARY – When necessary for State and Local Agency Requirements</p> <p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ (month, day, year)</p> |
| <p>Nov 09, 2017</p> <hr/> <p style="text-align: center;"><i>Date</i></p> | <p style="text-align: center;"></p> <hr/> <p style="text-align: center;"><i>Charging Party Signature</i></p> |



EEOC Form 5 (11/09)

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| <p>CHARGE OF DISCRIMINATION</p> <p><small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small></p> | <p>Charge Presented To: Agency(ies) Charge No(s):</p> <p><input type="checkbox"/> FEPA</p> <p><input checked="" type="checkbox"/> EEOC 437-2018-00568</p> |
| <p>Virginia Division of Human Rights and EEOC</p> <p><small>State or local Agency, if any</small></p> | |

| | | |
|--------------------------------------|------------------------------|---------------|
| Name (indicate Mr., Ms., Mrs.) | Home Phone (Incl. Area Code) | Date of Birth |
| Mr. Scott V. Phillips-Gartner | (757) 663-2554 | 1963 |

Street Address City, State and ZIP Code

2716 Nanesmond Cres, Suffolk, VA 23435

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

| | | |
|------------------------|------------------------|-------------------------------|
| Name | No. Employees, Members | Phone No. (Include Area Code) |
| NORFOLK CITY OF | 500 or More | (757) 664-4481 |

Street Address City, State and ZIP Code

810 Union Street, Norfolk, VA 23510

| | | |
|------|------------------------|-------------------------------|
| Name | No. Employees, Members | Phone No. (Include Area Code) |
| | | |

Street Address City, State and ZIP Code

| | | | | | |
|--|--|----------|--------|-------------------|-------------------|
| <p>DISCRIMINATION BASED ON (Check appropriate box(es).)</p> <p> <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify) </p> | <p>DATE(S) DISCRIMINATION TOOK PLACE</p> <table style="width:100%;"> <tr> <td style="text-align: center;">Earliest</td> <td style="text-align: center;">Latest</td> </tr> <tr> <td style="text-align: center;">12-15-2015</td> <td style="text-align: center;">01-31-2018</td> </tr> </table> <p><input checked="" type="checkbox"/> CONTINUING ACTION</p> | Earliest | Latest | 12-15-2015 | 01-31-2018 |
| Earliest | Latest | | | | |
| 12-15-2015 | 01-31-2018 | | | | |

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

On or about January 24, 2018 Fire Chief Jeffrey Wise denied my request to purchase my service revolver and a concealed weapon permit. I was discharged on January 31, 2018.

The reason given for being denied the purchase of my service revolver and concealed weapons permit due to my involvement in an investigation.

I believe I was denied the requests by the Fire Chief and discharged in retaliation for opposing discrimination based on my sexual orientation and in retaliation for opposing the hostile work environment that was based on my sexual orientation in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Feb 15, 2018

Date

Charging Party Signature

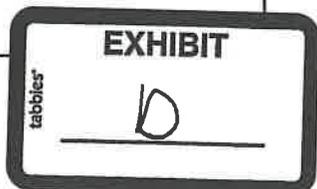
NOTARY – When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE

(month, day, year)





NORFOLK FIRE-RESCUE

TO: Galen Gresalfi Director City of Norfolk Retirement _____

FROM: LT Scott V. Phillips-Gartner AFM _____

COPIES TO: Chief Wise, Chief Norville, file _____

SUBJECT: End / withdraw from the Deferred Retirement Option Program _____

Thursday December 7, 2017

Director Gresalfi,

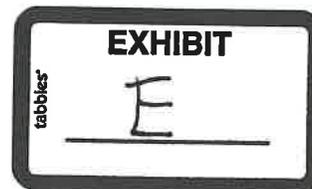
I have been informed that my 27 year employment will be terminated with the City of Norfolk Department of Fire Rescue. In lieu of being terminated I am submitting notice to withdraw or end my Deferred Retirement Option Program. This is the required 30 day notice, thus my end date will be January 8, 2018.

Submitted,

Scott V. Phillips-Gartner, Lieutenant
Assistant Fire Marshal
Norfolk Fire Rescue

Received by _____

Date _____



JS 44 (Rev. 08/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 Scott V. Phillips-Gartner

(b) County of Residence of First Listed Plaintiff Suffolk, Virginia
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 W. Barry Montgomery, Esq.
 KPM Law, 901 Moorefield Park Dr. Ste. 200, Richmond, VA 23236
 Tel: (804) 320-6300

DEFENDANTS
 City of Norfolk, Virginia

County of Residence of First Listed Defendant Norfolk, VA
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

| | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|---|--|--|--|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act | PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark |
| | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) | FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 |

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from Another District (specify)

6 Multidistrict Litigation - Transfer

8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. 2000e, et seq.

Brief description of cause:
Employment discrimination

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE: 10/19/2018

SIGNATURE OF ATTORNEY OF RECORD: [Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____