

LEGISLATIVE #

110611

1/19/12

CITY OF GAINESVILLE
CITY COMMISSION

UNITED STATES DISTRICT COURT
for the
Northern District of Florida

11 DEC 19 PM 2:05

RICHARD AYCOX

Plaintiff

v.

CITY OF GAINESVILLE

Defendant

Civil Action No. 1:10-cv-00051-SPM-GRJ

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) City of Gainesville
c/o Craig Lowe, Mayor
200 East University Avenue
Gainesville, FL 32601

RECEIVED
USMS GAINESVILLE, FL
2011 NOV 14 A 9:11

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

RICHARD AYCOX
814 SE 5TH AVE #7
GAINESVILLE, FL 32601

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ROBERT J. LYNDENWANTZ
CLERK OF COURT

Date: 11/10/2011

K. M. Deary
Signature of Clerk or Deputy Clerk

RECEIVED
UNITED STATES DISTRICT COURT
GAINESVILLE, FL
2011 NOV 18 1:59
CLERK

Civil Action No. 1:10-cv-00051-SPM-GRJ

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

RICHARD AYCOX,

Plaintiff,

v.

CASE NO. 1:10-cv-00051-SPM-GRJ

CITY OF GAINESVILLE,

Defendant.

ORDER

Plaintiff initiated this case by filing a *pro se* complaint construed as asserting a hostile work environment claim and a retaliation claim under Title VII (Doc. 1). Plaintiff subsequently filed First and Second Amended Complaints (Docs. 6 and 12) pursuant to the Court's orders. Upon review, the Court determined that Plaintiff could not proceed on his hostile work environment claim because the allegations of the Second Amended Complaint did not show that he filed a timely charge with either the Equal Employment Opportunity Commission (EEOC) or a certified fair-employment practices agency (FEP) within 300 days of the alleged discrimination. Doc. 16. The Court permitted Plaintiff to file a Third Amended Complaint in order to provide additional factual details about his retaliation claim. *Id.* Plaintiff filed a Third Amended Complaint, Doc. 18, but also sought leave to pursue his hostile work environment claim. The Court denied such leave, finding that Plaintiff again failed to show that he filed a timely charge. The Court ordered Plaintiff to show cause as to why he should not be sanctioned for failing to exercise candor in his pleadings. Plaintiff filed a response to the show-cause order in which he disavowed any intent to mislead the Court. Doc. 21.

Upon due consideration of the response to the show cause order, and in view of

RECEIVED
USMS GAINESVILLE, FL
NOV 14 A 11 10
RECEIVED
UNITED STATES
MARSHAL
NOV 8 11 10
NORTHERN DISTRICT
OF FLORIDA
GAINESVILLE

Plaintiff's *pro se* status, the Court will not impose sanctions upon Plaintiff. However, for the reasons stated previously Plaintiff has not shown that he is entitled to proceed with a hostile work environment claim because he did not timely file a discrimination charge. See Docs. 16, 19.

Upon review of the Third Amended Complaint, the Court finds that the allegations are sufficient to apprise the Defendant of the nature of Plaintiff's retaliation claims. Pursuant to FED. R. CIV. P. 4(c)(3), because the Court has granted Plaintiff's request for leave to proceed as a pauper, the Court will order the United States Marshal to personally serve the Defendant under FED. R. CIV. P. 4(j).

Accordingly, it is **ORDERED**:

1. The Clerk of Court shall complete a summons form and a USM 285 form for service upon City of Gainesville, c/o Craig Lowe, Mayor, 200 East University Avenue, Gainesville, FL 32601. The Clerk is directed to send a copy of this Order, a completed USM 285 form, a completed summons, and a service copy of the Third Amended Complaint to the United States Marshal. Pursuant to FED. R. CIV. P. 4(c)(3), all costs of service shall be advanced by the United States.

2. The Marshal shall personally serve the summons and complaint upon the Defendant pursuant to FED. R. CIV. P. 4(j). Upon completion of service, the Marshal shall file the return with the Clerk.

3. The Clerk shall refer this file to the undersigned upon filing of the return, or within 30 days of the date of this Order.

DONE AND ORDERED this 10th day of November 2011.

s/ Gary R. Jones

GARY R. JONES
United States Magistrate Judge

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

EMPLOYMENT DISCRIMINATION COMPLAINT FORM

TO BE USED BY PRO SE LITIGANTS IN ACTIONS
FILED UNDER 42 U.S.C. § 2000e, et seq., (Title VII of the Civil Rights Act)
29 U.S.C. § 621, et seq., (Age Discrimination in Employment Act)
OR 42 U.S.C. § 12112, et seq., (Americans with Disabilities Act)

THIRD
AMENDED

RICHARD AYCOX
(Name of Plaintiff)

vs.

CASE NO: 1:10-cv-00051-SPM-GRJ
(To be assigned by Clerk)

CITY OF GAINESVILLE

(Name of Defendant which should
generally be the name of the Employer.)

RECEIVED
USMS GAINESVILLE, FL
2011 NOV 14 A 9 11

RECEIVED
UNITED STATES
MARSHAL
2011 NOV 18 P 2 00
NORTHERN DISTRICT
OF FLORIDA
PANAMA CITY OFFICE

ANSWER ALL QUESTIONS ON THE FOLLOWING PAGES:

Filed 03/15/11 USDC-FIn1M0410

I. PARTIES:

A. PLAINTIFF:

State your full name, full mailing address, and phone number:

Name of Plaintiff: RICHARD AYCOX

Mailing address: 2777 SE 15 ST.
GAINESVILLE, FL 32641

Phone # (352) 246-1996

B. DEFENDANT(S):

State the name of the Defendant in the first line (place where you were employed or sought employment) and mailing address.

Defendant's name: CITY OF GAINESVILLE

Mailing address: 200 E. UNIVERSITY AVE.
GAINESVILLE, FL 32602

PLEASE CONTINUE ANSWERING ALL QUESTIONS ON THE FOLLOWING PAGES

II. FACTUAL BACKGROUND:

1. Defendant Employer is: CITY OF GAINESVILLE REGIONAL TRANSIT SYSTEM
2. Defendant's business is: PUBLIC TRANSPORTATION
Business address - location of headquarters: 200 E UNIVERSITY AV. ~~S~~
GAINESVILLE, FL. 32602

3. Plaintiff sought employment from Defendant on _____
or was employed by Defendant from 05/2007 until 03/2010.

4. The location where Plaintiff was employed or sought employment was:
(street address) 100 SE 10 AVE.
(city/county and state) GAINESVILLE, FL. 32601

5. Plaintiff filed charges against Defendant with the Equal Employment Opportunity Commission on: 05/14/10.

6. The Respondent(s) named on the EEOC charging document: REGIONAL TRANSIT SYSTEM
_____. (attach document).

7. Defendant discriminated against Plaintiff as described in Section III of this complaint on or about 8/18 (day) AUGUST (month), and 2008 (year). (BEGINNING DATE)

8. As claimed in the EEOC charging document, Defendant discriminated against Plaintiff because of Plaintiff's: gender/sex MALE (please identify)
 race BLACK color _____
 religion _____ national origin _____
 disability _____ age Date of Birth is _____
 other (explain): ~~REASON~~

9. Defendant discriminated against Plaintiff when Defendant:
 failed to hire Plaintiff terminated Plaintiff's employment
 failed to promote Plaintiff retaliated against Plaintiff
 failed to accommodate Plaintiff's disability unequal treatment
 other (explain): _____

10. The EEOC issued a Notice of Right to Sue which was dated: 09/23/10 and which was received by Plaintiff on 11/02/10
» » The notice is attached to this complaint. yes no « «

11. Plaintiff also filed charges concerning this discrimination with the Florida Commission on Human Relations on: FEBRUARY 19, 2009 or did not file.

JURISDICTIONAL AND STATUTORY BASIS OF CLAIM:

This action is brought for discrimination in employment pursuant to:

- Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin)
- Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621-634
- Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112-12117

Note: To bring suit in federal court under any of the above Acts, you must first obtain a right to sue letter from the Equal Employment Opportunity Commission.

Jurisdiction is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343.

III. STATEMENT OF FACTS:

Briefly state the **FACTS** of this case. Describe how each Defendant was involved and what each person did or did not do which gives rise to your claim. In describing what happened, state the names of persons involved, dates, and places. Do not make any legal arguments or cite to any cases or statutes. You must set forth separate factual allegations in separately numbered paragraphs. Additional pages may be added to state the relevant facts if necessary. Absent extraordinary circumstances, no more than two (2) additional pages should be attached.

SEE ATTACHED

14. If this is a disability-related claim, did Defendant deny a request for a reasonable accommodation? yes no *N/A* Explain: _____

IV. REQUEST FOR RELIEF:

As relief from the allegations of discrimination as stated above, Plaintiff prays that the Court grant the following relief to Plaintiff:

- Defendant be directed to employ Plaintiff
- Defendant be directed to re-employ Plaintiff
- Defendant be directed to promote Plaintiff
- Defendant be directed to _____

As additional relief to make Plaintiff whole, Plaintiff seeks: _____

- injunctive relief (please explain): _____
 - monetary damages (please explain): \$300,000
 - costs and fees involved in litigating this case.
- and such other relief as may be appropriate, including attorney's fees, if applicable.

Plaintiff seeks a jury trial bench trial (without jury)

I, hereby, declare under penalty of perjury that the foregoing statements have been written by me and are true and correct.

03/15/11
(Date)

[Signature]
(Signature of Plaintiff)

RICHARD ARCOX
(please print or type name legibly)

2777 SE 15 ST.
GAINESVILLE FL. 32641

(full mailing address)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

RICHARD AYCOX,
Plaintiff,

v.

CASE NO.: 1:10-cv-00051-SPM-GRJ

CITY OF GAINESVILLE,
Defendant,

I, Richard Aycox, Plaintiff in the above titled action allege while employed with the CITY OF GAINESVILLE, Defendant, at REGIONAL TRANSIT SYSTEM:

1. That beginning on or about August 18, 2008 Plaintiff in good faith brought to the attention of several REGIONAL TRANSIT SYSTEM ("RTS") supervisors the inappropriate actions and behavior of RTS Transit Operator and detailed how those actions were disrupting RTS service and having an adverse effect upon Plaintiff's job performance.
2. That although armed with Plaintiff's information, complaints from passengers, and first-hand witnessed accounts no appropriate action was taken to correct Ms. Banks behavior.
3. That on or about October 16, 2008 upon reporting to work, Plaintiff was pulled into a meeting with Ms. Banks, George Walker, Union Vice President, and David Smith, RTS Operations Supervisor. This meeting was arranged by Eustache Mine', RTS Operations Manager and presided over by Mr. Smith.
4. That Mr. Walker, a Union Representative present on behalf of Ms. Banks, a Union Member, clearly indicates that she had some prior knowledge of this meeting. Which in turn allowed Ms. Banks to prepare for this meeting and obtain representation for herself? Plaintiff, on the other hand, had no prior notification or knowledge of this meeting, which automatically placed him in a disadvantaged position.

5. That during this meeting Mr. Smith asked Ms. Banks for her comments on what the “problem” was between her and Plaintiff. At this point Ms. Banks launched into a verbal attack against Plaintiff of a personal nature. Ms. Banks called into question Plaintiff’s driving ability, ability to interact with the public, and Plaintiff’s overall “poor outlook” on life. The environment obviously became hostile for Plaintiff, yet Ms. Banks was allowed to continue.
6. That during this meeting Ms. Banks admitted to abusing her bathroom breaks by making the claim that her “extended” breaks were due to her “menstrual cycle”. It is clear by this statement that Ms. Banks is using her gender and gender specific issues to avoid disciplinary action.
7. That during this meeting Ms. Banks began to focus her verbal attack on RTS Eugene Nelson, who had witnessed and reported Ms. Banks inappropriate actions and behavior. Mr. Smith stopped Ms. Banks stating that he was not going to allow her to “bad-mouth” a supervisor like that.
8. That Mr. Smith, presiding over this meeting... a meeting arranged by Mr. Mine’...knew or should have known that Ms. Banks was in direct violation of CITY OF GAINESVILLE (“CITY”) Code of Conduct Policy. The stopping of Ms. Banks from verbally attacking Mr. Nelson clearly shows Mr. Smith’s selectiveness when it comes to implementing CITY policies.
9. That on or about October 20, 2008 Plaintiff in good faith delivered a written complaint to Mr. Mine’, detailing the actions and behavior of Ms. Banks, the refusal of RTS supervisors to take appropriate action, and the direct placement of Plaintiff into a hostile work environment.
10. That on or about October 27, 2008 Mr. Mine’ stated to Plaintiff that he received the written complaint and assured Plaintiff that the issues stated therein were serious and that he would be addressing these issues with RTS supervisors at a scheduled meeting on or about October 28, 2008. Mr. Mine’ also assured Plaintiff that there was no need for concern of retaliation because “retaliation is not tolerated at RTS”.
11. That on or about October 30, 2008 Plaintiff was informed by RTS Supervisor Jeff Powell that at the October 27th meeting that Mr. Mine’ never mentioned

Plaintiff's written complaint, the actions of Ms. Banks, RTS supervisors, or Mr. Smith.

12. That on or about November 2, 2008 Plaintiff in good faith delivered a written complaint to Jesus Gomez detailing the actions of Ms. Banks, RTS supervisors, Mr. Smith, and Mr. Mine's refusal to address Plaintiff's written complaint dated October 20th.
13. That on or about November 16, 2008, after two weeks of no response from Mr. Gomez, Plaintiff in good faith emailed the City Manager's office and requested an emergency meeting.
14. That on or about November 17, 2008 Plaintiff in good faith met with Paul Folkers, Assistant City Manager. At this meeting Plaintiff detailed the actions of Ms. Banks, RTS supervisors, the refusal of Mr. Mine' to address Plaintiff's written complaint dated October 20th, and know the refusal of Mr. Gomez to address Plaintiff's written complaint dated November 2nd.
15. That at this meeting Plaintiff made it clear to Mr. Folkers his concern about being treated unfairly and hostile work environment, conditions Plaintiff has been subjected to. Plaintiff also requested to be transferred to another department for fear of retaliation from RTS supervisors and managers, due to taking his complaint outside of RTS.
16. That at this meeting Mr. Folkers acknowledged Plaintiff's request for a transfer and insisted that Plaintiff first speak with Mr. Gomez to try and remedy this situation. Plaintiff did agree to this meeting.
17. That on or about November 19, 2008 Plaintiff in good faith met with Mr. Gomez. Plaintiff detailed the actions of Ms. Banks, RTS supervisors, Mr. Smith, the refusal of Mr. Mine' to address Plaintiff's written dated October 20th and the refusal of Mr. Gomez to address Plaintiff's written complaint dated November 2nd. Plaintiff also detailed how the lack of support from RTS supervisors and management has severely damaged Plaintiff's trust and dependability to solve this matter and the frustration this had had on Plaintiff.

18. That during these events there was a re-assignment of supervisors. RTS Supervisor Beverly Courtney, the only female supervisor at the time, replaced Supervisor George Feliciano.
19. That while Ms. Courtney was monitoring Ms. Banks' work she acted appropriately and did not disrupt RTS service. Yet, while Ms. Courtney was not monitoring Ms. Banks' work, Ms. Banks reverted back to her inappropriate actions and behavior and again disruptive to RTS service.
20. That on or about December 11, 2008 Plaintiff in good faith met with Mr. Mine'. Present at this meeting was Pat Howell, RTS Trainer. Mr. Mine' stated that he asked Mr. Howell to sit in this meeting because he didn't think it would be helpful to have a supervisor there. This clearly indicates that Mr. Mine' was somewhat knowledgeable of the existing tension between Plaintiff and RTS supervisors.
21. That during this meeting Mr. Mine' openly stated that Plaintiff had done nothing wrong and was well within his right with everything he had done. Mr. Mine' also openly re-stated that Plaintiff did not have to worry about retaliation because it was not tolerated at RTS.
22. That at this point of the meeting Mr. Mine' then attempted to intimidate Plaintiff into the belief that everything that had happened was due to Plaintiff's "aggressive" defense of his character from the verbal attack from Ms. Banks... a verbal attack that was allowed to happen by Mr. Smith in a meeting arranged by Mr. Mine'.
23. That on or about January 8 2009 Plaintiff in good faith met with Mr. Smith to receive Plaintiff's Quarterly Performance Evaluation. Upon reviewing the Evaluation, Plaintiff observed score deductions from the previous Evaluation, in 2 factors:

FACTOR #4: COOPERATION AND TEAMWORK

Previous score was 4 = Exceeds Standards

New score changed to 3 = Meets Standards

FACTOR #5: ATTITUDE TOWARDS WORK AND SUPERVISION

Previous score was 4 = Exceeds Standards

New score changed to 3 = Meets Standards

24. That at this meeting Plaintiff asked if the deduction in score was based on Plaintiff's actions during the time period covering Plaintiff's complaints. Mr. Smith confirmed this to be true.
25. That at this meeting Plaintiff informed Mr. Smith of his disagreement of the Evaluation and refused to sign it. Mr. Smith stated, "You don't have to sign it, you don't have to sign anything from RTS or the CITY. If you don't like it you can go over my head, as you are accustomed to doing!"
26. That on or about January 8, 2009 Plaintiff in good faith met with Mr. Gomez to discuss the Evaluations and the inappropriate comments made by Mr. Smith. When questioned about the deduction in score as retaliatory punishment Mr. Gomez stated that the deduction in score was not punishment because they were in fact saying that Plaintiff had meets standards in those factors. Plaintiff requested to see what evidence RTS had to show that Plaintiff's performance had warranted this change in score. To date no such information has been provided to Plaintiff.
27. That at this meeting Mr. Gomez openly admitted that he was unable to handle this situation and referred it to a meeting with Teresa Scott, Public Works Director.
28. That at a meeting with Ms. Scott, Plaintiff detailed the inappropriate actions of Ms. Banks, RTS supervisors, Mr. Smith, the refusal of Mr. Mine' to address Plaintiff's written complaint dated October 20th, the refusal of Mr. Gomez to address Plaintiff's written complaint dated November 2nd, and Plaintiff's Quarterly Performance Evaluation.
29. That at this meeting, on the subject of Mr. Mine's refusal to address Plaintiff's written Complaint dated October 20th, Mr. Gomez openly admitted that he told Mr. Mine' not to address the written complaint. With this admission it is clear that Mr. Gomez ordered Mr. Mine', his subordinate, to violate CITY policy, admitting this to his superior.
30. That on or about February 3, 2009 Plaintiff in good faith filed a Formal Complaint of Discrimination with the CITY office of EQUAL OPPORTUNITY ("EO"). Plaintiff clearly detailed the inappropriate actions of Ms. Banks, RTS supervisors, Mr. Smith, the refusal of Mr. Mine' to address Plaintiff's written

complaint dated October 20th, the refusal of Mr. Gomez to address Plaintiff's written complaint dated November 2nd, and Plaintiff's Quarterly Performance Evaluation. Plaintiff also provided witnesses and contact information.

31. That on or about February 19, 2009 Plaintiff was informed by co-workers of 2 separate incidents involving Mr. Feliciano:

Incident #1: Mr. Feliciano was engaged in a verbal consultation of a black female transit operator, in the employee break room. Present there were several other transit operators, all black. During this consultation Mr. Feliciano referred to the black female transit operator as "you people".

Incident #2: Mr. Feliciano was found to be taking information from the personnel file of a black male transit operator, pertaining to his past criminal history, taking that information home and sharing it with his wife, then returning to the workplace and sharing his wife's comments with non-black transit operators.

Although Plaintiff was not directly involved in either incident, it is fully illustrative of Mr. Feliciano's disrespect and high disregard of black employees at RTS.

32. That on or about February 19, 2008 Plaintiff in good faith delivered a letter of information to Ms. Scott. In this letter Plaintiff detailed the inappropriate actions of Mr. Feliciano and that despite the fact that Mr. Smith, Mr. Mine, and Mr. Gomez were fully aware of these incidents and the "zero-tolerance" CITY policy, Mr. Feliciano remains in a supervisory position.
33. That on or about April 20, 2009 Plaintiff in good faith delivered a written complaint to the office of Mayor Pegeen Hanrahan, CITY Commissioners, CITY Attorney, and CITY Manager in an effort to force them to recognize the issues prevalent at RTS. To date Plaintiff has yet to receive any reply from either office.
34. That on or about August 18, 2009 Plaintiff was notified of the completion of the Formal Complaint of Discrimination that was filed on February 3, 2009. Plaintiff met with Jimmie Williams, EO Director, and Gwendolyn Saffo, EO Investigator to discuss their findings.

35. That at this meeting Mr. Williams and Ms. Saffo informed Plaintiff that their investigation found no wrong doing on the part of RTS or the CITY.
36. That at this meeting Plaintiff challenged the validity of the investigation for the following reasons:
 1. In accordance with the GAINESVILLE CITY CODE, Chapter 8, which governs the rules of investigating discrimination...the director shall, within 100 days after the filing of a complaint, complete the investigation. If the director is unable to complete the investigation within 100 days after the filing of a complaint, the director shall notify, by certified mail or by personal service, the complainant and the respondent in writing of the reasons for not so doing. With a filing date on or about February 3, 2009 and a completion notification date on or about August 18, 2009, it is clear that Mr. Williams and Ms. Saffo are in violation of the CITY CODE.
 2. That Mr. Williams and Ms. Saffo knew or should have known that a "thorough" investigation should include the interview of all witnesses named in this matter. Neither Mr. Williams nor Ms. Saffo interviewed or otherwise make contact with a single witness named by Plaintiff, severely compromising the validity and integrity of their investigation.
 3. The CITY CODE clearly states that no one is exempt from complying with the rules therein.
37. That at this meeting Plaintiff asked for and was told he would be receiving a copy of the final report of the investigation. Ms. Saffo stated that she needed to give a final review of the report. To date Plaintiff has not received a copy of this report.
38. That on or about November 16, 2009 Plaintiff was received a Written Warning- Unauthorized Use of a City Vehicle from issued by Supervisor Robert Buckholt, but issued by Mr. Powell. Mr. Buckholt referred to an incident on or about November 13, 2009. Plaintiff was in operation of a CITY vehicle and stopped to use the bathroom. Upon returning from the bathroom, Plaintiff discovered the vehicle would not start.
39. That in this written warning Mr. Buckholt clearly states that Plaintiff stopped at a stop, "which is not a designated as an RTS operational location." Mr. Buckholt

also cited a memo signed by Mr. Gomez in reference to RTS Vehicle Usage. In the written warning Mr. Buckholt also cited a posted sign that states "RTS VEHICLES ARE FOR OFFICIAL USE ONLY! NO EXCEPTIONS". This sign has Mr. Mine's name attached to it but no signature or initials.

40. On or about November 19, 2009 Plaintiff in good faith met with Mr. Gomez to discuss several discrepancies concerning the written warning:
 1. The location where plaintiff stopped was in fact a designated RTS location used for bathroom stops.
 2. That in the memo from Mr. Gomez it states that it is recognized that a de minimus amount of personal use of a city vehicle may be requested for those employees who are on authorized travel for personal emergencies...
 3. That the posted sign cited by Mr. Buckholt does not have a signature and the memo clearly list exceptions for use, therefore making the posted sign invalid.
 4. That Plaintiff was denied the opportunity to explain and discuss the incident before receiving disciplinary action.
41. That Mr. Gomez, who at the time could not answer to the contradictions pointed by Plaintiff, assured Plaintiff that an investigation into the matter would be conducted and he would get back with Plaintiff to further discuss the written warning.
42. That on or about December 1, 2009 hearing no more from Mr. Gomez, Plaintiff in good faith emailed a complaint to the CITY Commission, CITY Attorney, CITY Manager, and CITY Public Works Director stating the issues pointed out to Mr. Gomez.
43. That on or about December 3, 2009 Plaintiff received an email response from Donald Hambidge, Assistant Director Public Works. In this email Mr. Hambidge confirmed:
 1. That the location that Plaintiff made the alleged undesignated stop was in fact a designated RTS stop for bathroom use.
 2. That Plaintiff did make a stop for a valid reason.

3. That the posted sign cited by Mr. Buckholt does not outweigh the memo from Mr. Buckholt
4. That Plaintiff should have been allowed the opportunity to explain his actions before disciplinary action was taken.
44. That in the email from Mr. Hambidge, Mr. Gomez alleges that Plaintiff made it difficult to speak to supervisors regarding this matter. This is a lie.
45. That in the email from Mr. Hambidge, Mr. Gomez alleges that according to surveillance information, information that only surfaced after Plaintiff challenged the written warning, showed Plaintiff return with a bag and a cup. Plaintiff agrees with this statement but Plaintiff adds that what the surveillance information doesn't show is that Plaintiff left RTS Operations with the same bag and same cup that morning when reporting to his assigned vehicle.
46. That in the email from Mr. Hambidge, Mr. Gomez alleges that Plaintiff called maintenance for assistance instead of contacting RTS dispatch...the only policy Plaintiff is accused of violating. This is a lie. Plaintiff contacted RTS Dispatch who in turn connected me with Willie Doby, RTS Maintenance Supervisor, who was standing at the dispatch window.
47. That in the email from Mr. Hambidge, based on information from Mr. Gomez there is no mention of any statement made by Mr. Doby. Mr. Doby, the one person who could have either confirmed Plaintiff's claim or confirmed Mr. Gomez's allegation.
48. That on or about December 3, 2009 Plaintiff, in accordance with CITY EQUAL OPPORTUNITY POLICY, confronted Mr. Gomez and firmly stated his objection to the hostile work environment, harassment, discriminatory and retaliatory treatment Plaintiff has been subjected to at RTS and the continued refusal of those who, by policy, are obligated to take appropriate action to prevent such actions.
49. That on or about December 7, 2009 Plaintiff was removed from his assignment and escorted to RTS Operations and issued a letter from CITY Manager Russ Blackburn stating that there was a question concerning Plaintiff's fitness for duty. The letter further states that this is based on information related to him concerning multiple incidents of Plaintiff's "aggressive behavior towards your co-workers

and supervisors, the most recent incident occurring after receiving a written warning related to job performance. The letter went on to explain that the CITY was requiring Plaintiff to submit to a physical and/or mental examination for purposes of evaluating your fitness of duty. Failure to do so, Plaintiff would be subject to dismissal.

50. That based on the letter from Mr. Blackburn, obviously based on information from Mr. Gomez, Plaintiff possessed multiple incidents of aggressive behavior towards supervisors and co-workers. Yet according Plaintiff's Annual Job Performance Evaluations and Quarterly Job Performance Evaluations specifically in 2 factors:

FACTOR #4: COOPERATION AND TEAMWORK

FACTOR #5: ATTITUDE TOWARDS WORK AND SUPERVISORS

Plaintiff never scored lower than a 3=Meet Standards in both factors.

51. That Plaintiff has never seen or heard of any record of his alleged "aggressive behavior", or any information, if any presented to Mr. Blackburn to warrant the allegation of being unfit for duty.
52. Plaintiff contends that given that given the timing of this decision in proximity to Plaintiff's confrontation with Mr. Gomez, as allowed by CITY Policy, this action is clearly taken in retaliation and meant to chill Plaintiff in the pursuit of gaining any remedy afforded him in this matter,

EEOC Form 101-B (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Richard Aycok
2777 SE 15th Street
Gainesville, FL 32601

From: Miami District Office
2 South Biscayne Blvd
Suite 2700
Miami, FL 33131

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (28 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
510-2010-03561	Willie M. Moody, Investigator	(305) 808-1808

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court **WITHIN 90 DAYS** of your receipt of this notice, or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court **WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission


Deiner Franklin Thomas
Acting District Director

9-22-10
(Date Mailed)

Enclosures(s)

cc: Stephanie M. Marchman,
Assistant City Attorney
CITY OF GAINESVILLE
Office of the City Attorney
200 E. University Ave., Suite 425
Gainesville, FL 32602

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION		Charge Presented To: Agency(ies) Charge No(s):	
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
		510-2010-03561	
and EEOC			
State or local Agency, if any			
Name (indicate Mr., Ms., Mrs.)		Home Phone (Incl. Area Code)	Date of Birth
Mr. Richard Aycox			
Street Address		City, State and ZIP Code	
2777 SE 15th Street, Gainesville, FL 32601			
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)
REGIONAL TRANSIT SYSTEM		200+	(352) 334-2600
Street Address		City, State and ZIP Code	
100 SE 10th Ave, Gainesville, FL 32601			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRIMINATION TOOK PLACE	
<input checked="" 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)		Earliest Latest 08-18-2008 12-03-2009	
		<input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
1. I am a black male and work for The City of Gainesville, Regional Transit System; during the latter course of my employment, I was subjected to continuous harassment abuse and gender discrimination. 2. On or about Augustus 18, 2008, I made a good-faith effort to have these discriminatory conditions corrected and brought them to the attention of 9 (nine) supervisors 3. This attempt to correct these discriminatory actions has led to more harassment, increased scrutiny of my action unsubstantiated allegations, unwarranted disciplinary actions and an increasingly hostile work environment. 3. No credible reasons were given for the high scrutiny and unwarranted disciplinary actions. 4. I believe the respondent discriminated against me 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.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		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.	
Date: <u>05/14/10</u> Charging Party Signature: <u>[Signature]</u>		SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	