

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF ILLINOIS, EASTERN DIVISION

ROBERTO G. ALAMO,)
)
)
 Plaintiff,) Judge Sharon Johnson Coleman
)
 vs.)
)
) No. 12-CV-04327
THE CITY OF CHICAGO, CHARLIE)
BLISS and PATRICK STEFAN, in their)
Individual Capacities,)
)
 Defendants.)

THIRD AMENDED COMPLAINT

Plaintiff Roberto G. Alamo ("Alamo" or "Plaintiff"), by his attorneys, complains of Defendants the City of Chicago ("the City" or "Chicago"), Charlie Bliss ("Bliss") and Patrick Stefan ("Stefan") as follows:

NATURE OF THE ACTION

1. This is a civil action for racial and/or national origin discrimination, disability discrimination, retaliation, assault and battery. Plaintiff brings this action pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. (Title VII), the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution pursuant to the Civil Rights Act of 1871, 42 U.S.C. § 1983 ("Section 1983"), The Americans With Disabilities Act (the "ADA") 42 U.S.C. §12117 and Illinois law, seeking to redress the Defendants' unlawful employment practices on the basis of race and/or national origin and disability, and the Defendants' other Illinois state offenses.

JURISDICTION AND VENUE

2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

3. Venue is proper under 28 U.S.C. § 1391, because all of the parties reside in this district and because all of the conduct complained of occurred within this district.

PARTIES AND OTHER INDIVIDUALS

4. Plaintiff Alamo is a Latino citizen of Puerto Rican descent who works as a firefighter with the Chicago Fire Department (“CFD”). Alamo has worked for the CFD since 2006.

5. At all times relevant to this complaint, Defendant the City of Chicago is a municipal corporation in Cook County, Illinois, organized under the laws of the State of Illinois.

6. At all times relevant to this complaint, Defendant Bliss was a Lieutenant on Engine Company 55 and Alamo's immediate supervisor. Bliss is sued in his individual capacity for his unlawful acts under color of law.

7. At all times relevant to this complaint, Defendant Stefan was a Fire Captain on Truck 44. Stefan is sued in his individual capacity for his unlawful acts under Illinois state law.

8. At all times relevant to this complaint, Sylvia Tienda (“Tienda”) was the CFD Medical Section Chief. As such, Tienda has authority over which firefighters can return for duty after taking medical leave.

9. At all times relevant to this complaint, Dr. Issac Morcos (“Morcos”) was an occupational health physician with the CFD. As such, Morcos has authority for deciding which firefighters can return for duty after taking medical leave.

10. At all times relevant to this complaint, Dr. Hugh Russell (“Russell”) was the Medical Director of the CFD. As such, Russell has authority to approve which firefighters can return for duty after taking medical leave.

PROCEDURAL BACKGROUND

11. On April 4, 2012, Alamo timely filed a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”) alleging national origin and disability discrimination and retaliation. A true and correct copy of that Charge is attached hereto as Exhibit A.

12. On May 2, 2013, the EEOC issued Alamo a Notice of Right to Sue entitling him to institute a civil action within ninety (90) days of the date of receipt of said Notice. A true and correct copy of that Notice is attached hereto as Exhibit B.

13. Alamo filed his Second Amended Complaint in the instant action within ninety (90) days of receiving the EEOC Notice of Right to Sue. Alamo has fulfilled all conditions precedent to the institution of his allegations under Title VII.

ALLEGATIONS OF FACT

14. In or around 2009, Alamo was transferred from CFD Engine Company 89 to CFD Engine Company 55. When Alamo joined Engine Company 55, he met with his superior officer, Lieutenant Bliss. At that time, Alamo told Bliss about the discrimination Alamo had faced when he was with Engine Company 89. Bliss told Alamo that he had received calls from Engine Company 89 speaking poorly about Alamo, but told Alamo that he should not worry about it, and that he should consider Engine Company 55 a fresh start.

15. Shortly after Alamo started with Engine Company 55, however, and continuing throughout 2010 and 2011, he was harassed and verbally abused by other firefighters in his

company. Alamo informed Bliss on numerous occasions, including in July, August and November of 2010, and April, July and August of 2011, of the harassment that he endured from his fellow firefighters, including, but not limited to, name-calling, derogatory and racist comments, including his national origin, such as calling Alamo a "spic" and a "fucking Puerto Rican," and that other firefighters used the term "Nigger" around the fire house. Alamo even faced physical violence.

16. Alamo filed a harassment complaint with Battalion Chief Curt Annis and Bliss about the harassment he was experiencing with Engine Company 55, including, but not limited to the fact that Alamo was detailed excessively compared to his colleagues, several incidents of co-workers stealing or throwing out Alamo's food at the firehouse, and an incident with firefighter Dan Sheahan, who directed racist and derogatory comments regarding Alamo's Puerto Rican national origin and verbally harassed and physically assaulted Alamo in or around March of 2011. Despite Alamo's complaints, Bliss did nothing to address this harassment and this intimidating, hostile, and/or offensive work environment. In addition, other, non-Latino firefighters were not subjected to this harassment.

17. On September 13, 2011, Alamo reported to work but was not feeling well due to allergies. Alamo informed Bliss and several colleagues that he was not feeling well. Around 8:30 p.m., Alamo informed Bliss and firefighter Korba that he would be in the television room, and asked them to come get him if the bell rang for Engine 55 since he was not feeling well and might be sleeping.

18. At around 9:45 p.m., Stefan, who is assigned to a different truck than Alamo and was not Alamo's immediate supervisor, suddenly woke Alamo up, yelled profanities at him, called him names, and said, among other things, "I don't like your kind, you better put in a

transfer and get out of this firehouse because I don't want you here." Stefan then began chest bumping Alamo, used more profanity and derogatory terms, and again threatened physical violence. Alamo became upset and walked away since he felt threatened. Alamo called his uncle to pick him up because he was fearful of getting into a fight with Stefan.

19. After Engine Company 55 returned from a run, the firehouse bell rang for an extended period of time to call all firefighters to the apparatus floor, Alamo came downstairs and, when he did so, he was pushed against the wall by Stefan. At that time, Bliss saw this physical altercation, and asked what was going on there. Alamo told Bliss that he could not handle Stefan's harassment and violence any longer and he left the firehouse to call 911 for assistance.

20. When police officers arrived, Alamo explained what had happened and told the officers that he wanted Stefan arrested.

21. Shortly thereafter, Alamo received a call from Chief Chickorotis, the Fire Chief assigned to Engine 42 Headquarters, who asked Alamo to wait for him to arrive before doing anything. Alamo explained to Chief Chickorotis that he had already called 911 and was going to proceed with filing charges, but Chief Chickorotis pleaded with Alamo to wait until he arrived. When Chief Chickorotis arrived, he repeatedly asked Alamo not to press charges against Stefan, to try to keep the incident in house, and to let him resolve the issue without the police. Chief Chickorotis promised that if Alamo did not press charges, Chickorotis would help him with the national origin and racial harassment and intimidating, hostile, and/or offensive work environment Alamo had been enduring at the firehouse.

22. Based on Chief Chickorotis' requests, Alamo did not press charges. However, Alamo asked the responding police officers to make sure they documented the incident fully

and accurately. Alamo later learned that the responding police officers had held a private meeting with Stefan, Chief Chickorotis, Battalion Chief Curt Annis and other Alamo co-workers, and the subsequently prepared police report was inaccurate.

23. After Alamo had completed his interview with the police officers, Chief Chickorotis took Alamo to Engine Company 42, which is located at a different firehouse. Once there, Chief Chickorotis privately asked Alamo, "What can we do to make this all go away?" Alamo told him that he wanted the CFD to do the right thing. Chief Chickorotis seemed angered at Alamo's comments and told him he was done talking to him.

24. On September 14, 2011 at approximately 6:00a.m., Alamo was relieved of his duty by firefighter Frost. Alamo took a bus to get home and after a couple blocks, he got off because he had terrible chest pain, dizziness and a migraine. Alamo called a friend to pick him up at Belden and Halsted streets and the friend took him to St. Joseph Hospital.

25. Alamo arrived at the emergency room and explained to the doctor the events from September 13th and earlier the morning of September 14th, including that he was pushed multiple times, chest bumped, and the victim of battery. The doctor diagnosed him with work related chest contusion, stress, and possible post-traumatic stress disorder. The emergency room doctor directed Alamo to follow-up with his primary care doctor.

26. On September 15, 2011. Alamo met with his primary care doctor, Dr. Carlos Reyes, and informed him of what happened on September 13 and 14, 2011. Dr. Reyes referred Alamo to a psychologist and a psychiatrist and diagnosed Alamo with work-related anxiety.

27. Also on September 15, 2011, Alamo reported to Captain Al Kiefer of Engine Company 55 that his doctor put him on medical lay-up and provided Kiefer with the documents from his doctors and from the hospital emergency room.

28. Alamo then reported to the CFD medical section, and was informed by Tienda that she would not consider Alamo's injury work-related because he failed to report the injury while he was on duty. Alamo informed Tienda that all of the medical documents described the incidents from his workplace on September 13th and September 14th and explained that he was the victim of workplace violence and discrimination. Despite this, Tienda refused to consider his injuries work-related, and said that she would not authorize any payment to the hospital or treating physicians.

29. Alamo went on a doctor-ordered medical leave September 14, 2011 because of the workplace incident with Stefan on September 13, 2011.

30. On several occasions over the course of Alamo's medical leave, the CFD medical section ordered different engine companies to conduct well-being checks on Alamo at his residence. These well-being checks, however, were harassing in nature and, on at least one occasion, the firefighters damaged Alamo's gate and embarrassed Alamo in front of his friends and neighbors. On information and belief, other firefighters who took a medical leave of absence were not harassed by the medical section and did not receive disruptive well-being checks that caused damage to the employee's property.

31. On March 13, 2012, Alamo was informed by Tienda that he was running out of medical leave time, and she directed him to get a release order from his treating physician to return to full duty status without restrictions. However, Alamo also learned that day from

Commander Edgar Ignacio that Tienda had calculated his furloughs improperly, and Alamo actually had an additional 68 days of time for medical leave under the CFD union contract.

32. On March 14, 2012, Alamo met with his treating physician, Dr. Martinez, who authorized Alamo to return to work without restriction. Dr. Martinez gave Alamo a letter to give to CFD that detailed this authorization to return to work.

33. On March 16, 2012, Alamo gave Tienda the authorization to work from Dr. Martinez. She said that, in addition to that authorization he needed a prescription note authorizing him for a Functional Capacity Evaluation. Alamo received such a prescription from Dr. Martinez and forwarded it to Tienda on March 19, 2012.

34. On March 21, 2012. Alamo followed up with the CFD medical section, and was then told by Dr. Morcos that the medical section "administration" now also needed progress notes from his treating physicians before it would release him to go back to work. This request had not been mentioned to Alamo in his previous conversations with Tienda. Alamo had his treating physicians, Dr. Martinez. Dr. Reynes and Dr. Terry Brennan all forward on their progress notes on March 22, 2012 and on March 26, 2012.

35. On March 26, 2012, Tienda confirmed that she had received all the medical notes from Alamo's treating physicians. She did not ask Alamo for any other information or inform him that he needed to provide anything further. Dr. Morcos and Dr. Russell did not ask Alamo for any further information at this time either.

36. On March 26, 2012, Alamo contacted his Union, Local 2, and met with his union representative regarding why the CFD would not allow him to return to work when he had been cleared by his treating physicians.

37. On March 30, 2012, Alamo filed an inquiry with Tienda about his work status and requested CFD's reasons for keeping him on leave when he was authorized by his doctors to return to work. Alamo received no response to this inquiry.

38. On April 4, 2012 Alamo filed an EEOC charge regarding the CFD's discriminatory and retaliatory treatment of him.

39. Tienda finally called Alamo on April 3, 2012 and told him that Dr. Morcos with the CFD medical section was now requesting medical records for Alamo dating back to 2009, which was two years prior to the assault on Alamo at the firehouse, and wanted Alamo to undergo further psychological testing, physical testing and other medical information before clearing Alamo for work.

40. On April 19, 2012, Tienda scheduled Alamo for psychological testing with Dr. Cavanaugh on May 1 and May 24, 2012. Alamo submitted to this testing on May 1, 2012, but was told by the doctor's office that CFD would be in touch with Alamo to schedule the second part of the test because the May 24, 2012 date had to be rescheduled.

41. On May 8, 2012, Dr. Russell in the medical section asked Alamo for several more medical records dating back several years for Alamo to turn over to the CFD. On May 14, 2012, Alamo, through counsel, sent a letter to Dr. Russell seeking clarification regarding the necessity of these additional medical records and inquiring as to when the second part of the psychological testing with Dr. Cavanaugh would take place.

42. Over the course of the ensuing month, Alamo's counsel called the medical section several times and sent letters to Tienda and medical section Commander Ignacio seeking clarification as to what else Mr. Alamo needed to provide in order to return to work. The clarification was necessary because the medical records release form Tienda and the CFD

medical section provided to Alamo stated that his decision to release records was voluntary. However, the consequence of choosing not to release these confidential medical and personnel records was that Tienda would not release Alamo to return to work because Dr. Cavanaugh refused to continue his evaluation of Alamo without reviewing medical records dating back several years (including prior to Alamo's employment at the CFD), as well as personnel records from Alamo's previous employment with the Illinois State Police. Despite several attempts to contact Tienda and Ignacio, Alamo received no response to his clarification inquiries.

43. On or about July 3, 2012, the CFD Deputy Commissioner of Human Resources Adrienne Bryant sent Alamo a letter explaining that he had exhausted his lay-up time and had not returned to work nor signed paperwork separating from the CFD. The letter requested that Alamo either return to work, resign, or go on a leave of absence. The letter further stated that if Alamo did not comply with the request by July 16, 2012, his employment status would be designated as "absent without authorized leave." Alamo's counsel sent a letter to Bryant on July 11, 2012 requesting that Alamo be allowed to return to work. To date Alamo's counsel has not heard back from Bryant.

44. On or around July 6, 2012 the CFD stopped paying Alamo his salary and stopped his benefits due to Tienda's refusal to allow Alamo to return to work. On information and belief, other, non-Latino firefighters have not been subjected to the hurdles, obstacles, and challenges in their attempts to return to work after a medical leave of absence, as detailed above. Further, on information and belief, other firefighters who did not file complaints about discrimination in the workplace were not subjected to these hurdles, obstacles, and challenges when returning to work, as detailed above.

45. After a several month delay with no pay or benefits, Alamo was finally reinstated as a firefighter.

46. The actions complained of in paragraphs 14 through 45 prevented Alamo from engaging in his chosen profession, caused him to lose his salary and benefits and have jeopardized his financial security.

47. The actions complained of in paragraphs 14 through 45 have caused Alamo to lose wages, incur expenses and to suffer mentally and physically from stress, anger, humiliation, and frustration.

COUNT I

**Title VII- National Origin Discrimination/Hostile Work Environment
(Against Defendant the City of Chicago)**

48. Alamo realleges paragraphs 1 through 47 of this Third Amended Complaint as and for this ¶48 as though fully set forth herein.

49. Alamo is a member of a protected class by national origin, specifically he is a Puerto Rican Latino.

50. Alamo, in all respects, was performing his job in a manner that was consistent with the City's legitimate business expectations.

51. Alamo suffered an adverse employment action in that he was verbally and physically harassed and intimidated at work because of his national origin, such conduct was condoned or tolerated by those in a position to stop it because of Alamo's national origin.

52. Defendant City was aware of and was made aware of the above described conduct; yet, Defendant City did not take any reasonable steps to protect Alamo from said intimidating, hostile, and/or offensive work environment.

53. Defendant City violated Alamo's rights in that the City required Alamo to work in an intimidating, hostile, and/or offensive work environment and to work under supervisors who allowed these actions to go on because of Alamo's national origin without taking steps to prevent them.

54. As a direct and proximate result of said unlawful employment practices and in disregard of Alamo's rights and sensibilities, Alamo has suffered great mental anguish, humiliation, degradation, emotional distress, pain and suffering, inconvenience, financial crisis, lost wages and benefits, future pecuniary losses and other consequential damages.

WHEREFORE, Plaintiff Alamo prays that this Court:

A. Enter judgment in favor of Alamo and against Defendant City of Chicago for violation of Alamo's rights under Title VII:

B. Declare that the actions of the Defendant the City of Chicago were discriminatory;

C. Award Alamo compensatory damages, including, but not limited to, lost wages and other benefits, in such amount as will reasonably compensate him for his losses, and damages for emotional distress;

D. Award Alamo his costs, attorneys' fees and non-taxable expenses in this action;

E. Grant Alamo such other and further relief as the Court deems equitable and just.

COUNT II
Title VII- National Origin Discrimination/Disparate Treatment
(Against Defendant the City of Chicago)

55. Alamo realleges paragraphs 1 through 54 of this Third Amended Complaint as and for this ¶55 as though fully set forth herein.

56. Alamo is a member of a protected class by race or national origin, specifically he is a Puerto Rican Latino.

57. Alamo, in all respects, was performing his job in a manner that was consistent with the City's legitimate business expectations.

58. Alamo suffered an adverse employment action in that he was detailed excessively and he has had hurdles and challenges placed before him in his attempts to return to work after a medical leave of absence because of his national origin. These acts are detailed in the paragraphs above.

59. Upon information and belief, similarly situated white employees of the City have not suffered the excessive detailing or the difficulties in returning to work following a medical leave of absence that Alamo has endured.

60. Defendant City's actions in its agents and employees intentionally engaging in and condoning national origin discrimination against Alamo has caused him great mental anguish, humiliation, degradation, emotional distress, pain and suffering, inconvenience, financial crisis, lost wages and benefits, future pecuniary losses and other consequential damages.

WHEREFORE, Plaintiff Alamo prays that this Court:

A. Enter judgment in favor of Alamo and against Defendant City of Chicago for violation of Alamo's rights under Title VII:

B. Declare that the actions of the Defendant the City of Chicago were discriminatory;

C. Award Alamo compensatory damages, including, but not limited to, lost wages and other benefits, in such amount as will reasonably compensate him for his losses, and damages for emotional distress;

D. Award Alamo his costs, attorneys' fees and non-taxable expenses in this action;

E. Grant Alamo such other and further relief as the Court deems equitable and just.

COUNT III
Retaliation in Violation of Title VII
(Against Defendant the City of Chicago)

61. Alamo realleges paragraphs 1 through 60 of this Third Amended Complaint as and for this ¶61 as though fully set forth herein

62. Alamo reported national origin harassment and an intimidating, hostile and/or offensive work environment resulting from other members of CFD to his superiors at CFD pursuant to his rights under Title VII, and CFD's policies and procedures.

63. Defendant City of Chicago has retaliated against Alamo for reporting that harassment and an intimidating, hostile and/or offensive work environment by preventing him from returning to work and placing hurdles and challenges before him in his attempts to return to work after a medical leave of absence in retaliation for his reports to his superiors and others at CFD of harassment and an intimidating, hostile and/or offensive work environment based on his national origin.

WHEREFORE, Plaintiff Alamo prays that this Court:

A Enter judgment in favor of Alamo and against Defendant The City of Chicago for violation of Alamo's rights under Title VII;

B. Declare that the actions of the Defendant the City of Chicago were discriminatory;

C. Award Alamo compensatory damages, including, but not limited to, lost wages and other benefits, in such amount as will reasonably compensate him for his losses, and damages for emotional distress;

- D. Award Alamo punitive damages in such amount as the Court deems proper;
- E. Award Alamo his costs, attorneys' fees and non-taxable expenses in this action;
- F. Grant Alamo such other and further relief as the Court deems equitable and just.

COUNT IV

Section 1983- Race Discrimination/Hostile Work Environment
(Against Defendant Charlie Bliss)

64. Alamo realleges paragraphs 1 through 63 of this Third Amended Complaint as and for this ¶64 as though fully set forth herein.

65. The actions of Defendant Bliss complained of in paragraphs above, deprived Alamo of his equal protection rights as a Firefighter employed by the City of Chicago.

66. The actions of Bliss complained of in the paragraphs above, were done under color of law in that they were undertaken by Defendant Bliss in and through his official capacity.

67. The actions complained of in paragraphs above were done because of Alamo's race. Defendant Bliss subjected Alamo to discriminatory and harassing treatment by failing to remedy the intimidating, hostile, and/or offensive work environment. Specifically as to Bliss, he was aware that other employees were physically and verbally harassing Alamo because of his race and national origin, but did nothing to stop it, though it was his job to do so. Upon information and belief, he would not (and has not) permitted such physical and verbal harassment of similarly situated non-Latino firefighters.

68. The result of these unlawful actions has been to deprive Alamo of equal employment opportunities because of his race, in violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

WHEREFORE, Plaintiff Alamo prays that this Court:

- A. Enter judgment in favor of Alamo and against the defendants for violation of Alamo's rights under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution;
- B. Declare that the actions of the Defendant Charlie Bliss were discriminatory;
- C. Award Alamo compensatory damages, including, but not limited to, lost wages and other benefits, in such amount as will reasonably compensate him for his losses, and damages for emotional distress;
- D. Award Alamo punitive damages in such amount as the Court deems proper;
- E. Award Alamo his costs, attorneys' fees and non-taxable expenses in this action;
- F. Grant Alamo such other and further relief as the Court deems equitable and just.

COUNT V
Violation of the ADA- Failure To Accommodate
(Against Defendant the City of Chicago)

69. Alamo realleges paragraphs 1 through 47 of this Third Amended Complaint as and for this ¶69 as though fully set forth herein.

70. At all times relevant hereto, Alamo was an individual with a "disability" and/or was considered to have a "disability," as that term is defined in §3(2) of the ADA, 42 U.S.C. § 12102, in that he suffered from Post-Traumatic Stress Disorder ("PTSD").

71. The ADA prohibits an employer from discriminating against an individual based upon (amongst other things) his disability.

72. The ADA requires an employer to provide reasonable accommodations to its disabled employees.

73. In early 2012, Alamo made repeated requests to return to work, thereby asking the City to make a reasonable accommodation to his disability, and Alamo also provided medical clearance for that return from his treating medical professionals.

74. The City refused these repeated requests.

75. Alamo's requested accommodation was reasonable and would not have been unduly burdensome for the City.

76. As a direct and proximate result of said unlawful employment practices and in disregard of Alamo's rights and sensibilities, Alamo has suffered great mental anguish, humiliation, degradation, emotional distress, pain and suffering, inconvenience, financial crisis, lost wages and benefits, future pecuniary losses and other consequential damages.

WHEREFORE, Plaintiff Alamo prays that this Court:

A. Enter judgment in favor of Alamo and against the Defendant the City of Chicago for violation of Alamo's rights under The Americans With Disabilities Act;

B. Declare that the actions of the Defendant the City of Chicago were discriminatory;

C. Award Alamo compensatory damages, including, but not limited to, lost wages and other benefits, in such amount as will reasonably compensate him for his losses, and damages for emotional distress;

D. Award Alamo punitive damages in such amount as the Court deems proper;

E. Award Alamo his costs, attorneys' fees and non-taxable expenses in this action;

F. Grant Alamo such other and further relief as the Court deems equitable and just.

COUNT VI
State Law Assault
(Against Defendants Patrick Stefan/the City of Chicago)

77. Alamo realleges paragraphs 4 through 47 of this Third Amended Complaint as and for this ¶77 as though fully set forth herein

78. Defendant Stefan owed a duty to use reasonable care in his interactions with Alamo.

79. Defendant Stefan breached his duty by yelling profanities at Alamo, calling him names, and physically menacing Alamo, and thereby placed Alamo in fear of imminent physical force.

80. Defendant Stefan is liable to Alamo under Illinois law for assault.

81. Defendant City of Chicago is liable to Alamo pursuant to the doctrine of *respondeat superior*.

82. That as a direct and proximate result of one or more of the aforesaid acts, Alamo sustained severe and personal and pecuniary injuries, of an economic and non-economic nature, including but not limited to medical expenses, hospital expenses, loss of earnings, pain and mental anguish and distress.

WHEREFORE, Plaintiff Alamo prays that this Court:

A. Enter judgment in favor of Alamo and against Defendants Patrick Stefan and the City of Chicago for assault against Alamo;

B. Award Alamo compensatory damages, including, but not limited to, lost wages and other benefits, in such amount as will reasonably compensate him for his losses;

C. Award Alamo compensation for non-economic damages of pain and suffering and mental anguish and distress.

D. Grant Alamo such other and further relief as the Court deems equitable and just.

COUNT VII
State Law Battery
(Against Defendant Patrick Stefan/the City of Chicago)

83. Alamo realleges paragraphs 4 through 47 and 77 through 82 of this Third Amended Complaint as and for this ¶83 as though fully set forth herein.

84. As alleged above, Defendant Stefan chest bumped and pushed Alamo against a wall.

85. This physical contact by Defendant Stefan was offensive and injurious, and against Alamo's will.

86. Defendant Stefan owed a duty to use reasonable care in his interactions with Alamo.

87. Defendant Stefan breached his duty to Alamo by intentionally chest bumping Alamo and pushing Alamo against a wall.

88. Defendant Stefan is liable to Alamo under Illinois law for battery.

89. Defendant City of Chicago is liable to Alamo pursuant to the doctrine of *respondeat superior*.

90. That as a direct and proximate result of one or more of the aforesaid acts, Alamo sustained severe and personal and pecuniary injuries, of an economic and non-economic nature, including but not limited to medical expenses, hospital expenses, loss of earnings, pain and suffering and mental anguish and distress.

WHEREFORE, Plaintiff Alamo prays that this Court:

A. Enter judgment in favor of Alamo and against Defendants Patrick Stefan and the City of Chicago for battery against Alamo;

B. Award Alamo compensatory damages, including, but not limited to, lost wages and other benefits, in such amount as will reasonably compensate him for his losses;

C. Award Alamo compensation for non-economic damages of pain and suffering and mental anguish and distress.

D. Grant Alamo such other and further relief as the Court deems equitable and just.

JURY DEMAND

Plaintiff hereby demands trial by jury on all issues herein.

Respectfully submitted,
MICHAEL A. FACCENDA

By: /s/ Michael A. Faccenda
One of His Attorneys

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