

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: \_\_\_\_\_

JOHN H. RAMIREZ,

Plaintiff,

v.

CITY OF FT. LAUDERDALE FIRE RESCUE,

Defendant.

**DEFENDANT'S NOTICE OF REMOVAL**

Defendant, CITY OF FORT LAUDERDALE (“Defendant” or “City of Fort Lauderdale”),<sup>1</sup> by and through its undersigned counsel, Law Offices of Carmen Rodriguez, P.A., and pursuant to 28 U.S.C. §1446(a), files this Notice of Removal from the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, to this Court, a proceeding styled *John H. Ramirez v. City of Ft. Lauderdale Fire Rescue*, Case No. 19-000207-CA-02, and in support thereof, states as follows:

1. On January 4, 2019, this action was filed in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, Case No. 19-000207-CA-02. On January 11, Defendant was served by process with a copy of the Plaintiff, JOHN H. RAMIREZ’s, Verified Complaint. Copies of all pleadings and filings in the state court action are attached hereto as Exhibit

---

<sup>1</sup>Plaintiff misidentified Defendant as “City of Ft. Lauderdale Fire Rescue” in his initial Complaint filed in Circuit Court. The correct municipal corporation in this matter is City of Fort Lauderdale. Fire Rescue is a department within the City of Fort Lauderdale.

A, and are incorporated by reference pursuant to Rule 10(c), Fed. R. Civ. P. No other pleadings, orders or process have been filed in the state court action.

2. In his Verified Complaint, Plaintiff alleges an action against his employer, City of Fort Lauderdale, for violation of the Uniformed Services Employment and Reemployment Rights Act (“USERRA”), 38 U.S.C. §§4301, et seq.

3. Title 38 U.S.C. §4323(b)(3) provides that district courts of the United States shall have jurisdiction of an action brought under USERRA, 38 U.S.C. §§4301, et seq., against a “private employer” by a person.

4. Title 38 U.S.C. §4323(i) states that the term “private employer” includes a political subdivision of a State.

5. In *Harris v. City of Montgomery*, the plaintiff asserted a USERRA claim against his employer, the City of Montgomery. 322 F.Supp.2d 1319 (M.D. Ala. 2004). In rejecting the employer’s position that the district court did not have jurisdiction, the district court explained that “[a] suit against a municipality is not the same as a suit against the State; a suit against a municipality is considered a suit against a private employer, 38 U.S.C. §4323(j)<sup>2</sup> (“In this section, the term ‘private employer’ includes a political subdivision of a State”)...” *Id.* at 1326. It held that because the City of Montgomery is a municipality, the district court had jurisdiction under 38 U.S.C. §4323(b)(3).

6. In this case, Plaintiff’s Verified Complaint alleges violation of USERRA, 38 U.S.C. §§4301, et seq., against his employer, City of Fort Lauderdale. Like the employer in *Harris*, the City of Fort Lauderdale is a municipality. *See* Fort Lauderdale, Florida, Code of Ordinances, Art. I, §1.01;

---

<sup>2</sup>Prior to 2008 amendment, 110 Pub. L. No. 389, which redesignated subsection (j) as subsection (i).

Fla. Const. Art. VIII, §2. Therefore, this Court has jurisdiction pursuant to 38 U.S.C. §4323(b)(3) and (i).

7. Accordingly, Defendant is entitled to remove this action from the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, to the United States District Court. *See* 28 U.S.C. §1441. Circuit Court Notice of Filing Removal is attached hereto as Exhibit B.

8. Venue is proper in the Southern District of Florida, in that the Circuit Court action is pending within the jurisdictional confines of this District and Division. *See* 28 U.S.C. §1446(a).

9. In accordance with 28 U.S.C. §1446(b), wherein a removal action must be filed within thirty (30) days after Defendant's receipt of service, the removal period of this action has not yet expired.

WHEREFORE, Defendant requests that further proceedings in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida in Case No. 19-000207-CA-02 be discontinued and that the action be removed to the United States District Court for the Southern District of Florida.

Dated: January 18, 2019  
Miami, Florida

Respectfully submitted,

s/Carmen Rodriguez  
Carmen Rodriguez - Florida Bar No. 710385  
Attorney E-mail address: [crpa@crlaborlawfirm.com](mailto:crpa@crlaborlawfirm.com)  
Law Offices of Carmen Rodriguez, P.A.  
Palmetto Bay Centre  
15715 South Dixie Highway, Suite 411  
Miami, Florida 33157  
Telephone: (305) 254-6101  
Facsimile: (305) 254-6048  
Attorneys for Defendant

**CERTIFICATE OF SERVICE**

**I hereby certify** that a true and correct copy of the foregoing was served by email on January 18, 2019 on all counsel or parties of record on the Service List below.

s/Carmen Rodriguez  
Carmen Rodriguez

**SERVICE LIST**

Randy A. Fleischer, P.A.  
Florida Bar No. 910546  
E-mail address: [randy@rafesq.com](mailto:randy@rafesq.com)  
Law Offices of Randy A. Fleischer, P.A.  
8258 State Road 84  
Davie, Florida 33324  
Telephone: (954) 472-8401  
Facsimile: (954) 472-8446  
Attorneys for Plaintiff

Carmen Rodriguez, Esquire  
Florida Bar No. 710385  
E-mail address: [crpa@crlaborlawfirm.com](mailto:crpa@crlaborlawfirm.com)  
Law Offices of Carmen Rodriguez, P.A.  
15715 S. Dixie Highway  
Suite 411  
Miami, Florida 33157-1884  
Telephone: (305) 254-6101  
Facsimile: (305) 254-6048  
Attorneys for Defendant

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.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

**I. (a) PLAINTIFFS** RAMIREZ, JOHN H.

**DEFENDANTS** CITY OF FT. LAUDERDALE FIRE RESCUE

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

**County of Residence of First Listed Defendant**

(IN U.S. PLAINTIFF CASES ONLY)

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

**(c) Attorneys (Firm Name, Address, and Telephone Number)**

Law Offices of Randy A. Fleischer, P.A., 8528 State Road 84, Davie, FL 33324; (954) 472-8401

Law Offices of Carmen Rodriguez, P.A., 15715 S. Dixie Hwy., Suite 411, Palmetto Bay, FL 33157; (305) 254-6101

**(d) Check County Where Action Arose:**  MIAMI-DADE  MONROE  BROWARD  PALM BEACH  MARTIN  ST. LUCIE  INDIAN RIVER  OKEECHOBEE  HIGHLANDS

**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)

Citizen of This State

PTF

DEF

Incorporated or Principal Place of Business In This State

PTF

DEF

Citizen of Another State

PTF

DEF

Incorporated and Principal Place of Business In Another State

PTF

DEF

Citizen or Subject of a Foreign Country

PTF

DEF

Foreign Nation

PTF

DEF

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT

TORTS

Click here for: Nature of Suit Code Descriptions

110 Insurance  
 120 Marine  
 130 Miller Act  
 140 Negotiable Instrument  
 150 Recovery of Overpayment & Enforcement of Judgment  
 151 Medicare Act  
 152 Recovery of Defaulted Student Loans (Excl. Veterans)  
 153 Recovery of Overpayment of Veteran's Benefits  
 160 Stockholders' Suits  
 190 Other Contract  
 195 Contract Product Liability  
 196 Franchise

PERSONAL INJURY

310 Airplane  
 315 Airplane Product Liability  
 320 Assault, Libel & Slander  
 330 Federal Employers' Liability  
 340 Marine  
 345 Marine Product Liability  
 350 Motor Vehicle  
 355 Motor Vehicle Product Liability  
 360 Other Personal Injury  
 362 Personal Injury - Med. Malpractice

PERSONAL INJURY

365 Personal Injury - Product Liability  
 367 Health Care/ Pharmaceutical Personal Injury Product Liability  
 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY

370 Other Fraud  
 371 Truth in Lending  
 380 Other Personal Property Damage  
 385 Property Damage Product Liability

LABOR

710 Fair Labor Standards Act  
 720 Labor/Mgmt. Relations  
 740 Railway Labor Act  
 751 Family and Medical Leave Act  
 790 Other Labor Litigation  
 791 Empl. Ret. Inc. Security Act

210 Land Condemnation  
 220 Foreclosure  
 230 Rent Lease & Ejectment  
 240 Torts to Land  
 245 Tort Product Liability  
 290 All Other Real Property

CIVIL RIGHTS

440 Other Civil Rights  
 441 Voting  
 442 Employment  
 443 Housing/ Accommodations  
 445 Amer. w/ Disabilities - Employment  
 446 Amer. w/ Disabilities - Other  
 448 Education

PRISONER PETITIONS

**Habeas Corpus:**  
 463 Alien Detainee  
 510 Motions to Vacate Sentence  
**Other:**  
 530 General  
 535 Death Penalty  
 540 Mandamus & Other  
 550 Civil Rights  
 555 Prison Condition  
 560 Civil Detainee - Conditions of Confinement

IMMIGRATION

462 Naturalization Application  
 465 Other Immigration Actions

1 Original Proceeding  
 2 Removed from State Court  
 3 Re-filed (See VI below)

(Place an "X" in One Box Only)

4 Reinstated or Reopened  
 5 Transferred from another district (specify)

6 Multidistrict Litigation Transfer

7 Appeal to District Judge from Magistrate Judgment

8 Multidistrict Litigation - Direct File  
 9 Remanded from Appellate Court File

**VI. RELATED/ RE-FILED CASE(S)**

(See instructions: a) Re-filed Case  YES  NO  
JUDGE:

b) Related Cases  YES  NO  
DOCKET NUMBER:

**VII. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

28 USC § 1446(a)

LENGTH OF TRIAL via days estimated (for both sides to try entire case)

**VIII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD

DATE  
January 18, 2019

FOR OFFICE USE ONLY  
RECEIPT #

AMOUNT

IPF

JUDGE

MAG JUDGE

## **EXHIBIT A**

IN THE CIRCUIT COURT OF THE  
17th JUDICIAL CIRCUIT, IN AND  
FOR BROWARD COUNTY FLORIDA

JOHN H. RAMIREZ,

Plaintiff,

Case No.

v.

CITY OF FORT LAUDERDALE FIRE RESCUE

Defendant.

/

**VERIFIED COMPLAINT AND JURY DEMAND**

Plaintiff sues Defendant and states:

**JURISDICTION AND VENUE**

1. This action seeks equitable and injunctive relief, compensatory damages in excess of \$15,000, lost benefits and promotion, liquidated damages and attorney's fees and costs for violation of the Uniformed Services Employment and Reemployment Rights Act (USERRA 38 U.S.C. 4301-4333).
2. Pursuant to 38 U.S.C. 4323(b)(2) jurisdiction for a case of a person against the State as an employer is in any state court of competent jurisdiction. **NO COURT COSTS MAY BE CHARGED OR TAXED PURSUANT TO 38 USC 4323(c)(h).**

**PARTIES**

3. JOHN H. RAMIREZ, (hereinafter Plaintiff) is a citizen and resident of the United States who at all times relevant served and continues to serve in the United States Army.
4. CITY OF FORT LAUDERDALE FIRE RESCUE, (hereinafter Defendant) is a Florida governmental agency doing business in Broward County, Florida and employs more than

fifteen (15) regular employees.

## FACTS

5. Plaintiff was hired by Defendant in March 1994.
6. During Plaintiff's employment by Defendant he was called for various deployments with the U.S. Army.
7. In 2004 Plaintiff was employed by Defendant as Battalion Chief.
8. In 2004 Plaintiff first applied for promotion to Division Chief. The Information Bulleting No. 04-168 from the Fort Lauderdale Fire Department came out with the results of the Division Chief Ranks on 19 November 2004.
9. Plaintiff has repeatedly applied for promotion to Division Chief.
10. The second time the Plaintiff took a Division test was on 2007 and the information bulleting No. 07-169 came out with the results on 25 September 2007.
11. The third time the Plaintiff took the test was on 2012 and the informational bulleting No. 12-131 came out with the results on 7 November 2012.
12. The fourth time was on 2016, the City of Fort Lauderdale gave a test and came out with the result before the plaintiff was able to take the test due that he was on military orders and applied to for the test, Information bulleting No. 15-081 came out with the results on 22 Jun 2015.
13. The Plaintiff was given the opportunity to take the Division test and new revised information bulletin No. 16-069 came out on 29 April 2016.
14. Plaintiff has never been granted promotion to Division Chief.

15. Plaintiff complained to Ms. Cosentino that he had been denied promotions and that it was connected to his military service (Exhibit A).
16. The Defendant never responded to Plaintiff's complaint.
17. The Defendant uses the rule of five to select the personnel for promotion and had been violating the rights of the Plaintiff by not following the State of Florida Veterans preference.<sup>1</sup>
18. Plaintiff has been the better qualified for promotion than at least one person promoted ahead of him.
19. Plaintiff has complained to the Defendant that his military service was a factor in the decision to deny him promotion.
20. Plaintiff has complained to the Department of Veterans Affairs that he has been denied promotion because of his military service.
21. Defendant has not responded to the Department of Veteran's Affairs investigation. (Ex. B).
22. Defendant has refused to promote Plaintiff because of his military service.
23. Plaintiff's military service is continuing as he currently serves as a Major and Project Officer in the Commander's Action Group, U.S. Southern Command.

---

1. VETERANS' PREFERENCE Section 295.07 et seq., Florida Statutes (F.S.) and Chapter 55A-7, Florida Administrative Code (F.A.C.) Typically the decision maker may choose whomever he/she wants. This is referred to as the "Rule of 5" (or whatever the size of the group). If there is a Veterans' Preference eligible applicant in the group, the decision maker MUST select the Veterans' Preference eligible candidate. The decision maker is not able to skip over a VP candidate and select an equally qualified Non- VP candidate. If there is more than one VP candidate in the group, the selection will be based upon how the candidates qualified for VP and their placement in the eligibility category. A qualifying disabled veteran will always be selected over any other category of applicants.

24. Plaintiff has suffered damages as a result of Defendant's refusal to promote Plaintiff since 2004.

25. Plaintiff has been compelled to hire an attorney and file suit as Defendant refused to make Plaintiff whole.

26. Plaintiff demands a jury trial

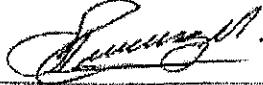
PRAYER FOR RELIEF

27. WHEREFORE, PLAINTIFF prays that this Court:

- a. Declare the conduct of the Defendant in violation of his rights;
- b. Award him injunctive relief by ordering the Defendant to promote Plaintiff to Division Chief as of November 19, 2004 when the position for Division Chief was available;
- c. Award him back pay from November 2004 through the trial;
- d. Award him full seniority as Division Chief from November 2004 as if he had never been on military service;
- e. Award him liquidated damages;
- f. Award him costs and attorney's fees pursuant to 38 USC 4323(h)(2);
- g. Grant such other relief as the Court deems just and necessary.

**VERIFICATION**

I, JOHN H. RAMIREZ do hereby verify that all of the factual allegations related to me and made in the above Verified Complaint and Jury Demand are true to the best of my belief and recollection.

  
JOHN H. RAMIREZ  
Plaintiff

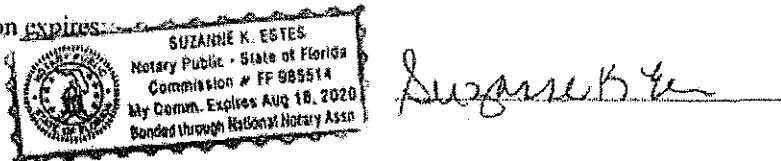
STATE OF FLORIDA

COUNTY OF BROWARD

BEFORE ME, the undersigned authority, duly licensed to administer oaths and take acknowledgments, personally appeared JOHN H. RAMIREZ, who, being by me first duly sworn and personally known to me, deposes and says that he has read the foregoing Verified Complaint and Jury Demand, and that the factual allegations relating to him are true and correct to the best of his knowledge, information and belief.

SWORN TO AND SUBSCRIBED before me this 15 day of October, 2018.

My commission expires:



Respectfully submitted,

RANDY A. FLEISCHER, P.A.  
8258 State Rd 84  
Davie Florida 33324  
(954) 472-8401  
(954) 472-8446 FAX  
randy@rafesq.com E-mail

s/R. Fleischer  
Randy A. Fleischer, Esq.  
Florida Bar No. 910546

**From:** John Ramirez <[JRamirez@fortlauderdale.gov](mailto:JRamirez@fortlauderdale.gov)>  
**Date:** February 11, 2016 at 23:18:40 EST  
**To:** "jhramirez@comcast.net" <[jhramirez@comcast.net](mailto:jhramirez@comcast.net)>  
**Subject:** Veterans Issue

Hello Ms. Cosentino,

I spoke with you a couple of weeks ago in reference of my situation with the Fort Lauderdale Fire Rescue Department, in reference that I had been skipped numerous times for the promotion of Division Chief even though that I have Veterans Preference.

I have been working for the Fire Department for almost 22 years and with the US ARMY Reserve almost 26 years. At this time I hold the rank of Battalion Chief with the Fire Department and a Major with the US ARMY Reserve.

I am a veteran of the Persian Gulf War and the Operation Enduring Freedom; a resident of the state of Florida for 30 years and I have been Honorable discharge from my deployments.

My complaint is that I believe that my rights as US Veteran has been violated due that I had been skipped for the promotion of the Division Chief for personnel that are not Veterans. The Fire Department use the rule of five to promote the personnel but according with Florida Department of Veteran's Affairs I MUST be promoted even though that they use the rule of Five.

The following is the back ground of the situation:

I took my first promotional test for Division Chief on 2004, the Information Bulleting form the Fire Department came out with the results on 19 November 2014 (Attached Information Bulleting No. 04-168). The following were the results:

Rank 1 Battalion Chief Christopher Weir (he was promoted, no a veteran)  
Rank 2 Battalion Chief Lois Bowman (she was promoted, no a veteran) and Battalion Chief Richard Brown  
Rank 3 Battalion Chief John Molenda and Battalion Chief William Findlan  
Rank 4 Battalion Chief John Ramirez (I was not promoted from this list)  
Rank 5 Battalion Chief Robert Hoecherl  
Rank 6 Battalion Chief William Banks  
Rank 7 Battalion Chief Robert Simac

The second time I took the Division Chief Test was on 2007, the Information Bulleting form the Fire Department came out with the results on 25 September 2007 (Attached Information Bulleting No.07-169, also Information Bulletin with the Fire-rescue Promotions No.09-059). The following were the results:

Rank 1 were Battalion Chief Eric Pologruto (he was promoted, no a veteran) and Battalion Chief John Molenda (he was promoted, no a veteran)  
Rank 2 were Battalion Chief Robert Bacic (he was promoted, no a veteran) and Battalion Chief Robert Hoecherl (he was promoted, no a veteran)

## EXHIBIT A

Rank 3 Battalion Chief John Ramirez (I was skipped for the promotion for Battalion Chief William Findlan)

Rank 4 Battalion Chief William Findlan (he was promoted, no a veteran) and Battalion Chief Richard Brown)

Rank 5 Battalion Chief William Banks

Rank 6 Battalion Chief Timothy Blank

Rank 7 Battalion Chief Edward Duncan

The third time I took the Division Chief Test was on 2012, the Information Bulleting form the Fire Department came out with the results on 7 November 2012 (Attached Information Bulleting 12-131). The following were the results:

Rank 1 were Battalion Chief Timothy Heiser (he was promoted, no a veteran) and Battalion Chief John San Angelo (he was promoted and he is a veteran).

Rank 2 Battalion Chief John Ramirez (I was skipped for Battalion Chief Chantal Botting, no a veteran)

Rank 3 Battalion Chief Chantal Botting (she was promoted, no a veteran)

Rank 4 Battalion Chief Stewart Ahearn)

Rank 5 Battalion Chief Timothy Blank and Battalion Chief David Carter

Rank 6 Battalion Chief Richard Brown and Battalion Chief Stanley Douglas

Rank 7 Battalion Chief William Banks

Rank 8 Battalion Chief Jeffrey Lucas

Rank 9 Battalion Chief Kenneth Rudominer

I was deployed in support of Operation Enduring Freedom from 4 November 2013 to 24 October 2015. On the beginning of the year 2015 I was informed that the Fire Department wants to give another Division Test. I informed the Fire Department that I was deployed and I was not able to take the Division Test. I submitted the application via the internet to apply for the position.

I attached the e-mails for the communication I has with the Human Resources department.

On 08 May 2015 I was advised by Ms. Andrea Walters that they test will be on 17 Jun and 19 Jun 2015 and she advised that I can take the test after my discharge from active duty. I advised Ms. Walters on 4 Jun 15 that I was not able to attend these dates and that I will take the test after my discharge from active duty.

I sent an e-mail advising Ms. Walters on 24 November 2015 of my return to the Fire Department and requested a date for the Division Chief test.

Ms. Walters advised me on 31 Dec 2015 that the test will be schedule on 14 Jan or 15 January 2016; due that I did not have another e-mail from Ms. Walters advising the time or location I sent an-email on 12 Jan 16 requesting the information, she replied the same day stating that the dates were no longer being considered and they will contact me with some alternatives.

I received an e-mail form Ms. Walters on 01 Feb 2015 stating to save 9 Feb 2016 for the test; on 2 Feb 2016 I replied and requested the time and location for the test.

On 8 Feb 2016 I received an e-mail form Ms. Walters advising that the test needs to be rescheduled again. On same day I advised Ms. Walters that my annual training with the US Army will be from 20 Feb to 4 Mar 2016.

In addition, the Fire Department did the test and came out with a list already date 22 Jun 2015 (attached Information Bulletin No.15-081) with the following results without waiting for me to take the test:

Rank 1 BC Douglas Stanley (he was promoted effective 21 Jun 2015, no a veteran)  
Rank 2 BC Stewart Ahearn (he was promoted effective 2 August 2015, no a veteran) and BC Melanie Snowwhite  
Rank 3 BC Jo-Ann Lorber  
Rank 4 BC Timothy Blank  
Rank 5 BC John McLoughlin  
Rank 6 BC David Carter and BC Walter Dietz

Ms. Consentino, I believe my rights as veteran has been violated since 2004 and they continue doing it.

Please let me know if you need more information to be able to start an investigation; the following is my contact information:

John H. Ramirez  
Address: 19042 NW 79 CT Miami-Lakes, FL 33015  
Cell: 786-295-5264  
Personal E-mail: [jhramirez@comcast.net](mailto:jhramirez@comcast.net)  
ARMY e-mail: [john.h.ramirez.mil@mail.mil](mailto:john.h.ramirez.mil@mail.mil)  
Fire Department e-mail: [jramirez@fortlauderdale.gov](mailto:jramirez@fortlauderdale.gov)

I really appreciate the attention to this matter, your assistance and support.

JHR

John H. Ramirez, MPA, EFO  
City of Fort Lauderdale Fire-Rescue  
 Battalion Chief Operations  
A Shift District 13  
Work (954) 828-3650  
Cell (786) 295-5264  
[jramirez@fortlauderdale.gov](mailto:jramirez@fortlauderdale.gov)

*The final test of a leader is that he leaves behind him  
in other men the conviction and the will to carry on.  
-Walter Lippmann-*



Glenn W. Supthai Jr.,  
Executive Director

State of Florida  
**DEPARTMENT OF VETERANS' AFFAIRS**

**Office of the Executive Director**

The Capitol, Suite 2105, 400 South Monroe Street  
Tallahassee, FL 32399-0001  
Phone: (850) 487-1533 Fax: (850) 488-4091  
[www.FloridaVets.org](http://www.FloridaVets.org)

Rick Scott  
Governor  
Pam Bondi  
Attorney General  
Jimmy Patronis  
Chief Financial Officer  
Adam Putnam  
Commissioner of Agriculture

January 19, 2018

Maj. John Ramirez  
9301 NW 33<sup>rd</sup> Street  
Doral, FL 33172

**RE: VP 16-0036**

Dear Maj. Ramirez:

Thank you for your Veterans' Preference inquiry. The Florida Department of Veterans' Affairs (FDVA) appreciates the opportunity to serve you. This letter is in response to your employment complaint filed with the (FDVA) pursuant to Section 55A-7.016, Florida Administrative Code (FAC).

The FDVA has not received any response from the City of Fort Lauderdale (CFL) despite numerous requests beginning April 26, 2016, to the most recent sent January 3, 2018. Certified Return Receipt, which was signed as accepted by CFL on January 8, 2018. A copy of this notification has also been provided to CFL.

The investigative findings confirmed that you are a preference-eligible veteran who timely and properly completed an application for a promotional opportunity that requires the application of Veterans' Preference with CFL. You met the minimum qualifications, however, due to CFL's continued lack of response to FDVA's request for information it is impossible to determine if Veterans' Preference was applied. Therefore, FDVA has determined that you have made a valid complaint for case 16-0036.

The employer is required by subsection 55A-7.016(7), FAC, to provide to you within 30 days of receipt of the investigative findings a proposed plan to resolve the complaint. If the employer is unable or unwilling to resolve your complaint, you have the right to appeal to the Public Employees Relations Commission (PERC). You must notify the FDVA in writing within 15 calendar days from receipt of the employer's proposed action that you are not satisfied with the resolution for the complaint. If the employer has not furnished you with a proposed resolution for your complaint within 30 days of receipt of the investigative findings, you must notify the FDVA within 15 calendar days of the due date of the proposed resolution of the fact that the employer has not attempted a resolution.

If PERC determines that it has jurisdiction of your case, it will order a hearing officer to conduct a formal hearing under the provisions of Florida Administrative Procedures Act, Chapter 120, Florida Statutes (2008). At this hearing, both you, or your attorney, and the employer will be allowed to present sworn witnesses, cross-examine witnesses, and produce written evidence on the question of whether or not you are the more qualified person for the job.

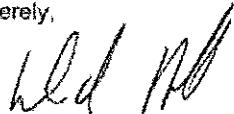
*"Honoring those who served U.S."*

Exhibit B

If you have questions about the authority or jurisdiction of the PERC, you may call or write to the Commission. The address is:

Public Employees Relations Commission  
4050 Esplanade Way, Suite 180  
Tallahassee, FL 32399-0950  
(850) 488-8641

Sincerely,



David Marzullo  
Inspector General  
Florida Department of Veteran Affairs  
[MarzulloD@fdva.state.fl.us](mailto:MarzulloD@fdva.state.fl.us)  
(727) 518-3202 ext. 5570

cc: Averill Dorsett, Director Human Resources

## **EXHIBIT B**

IN THE CIRCUIT COURT OF THE 17TH  
JUDICIAL CIRCUIT IN AND FOR  
BROWARD COUNTY, FLORIDA

CASE NO.: 19-000207-CA-02

JOHN H. RAMIREZ,

Plaintiff,

v.

CITY OF FT. LAUDERDALE FIRE RESCUE,

Defendant.

---

**CIRCUIT COURT NOTICE OF FILING REMOVAL**

TO: Brenda D. Forman  
Clerk of Courts  
Seventeenth Judicial Circuit for Broward County  
201 S.E. 6th Street  
Fort Lauderdale, Florida 33301

Defendant, CITY OF FORT LAUDERDALE,<sup>1</sup> by and through its counsel, Law Offices of Carmen Rodriguez, P.A., and pursuant to 28 U.S.C. §1446(d), file herewith a copy of Defendant's Notice of Removal of this matter from the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, to the United States District Court for the Southern District of Florida.

Dated: January 18, 2019

---

<sup>1</sup>Plaintiff misidentified Defendant as "City of Ft. Lauderdale Fire Rescue" in his initial Complaint filed with the Court. The correct municipal corporation in this matter is City of Fort Lauderdale. Fire Rescue is a department within the City of Fort Lauderdale.

Respectfully submitted,

s/ Carmen Rodriguez

Carmen Rodriguez, Esq. (FBN 710385)

Email: [crpa@crlaborlawfirm.com](mailto:crpa@crlaborlawfirm.com)

Law Offices of Carmen Rodriguez, P.A.

15715 S. Dixie Highway, Suite 411

Miami, Florida 33157-1884

Telephone: (305) 254-6101

Facsimile: (305) 254-6048

Attorneys for Defendant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via an automatic email generated by the Florida Courts E-Filing Portal on all counsel or parties of record on the Service List below, on this 18th day of January, 2019.

s/Carmen Rodriguez

Carmen Rodriguez

**SERVICE LIST**

Randy A. Fleischer, P.A.

Florida Bar No. 910546

E-mail address: [randy@rafesq.com](mailto:randy@rafesq.com)

Law Offices of Randy A. Fleischer, P.A.

8258 State Road 84

Davie, Florida 33324

Telephone: (954) 472-8401

Facsimile: (954) 472-8446

Attorneys for Plaintiff

Carmen Rodriguez, Esquire

Florida Bar No. 710385

E-mail address: [crpa@crlaborlawfirm.com](mailto:crpa@crlaborlawfirm.com)

Law Offices of Carmen Rodriguez, P.A.

15715 S. Dixie Highway

Suite 411

Miami, Florida 33157-1884

Telephone: (305) 254-6101

Facsimile: (305) 254-6048

Attorneys for Defendant