

2.02 Defendant, **CITY OF MERCEDES**, (hereinafter referred to as “City of Mercedes” or “Defendant”) is a Texas corporation doing business in the State of Texas, and can be served with process by serving its registered agent at the following address:

**Joselynn Castillo, City Secretary
400 S. Ohio
Mercedes, Texas 78570**

Section 3

Jurisdiction & Venue

3.01 Subject matter jurisdiction exists in this case because the amount in controversy exceeds minimal jurisdictional limits of this Court.

3.02 The incident made the basis of this lawsuit occurred in Mercedes, Hidalgo County, Texas. As such, venue is proper in Hidalgo County.

3.03 Plaintiff seeks to recover all of his damages in an amount which the jury determines to be just and appropriate, based on the jury’s discretion and judgment in its role as the trier of fact. In order to comply with the Supreme Court’s requirement to state the range of damages, pursuant to Texas Rule of Civil Procedure 47(C), Plaintiff pleads that he anticipates at this time that the amount of damages he will request the jury to assess at trial will be more than \$200,000.00 but not more than \$1 million.

Section 4

Exhaustion of Administrative Remedies

4.01 Plaintiff timely filed a Charge of Discrimination with the Texas Workforce Commission Civil Rights Division, and on June 29, 2020. See **Exhibit A** attached hereto.

4.02 On or about July 6, 2021, Plaintiff received the Dismissal and Notice of Right to File a Civil Action from the Texas Workforce Commission Civil Rights Division. See **Exhibit B** attached hereto.

Section 5

Factual Allegations

5.01 Plaintiff, Tommy Ureste, (“Chief” or “Chief Ureste”) was employed as Fire Chief of the City of Mercedes (“City”) Fire Department.

5.02 He was terminated by the City after a younger fire fighter lodged false allegations against the Chief. According to the fire fighter, the Chief had allegedly assaulted him. Despite the falsity, the fire fighter filed a police report against Chief Ureste.

5.03 Chief Ureste challenged the report. Criminal charges were not brought against Chief Ureste.

5.04 Nonetheless, Mercedes City Manager, Sergio Zavala, terminated Chief Ureste based on the false police report. Chief Ureste was part of a protected class since he was over age 40 at the time of the City’s wrongful termination.

5.05 Younger city employees were treated better. For example, younger city employees are allowed to make false police reports and are not disciplined. Younger city employees are given progressive discipline.

5.06 Despite a spotless disciplinary history and positive evaluations (4.8, 4.9 and 5.0 on a scale of 1.0 to 5.0), Chief Ureste was not given progressive discipline.

5.07 Chief Ureste files suit because unlawful age discrimination motivated the City when it fired him in January 2020.

Section 6

Causes of Action

6.01 Texas Labor Code Chapter 21. Plaintiff asserts that Defendant violated Chapter 21 of the Texas Labor Code in that his termination was motivated by unlawful age discrimination.

Section 7

Controlling Authority

7.01 An employer commits an unlawful employment practice if because of race, color, disability, religion, sex, national origin, or **age** the employer:

(1) fails or refuses to hire an individual, **discharges an individual**, or discriminates in any other manner against an individual in connection with compensation or the terms, conditions, or privileges of employment; or

(2) limits, segregates, or classifies an employee or applicant for employment in a manner that would deprive or tend to deprive an individual of any employment opportunity or adversely affect in any other manner the status of an employee.

Section 8

Damages

8.01 As a result of acts and/or omissions as set forth above, Plaintiff sustained the following damages, including but not limited to:

- (a) Back pay;
- (b) Past and future emotional pain;
- (c) Past and future suffering
- (d) Past and future inconvenience
- (e) Past and future mental anguish

- (f) Past and future loss of enjoyment of life
- (g) Past and future other non-pecuniary damages; and
- (h) Reasonable attorney's fees.

Section 9

Jury Demand

9.01 Plaintiff demands a trial by jury.

Section 10

Exhibits

- EXHIBIT A** Employment Discrimination Complaint Form;
- EXHIBIT B** Notice of Dismissal and Right to File a Civil Action;
- EXHIBIT C** Plaintiff's First Set of Interrogatories, Requests for Production, Requests for Admission & Requests for Disclosure to Defendant; and

Section 11

Prayer

11.1 WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant, **CITY OF MERCEDES**, be cited to appear and answer in this cause, and that upon final trial hereof, Plaintiff recovers judgment against Defendant for his actual/compensatory damages in amounts within the jurisdictional limits of this Court and for all other relief at equity for which he may show himself justly entitled.

Respectfully submitted,

RUIZ LAW FIRM, P.L.L.C.

118 West Pecan Blvd.

McAllen, Texas 78501

Telephone: (956) 259-8200

Telecopier: (956) 259-8203

/s/ Mauro F. Ruiz

Mauro F. Ruiz

State Bar No.: 24007960

e-File ONLY: admin@mruizlaw.com

mruiz@mruizlaw.com

ATTORNEY FOR PLAINTIFF