

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

DANIEL R. BOWEN
Plaintiff

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Civil Action No. _____

v.
**UNIVERSITY OF TEXAS
MEDICAL BRANCH**
Defendant.

DEMAND FOR JURY TRIAL

PLAINTIFF’S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

NOW COMES, Daniel Bowen (“Plaintiff”), filing this Original Complaint against University of Texas Medical Branch (“UTMB”) and in support thereof respectfully shows this Court as follows:

I. PARTIES

1. Plaintiff Daniel Bowen is a citizen of the United States and the State of Texas and resides in Galveston County, Texas.
2. Defendant University of Texas Medical Branch (“UTMB”) is a foreign for-profit corporation and may be served with process through its attorney of record Stewart Hoffer of Hicks Thomas, LLP 700 Louisiana, Suite 2000 Houston, Texas 77002.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, as Plaintiff’s causes of action against UTMB arise under federal statutes: Title VII of the Civil Rights Act of 1964 (“Title VII”) (42 U.S.C. § 2000 et seq.).
4. Venue is proper in the Southern District of Texas, Houston Division pursuant to 28 U.S.C.

§ 1391(a) because this is the judicial district in which a substantial part of the events or omissions
Plaintiff’s Original Petition

giving rise to the claim occurred.

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

5. On or about January 31, 2019 Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”) and concurrently with the Texas Workforce Commission-Civil Rights Division complaining of the defendant. On August 17, 2019 Plaintiff received a Dismissal and Notice of Rights letter from the EEOC. *See* Exhibits 1 and 2, attached.

6. Plaintiff files this lawsuit within ninety (90) days of receiving his Dismissal and Notice of Rights letter from the EEOC.

7. Plaintiff has satisfied all private, administrative, and judicial prerequisites to the institution of this action.

IV. STATEMENT OF FACTS

8. UTMB is a public academic health science center in Galveston, Texas. It is part of the University of Texas System. UTMB has a Police Department, a fully accredited law enforcement agency within The University of Texas System Police's Office of Director of Police (“ODOP”).

9. On June 4, 2007, Plaintiff Daniel Bowen was hired by UTMB as a Police Officer II in UTMB's Police Department. In this role, Bowen was responsible for preserving the peace and maintaining order by the use of all lawful means to prevent and/or to suppress crime utilizing his working knowledge of the state's criminal laws and his ability to identify and enforce the laws.

10. In early March 2018, UTMB received a complaint involving members of the UTMB Police Department. The University of Texas System Police conducted an investigation into the reported concerns.

11. On March 22, 2018, as part of the investigation, Bowen was interviewed by Senior Inspector Angel Lemmonds (“Lemmonds”) and Interim Assistant Chief Stephanie Schoenborn

(“Schoenborn”).

12. During the interview, Bowen provided information that he had been the subject of harassment including sexual harassment in the police department, by Lieutenant Ryan Erwin.

13. UTMB failed to follow internal process and procedure and conduct a reasonable investigation into Bowen’s complaints of sexual harassment. Moreover, UTMB failed to interview a single witness provided by Bowen regarding his complaint(s) of sexual harassment and retaliation.

14. Further, UTMB assigned Lieutenant Ryan Erwin as the investigating officer into Bowen’s complaints against him.

15. Shortly thereafter, on March 29, 2018, Bowen was suspended after he complained that he was the victim of illegal sexual harassment during an internal investigation.

16. Prior to making complaints against Lieutenant Ryan Erwin, Plaintiff did not have any suspensions or disciplinary write-ups in his personnel file.

17. Bowen appealed his suspension but was formally discharged anyway on July 12, 2018 in retaliation for his complaint regarding sexual harassment and retaliation.

18. Bowen then appealed his termination of employment in violation of UTMB policy and procedure. To date Bowen received no response regarding his appeal.

19. At all relevant times Bowen’s POD was at UTMB at Galveston and Lieutenant Erwin was his superior.

20. Bowen subsequently discovered he was replaced by a Hispanic male.

V.

COUNT 1: HOSTILE WORK ENVIRONMENT-SEX/GENDER

21. Title VII of the Civil Rights Act of 1964 (“Title VII”) prohibits discrimination against any

employee with respect to any term, condition or privilege of employment based on sex/gender.

22. Pursuant to 29 U.S.C. § 2000e-2, Plaintiff Daniel Bowen pleads a cause of action against Defendant UTMB for unlawful harassment and/or creating a hostile work environment based on his sex/gender, male.

23. The allegations contained in all paragraphs of this Original Complaint are hereby incorporated by reference with the same force and effect as if set forth verbatim.

24. Defendant UTMB subjected Plaintiff to a hostile work environment permeated with discriminatory behavior that was sufficiently severe or pervasive to create a discriminatorily hostile or abusive work environment that altered the conditions of his employment. *See National R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 116 (2002).

25. Plaintiff asserts that he is male and belongs to a protected gender group. He was subjected to unwelcomed sexual harassment and/or hostility by Lieutenant Ryan Erwin. Bowen reporting Ryan's conduct and shortly thereafter was suspended and ultimately terminated from his employment with the defendant.

26. Plaintiff alleges that he was subjected to harassment and hostility, suspended, and ultimately terminated from his position due to his sex/gender in violation of the Title VII of the Civil Rights Act of 1964.

VI.

COUNT 2: RETALIATION IN VIOLATION OF TITLE VII

27. The Title VII of the Civil Rights Act of 1964 prohibits retaliation against a person who has opposed discrimination by filing a charge, participating or testifying in an investigation, proceeding or litigation. *See* 29 U.S.C. § 2000e-3(a).

28. Pursuant to 29 U.S.C. § 2000e-3(a) Plaintiff Daniel Bowen pleads a cause of action against

Defendant UTMB for retaliation.

29. The allegations contained in all paragraphs of this Original Complaint are hereby incorporated by reference with the same force and effect as if set forth verbatim.

30. Bowen engaged in protected activity when he reported that he has been and was being subjected to sexual harassment and/or a sexually hostile work environment by Lieutenant Ryan Erwin. Subsequent to his initial report, Bowen reported that he had been blacklisted for reporting Lieutenant Ryan's conduct. As a result of these reports, his supervisor disparaging comments against and/or about him intensified. Following his report, Plaintiff was suspended based upon false allegations of a Garrity violation, and ultimately terminated from his employment with the defendant. The effect of these practices has been to deprive Plaintiff of equal employment opportunities and otherwise adversely affected his status as an employee.

31. Plaintiff alleges that Defendant retaliated against him by engaging in a pattern of harassment, placing him on suspension without evidence of wrongdoing and ultimately terminated his employment in violation of Title VII of the Civil Rights Act of 1964.

VII. DAMAGES

32. Plaintiff sustained damages as a result of the actions and/or omissions of Defendant described herein. Accordingly, Plaintiff is entitled to an award of actual, compensatory damages including lost wages and benefits in the past and future, in an amount within the jurisdictional limits of the Court.

33. Plaintiff also asserts that UTMB acted with malice or reckless indifference to his federally protected rights entitling him to an award of punitive damages.

VIII. JURY DEMAND

34. Plaintiff demands a jury on all issues to be tried in this matter and herein submits the jury

fee.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter a judgment:

- a. Declaring that the acts and practices complained of herein are in violation of Title VII, 42 U.S.C. §§ 2000 et seq;
- b. Awarding plaintiff any back pay with interest on any back pay awarded;
- c. Awarding plaintiff any front pay with interest on any front pay awarded;
- d. Awarding plaintiff any liquidated damages with interest on any liquidated damages awarded;
- e. Awarding plaintiff compensatory damages, punitive damages, and such other monetary relief as may be deemed appropriate in amounts to be determined at trial;
- f. Awarding plaintiff prejudgment and postjudgment interest to the maximum extent permitted by law;
- g. Awarding plaintiff costs of suit;
- h. Awarding plaintiff the cost of this action together with expert witness fees and reasonable attorney's fees, as provided by section 706(k) of Title VII, 42 U.S.C. §§ 2000e-6(k);
- i. Directing defendant to pay plaintiff damages for his mental anguish;
- j. Granting such other and further relief as this Court deems necessary and proper.

Respectfully Submitted,
THE TACKETT FIRM, PLLC

By:  _____

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