

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

| | | |
|----------------------|---|-------------------------|
| JAMES LYNCH | : | |
| Plaintiff | : | |
| | : | |
| Vs. | : | C.A. No.: 1:22-cv-_____ |
| | : | |
| EAST PROVIDENCE FIRE | : | |
| DEPARTMENT and | : | |
| IAFF LOCAL 850 | : | |
| Defendants | : | |

NOTICE OF REMOVAL

TO: THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

Defendant East Providence Fire Department hereby removes this action pursuant to 28 U.S.C. §§ 1331, 1441 and 1446 from the Superior Court in Providence County, State of Rhode Island to the United States District Court for the District of Rhode Island. In support of this *Notice of Removal*, the East Providence Fire Department respectfully represents as follows:

1. That defendant East Providence Fire Department and IAFF Local 850 are the only defendants in a civil action filed in the Providence County Superior Court, styled *James Lynch v. East Providence Fire Department and IAFF Local 850*, C.A. No. PC-2021-7562.
2. That both defendants consent to the removal of this action to the United States District Court for the District of Rhode Island.
3. That Plaintiff's Complaint was filed in the Providence County Superior Court on December 16, 2021. A copy of the filed Complaint is attached hereto as **Exhibit A**.
4. That the East Providence Fire Department was served with a copy of the Summons and Complaint on January 6, 2022. A copy of the served Summons is attached as **Exhibit B**.
5. In accord with 28 U.S.C. § 1446, the defendant has timely filed this *Notice of Removal* within thirty (30) days of being served the Complaint.
6. That the Complaint asserts a claim arising under the laws of the United States and therefore raises a federal question within the meaning of 28 U.S.C. § 1331.
7. Specifically, the plaintiff alleges that his rights pursuant to the Americans with Disabilities Act were violated when the defendants failed to provide him with a "reasonable accommodation" in accord with 42 U.S.C. § 12112(b)(5)(A), as that term has been interpreted in 29 C.F.R. §§ 1630.2(o)(1)(ii) – (iii). Complaint, Count I and ¶ 32.

8. Because the Complaint raises a federal question, the defendant is allowed to remove the matter to federal court irrespective of diversity of the parties or the amount claimed.
9. That venue properly lies in the District of Rhode Island because the plaintiff has asserted that he was a resident of the State of Rhode Island at the time of the alleged incident and that the subject incident occurred in the State of Rhode Island. Further, venue is proper because the plaintiff commenced his initiating civil action in the State of Rhode Island.
10. That the above described action is one of which this Court has original jurisdiction pursuant to the provisions of 28 U.S.C. § 1331, and is one which may be removed to this Court by the defendants pursuant to the provisions of 28 U.S.C. §§ 1441(a).
11. Pursuant to 28 U.S.C. § 1446(d), the East Providence Fire Department will provide plaintiff and co-defendant with written notice of this filing and will provide the Providence County Superior Court with a copy of such notice. **Exhibits C and D.**
12. That in accord with LR Civ. 81, the defendant has requested that the Providence County Superior Court Clerk provide certified copies of the entire State Court record. **Exhibit D.** The defendant will undertake all necessary actions to enable the Clerk of the Superior Court to assemble and electronically transmit a certified copy of the entire State Court record.
13. That Defendant IAFF Local 850 consents to removal of this action to the United States District Court for the District of Rhode Island and will file its *Consent to Removal*.

WHEREFORE, the East Providence Fire Department, by and through its counsel, and through the filing of this *Notice of Removal*, the giving of written notice thereof to plaintiff and co-defendant, and the filing of a copy of the *Notice of Removal* with the clerk of the Providence County Superior Court, effects the removal of said civil action to this Honorable Court.

EAST PROVIDENCE FIRE DEPARTMENT

BY THEIR ATTORNEYS

/S/ MICHAEL J. MARCELLO, ESQ.

/S/ TODD J. ROMANO, ESQ.

MICHAEL J. MARCELLO, ESQ. (#5221)

CITY SOLICITOR, CITY OF EAST PROVIDENCE

TODD J. ROMANO, ESQ. (#6859)

LEWIS BRISBOIS BISGAARD & SMITH, LLP

ONE CITIZENS PLAZA, SUITE 1120

PROVIDENCE, RI 02903

TEL: (401) 406-3310

FAX: (401) 406-3312

Michael.Marcello@lewisbrisbois.com

Todd.Romano@lewisbrisbois.com

CERTIFICATION

I, Michael J. Marcello, counsel for Defendant, East Providence Fire Department, hereby certify that this document was served upon the plaintiff and/or his or her counsel through the electronic filing system on this 6th day of January, 2022.

/s/ Michael J. Marcello, Esq.

EXHIBIT A

**STATE OF RHODE ISLAND
PROVIDENCE, SC**

SUPERIOR COURT

JAMES LYNCH :
Plaintiff, :
 :
 :
v. :
 :
EAST PROVIDENCE FIRE :
DEPARTMENT; and IAFF LOCAL 850 :
Defendants. :

C.A. No.: PC-2021-_____

COMPLAINT

NOW COME the Plaintiff, James Lynch (“Plaintiff”), and hereby brings this Complaint against the Defendants, East Providence Fire Department, and IAFF Local 850 (collectively as “Defendants”) to request from this Court Declaratory Relief regarding the obligations of the Defendant’s relative to the dispute discussed in this Complaint. In support thereof, the Plaintiff hereby states the following:

PARTIES

1. The Plaintiff, James Lynch (“Plaintiff”), is an individual resident of Rhode Island, with his principle residence being located at 310 Lee Road, Wakefield, RI 02879.
2. The Defendant, The East Providence Fire Department (“Department”), is a municipal entity, with its principal business address being located at 145 Taunton Avenue, East Providence, RI 02914.
3. The Defendant, IAFF Local 850 (“Union”), is a union organization in the state of Rhode Island, having a mailing address of P.O. Box 14355, East Providence, RI 02914.

JURISDICTION AND VENUE

4. This Court has personal Jurisdiction over the Defendant’s as they are both registered in the State of Rhode Island.

5. This Court has subject matter jurisdiction over this action pursuant to R.I. Gen. Laws §§ 8-2-13 and 9-30-1, *et seq.*

6. Venue is proper in this Court pursuant to R.I. Gen. Laws § 9-4-3, because this action is brought in the Superior Court for Providence County, being the county which both Plaintiff and Defendant(s) reside.

GENERAL ALLEGATIONS

7. Plaintiff has been a firefighter on the East Providence Fire Department (“Department”) since May of 2007, and currently holds the rank of Lieutenant in the Department. *See* ¶ 2 of Exhibit A, a true and accurate copy of the Affidavit of James Lynch attached hereto.

8. On June 29, 2021, the Plaintiff encountered several medical issues that caused him to take a temporary medical leave (“Leave”) from the Department to recover.

9. As part of the Plaintiff’s Leave, he was told by both a medical treatment team, and the Chief of the Department to disconnect from all work-related email, Department related social media, and any other Department sponsored forum. *See* Exhibit A at ¶ 4.

10. In support thereof, the Chief expressed to the Plaintiff that he would inform the Plaintiff of any pertinent information via phone call while the Plaintiff was on Leave. *See* Exhibit A at ¶ 5.

11. On July 28, 2021, (while the Plaintiff was on Leave) the Department posted notice that it would be administering the Firefighter’s Promotional Exam (“Exam”) for firefighters who met certain criteria relative to rank, number of years on the Department, etc. The Department instituted a registration deadline date (“Deadline”) of August 9, 2021 which Firefighters must have registered by in order to sit for the Exam.

12. The Exam consists of One Hundred (100) questions, and are tied to Four (4) books, and Four (4) departmental standard operating guidelines (“SOG”). Eighty (80) questions on the Exam relate to the Four (4) books and Twenty (20) questions on the exam relate to the SOG material. See Exhibit A; see also Exhibit B, a true and accurate copy of the Exam Information Sheet attached hereto.

13. The Plaintiff was never informed by any individual through any form of communication of the notice for the administration of the Exam. Further, the Plaintiff was an eligible candidate who met the criteria required to sit for the Exam. See Exhibit A at ¶ 6-7.

14. The Plaintiff returned from his Leave to active duty on the Department October 9, 2021. Upon his return to the Department, he had discovered (for the first time) the notice for the Exam’s administration, making his initial discovery of the notice Fifty-Four (54) days past the deadline set for registration. See Exhibit A at ¶ 9.

15. On October 9, 2021, the Plaintiff texted the Chief of the Department addressing the fact that he was not informed of the Exam’s tentative administration, to which the Chief responded that he would “look into this”. See Exhibit C, a true and accurate copy of the October 9 Text Chain attached hereto.

16. On October 14, 2021, the Chief of the Department informed the Plaintiff via text message that the Plaintiff was permitted to sit for the Test, stating “Ur good for the Captain test. Andrea will be sending a form for you to fill out. Check ur department email.” See Exhibit D, a true and accurate copy of the email chain from October 14 attached hereto.

17. Regardless of the Plaintiff being unable to sign up during the registration period, he was told by his superiors to sit for the Exam regardless of his late registration, and his scores would be considered.

18. As a result of being unaware of the Exam's administration prior to October 9, the Plaintiff was provided with only Twelve (12) days to prepare for the Exam in anticipation of its administration. See Exhibit A at ¶ 10.

19. In an attempt to prepare for the Exam, the Plaintiff inquired with the Chief of the Department to determine whether the Four (4) books that were necessary to study for the Exam were available at the Department. However, the Plaintiff was informed that all of the books were already checked out by other individuals who were likely sitting for the Exam as well. See Exhibit A at ¶ 13.

20. On Monday, October 18, 2021, the Plaintiff went to the Department and found that one (1) of the four (4) books was available (known as "Book 2" in ¶ 12 of Exhibit A). And that same day, the Plaintiff went online to see if it was possible to purchase the other books that were not available at the Department, but unfortunately, he would not receive the books until the day before the Exam if he were to order those books online. See Exhibit A at ¶ 14.

21. The material needed to prepare for the Exam is voluminous in nature, requiring Four (4) different books (Two (2) of which are over Five Hundred (500) pages, One (1) being One Hundred and Thirty-Six (136) pages, One (1) being Two Hundred and Thirty-Four (234) pages, and the last being Thirty-Eight (38) pages), and Five (5) different books on the Departmental Standard Operating Guidelines ("SOG") that were as long as Thirty-Eight (38) pages. See Exhibit A at ¶ 12.

22. Based on the pure volume of the Exam preparation material, it would be objectively impossible to prepare for the Exam in the short period of time the Plaintiff was provided after being informed of the Exam's administration.

23. As a result of only receiving the One (1) book and the SOG materials, the Plaintiff was only able to review material relating to Forty-Five (45) of the One Hundred (100) Exam questions. See Exhibit A at ¶ 15.

24. The Plaintiff sat for the Exam regardless of being unable to prepare in the manner and amount of time every other firefighter was afforded.

25. Subsequently, the Union informed the Plaintiff that because of his late registration, they were refusing to release or consider his Exam scores for promotional consideration. See Exhibit A at ¶ 18.

26. Plaintiff submitted a grievance to the Union regarding his late registration occurring through no fault of his own, and rather was the result of the Department failing to inform him of notice to the Exam's administration. In an email from Mr. Brian Willette, President of the East Providence Firefighters Local 850, Mr. Willette expresses that the Executive Board has voted not to go forward with Mr. Lynch's grievance related to the Exam, without providing any justification or explanation for reaching that decision. See Exhibit E, a true and accurate copy of the Email from Mr. Willette attached hereto.

27. On December 7, 2021, the Plaintiff (by and through counsel) transmitted a correspondence to the Mr. Willette, expressing the Union's actions regarding this matter constitute a violation of the Americans with Disabilities Act ("ADA"), as the Plaintiff was not provided with "reasonable accommodations" from the Department, or the Union, pertaining to the administration of the Exam in consideration of the circumstances surrounding the Plaintiff's Leave. See Exhibit E, a true and accurate copy of the December 7 Letter attached hereto.

28. The Department and Union's actions have caused the Plaintiff to be put in a position to potentially suffer irreparable and immediate harm should another firefighter be appointed to the

promotional position based on their Exam scores, as the Plaintiff will have lost the opportunity to a promotion he was otherwise entitled to apply for.

29. In the event the Department and the Union's actions regarding this matter are allowed to stand, it will discourage other individuals who are entitled to reasonable accommodations from seeking such accommodations, and also make the Department and the Union less likely to provide a reasonable accommodation in the future. See Exhibit A at ¶ 23.

COUNT I

Petition for Declaratory Judgment that Plaintiff's rights have been violated pursuant to the ADA, as neither Defendant provided the Plaintiff with "reasonable accommodations" relative to the Exam's administration (R.I. Gen. Laws §§ 930-1 et seq.)

30. Plaintiff hereby restates and realleges the preceding Paragraphs of this Complaint as if set forth fully herein.

31. Under the Rhode Island Declaratory Judgment Act, the Court possesses the power to declare rights, status, and other legal relations regardless of whether or not relief could be claimed.

32. The ADA prohibits an employer from refusing to make "reasonable accommodations" to the known physical or mental limitations of an otherwise qualified individual with a disability. *42 U.S.C.S. § 12112(b)(5)(A)*. The term "reasonable accommodation" being defined as modifications or adjustments to the work environment that enable an individual with a disability who is qualified to perform the essential functions of that position as well as modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities. See *29 C.F.R. §§ 1630.2(o)(1)(ii)-(iii)*.

33. Further, the ADA prohibits discrimination against otherwise qualified individuals based on the disability, including but not limited to job application procedures, hiring, firing,

advancement and compensation. For purposes of the ADA, “discrimination includes failure to make reasonable accommodations to the known physical or mental limitation of the individual unless the accommodation would impose an undue hardship on the operation of the business.” See 42 U.S.C. § 12112(b)(5)(A). And while an employer is not obligated to provide a specific accommodation request by a disabled employee, the ADA does require that an employer provide some form of reasonable accommodation. *McElwee v. County of Orange*, 700 F.3d 635, 641 (2d Cir. 2012).

34. Liability for failure to provide a reasonable accommodation ensues when the employer is responsible for a breakdown in that process . . . where the court will look for signs of failure to participate in good faith, or failure by one of the parties to make reasonable efforts to help the other party determine what specific accommodations are necessary. *Goonan v. Federal Reserve Bank of N.Y.*, 916 F. Supp. 2d 470, 480 (S.D.N.Y. 2013).

35. Both the Department, and the Union failed to provide the Plaintiff with any form of reasonable accommodation for taking the Exam in light of his disability (i.e. his Leave). The Plaintiff engaged in an interactive process by petitioning the Union for consideration of his scores, and the Union ended any meaningful discourse by refusing the Plaintiff’s request without explanation, or providing any offer for alternative accommodation. See **Exhibit C**.

36. As a result of the Defendants’ collective failure to provide any reasonable accommodation, the Plaintiff now faces the potential to suffer a serious loss of opportunity, as the promotional opportunities which are available to those who are qualified to sit for (as the Plaintiff is), and pass the Exam are only available approximately once every Two (2) years. Thus, the Plaintiff may have to wait years until he is provided a fair opportunity to take the Exam in the manner to which other applicants were provided. See **Exhibit A** at ¶ 22.

37. The purpose of the Rhode Island Declaratory Judgment Act is to render a decision relative to such controversy regarding the issue of the Plaintiff's rights afforded by the ADA being violated by the Department and the Union relative to their failure to provide any reasonable accommodations for the Exam's administration, and thus, facilitating the termination of such controversy.

38. As a result of the controversy alleged herein, the Plaintiff seeks to obtain injunctive relief reflecting the aforementioned issues.

WHEREFORE, the Plaintiff requests a judgment granting Declaratory Relief, having the force and effect of a final judgment to ensure the integrity of the Plaintiff's rights afforded under the ADA as follows:

- a. A declaration from this Court that one, or both of the Defendants has violated the Plaintiff's rights under the ADA for failure to make reasonable accommodations for the Plaintiff.
- b. A declaration from this Court that one, or both of the Defendants has violated the Plaintiff's rights under the ADA for failure to engage in any interactive process relative to discussing accommodations for the Plaintiff;
- c. Injunctive relief enjoining the Defendant from appointing any firefighter to any promotional position as a result of their Exam scores from the October 2021 administration of the Exam until the Plaintiff has been awarded the opportunity to prepare for, and sit for the Exam with having been afforded the same amount of time to prepare as all other individuals who sat for the October 2021 Exam were afforded;
- d. An award of costs under the Rhode Island Declaratory Judgment Act;

e. An award to Plaintiff of such other relief as this Court may deem fair, just and appropriate.

Respectfully submitted,

JAMES LYNCH

By his attorneys,

/s/ Jackson C. Parmenter

Jackson C. Parmenter, Esq. (#8396)

Dane E. Ardente, Esq. (#10263)

KELLY, SOUZA & PARMENTER, P.C.

128 Dorrance Street, Suite 300

Providence, RI 02903

Tel: (401) 490-7334 | Fax: (401) 490-7874

jparmenter@ksplawpc.com

dardente@ksplawpc.com

Dated: December 16, 2021

EXHIBIT C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

| | | |
|----------------------|---|-------------------------|
| JAMES LYNCH | : | |
| Plaintiff | : | |
| | : | |
| Vs. | : | C.A. No.: 1:22-cv-_____ |
| | : | |
| EAST PROVIDENCE FIRE | : | |
| DEPARTMENT and | : | |
| IAFF LOCAL 850 | : | |
| Defendants | : | |

NOTICE OF FILING NOTICE OF REMOVAL

TO: Jackson C. Parmenter, Esq.
Dane E. Ardente, Esq.
Kelly, Souza & Parmenter, P.C.
128 Dorrance Street, Suite 300
Providence, RI 02903

Joseph F. Penza, Jr., Esq.
Olenn & Penza, LLP
530 Greenwich Ave
Warwick, RI 02886

Please take notice that the defendant, East Providence Fire Department, has this day filed in the United States District Court for the District of Rhode Island a *Notice of Removal* of the above entitled action from the Providence County Superior Court of the State of Rhode Island, to the United States District Court pursuant to 28 U.S.C. §§ 1441 and 1446.

EAST PROVIDENCE FIRE DEPARTMENT

BY THEIR ATTORNEYS

/S/ MICHAEL J. MARCELLO, ESQ.

/S/ TODD J. ROMANO, ESQ.

MICHAEL J. MARCELLO, ESQ. (#5221)

CITY SOLICITOR, CITY OF EAST PROVIDENCE

TODD J. ROMANO, ESQ. (#6859)

LEWIS BRISBOIS BISGAARD & SMITH, LLP

ONE CITIZENS PLAZA, SUITE 1120

PROVIDENCE, RI 02903

TEL: (401) 406-3310

FAX: (401) 406-3312

MICHAEL.MARCELLO@LEWISBRISBOIS.COM

TODD.ROMANO@LEWISBRISBOIS.COM

CERTIFICATION

I, Michael J. Marcello, counsel for Defendant, East Providence Fire Department, hereby certify that this document was served upon the plaintiff and/or his or her counsel through the electronic filing system on this 6th day of January, 2022.

/s/ Michael J. Marcello, Esq.

EXHIBIT B



STATE OF RHODE ISLAND
SUPERIOR COURT
SUMMONS

| | |
|--|--|
| Plaintiff James Lynch v. East Providence Fire Department et al. Defendant | Civil Action File Number PC-2021-07562 Attorney for the Plaintiff or the Plaintiff Jackson Colby Parmenter Address of the Plaintiff's Attorney or the Plaintiff 128 Dorrance St Suite 300 Providence RI 02903 |
| Licht Judicial Complex Providence/Bristol County 250 Benefit Street Providence RI 02903 (401) 222-3250 | Address of the Defendant No Known Address |

TO THE DEFENDANT, East Providence Fire Department:

The above-named Plaintiff has brought an action against you in said Superior Court in the county indicated above. You are hereby summoned and required to serve upon the Plaintiff's attorney, whose address is listed above, an answer to the complaint which is herewith served upon you within twenty (20) days after service of this Summons upon you, exclusive of the day of service.

If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Your answer must also be filed with the court.

As provided in Rule 13(a) of the Superior Court Rules of Civil Procedure, unless the relief demanded in the complaint is for damage arising out of your ownership, maintenance, operation, or control of a motor vehicle, or unless otherwise provided in Rule 13(a), your answer must state as a counterclaim any related claim which you may have against the Plaintiff, or you will thereafter be barred from making such claim in any other action.

| | |
|--|----------------------------|
| This Summons was generated on 12/16/2021 | /s/ Stephen Burke Clerk |
|--|----------------------------|

Witness the seal/watermark of the Superior Court



STATE OF RHODE ISLAND
SUPERIOR COURT

| | |
|---|--|
| Plaintiff James Lynch v. East Providence Fire Department et al. Defendant | Civil Action File Number PC-2021-07562 |
|---|--|

PROOF OF SERVICE

I hereby certify that on the date below I served a copy of this Summons, complaint, Language Assistance Notice, and all other required documents received herewith upon the Defendant, East Providence Fire Department, by delivering or leaving said papers in the following manner:

- With the Defendant personally.
- At the Defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person of suitable age and discretion _____

Address of dwelling house or usual place of abode _____

Age _____

Relationship to the Defendant _____

- With an agent authorized by appointment or by law to receive service of process.

Name of authorized agent Town Solicitors office / City of East Providence

If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

- With a guardian or conservator of the Defendant.
Name of person and designation _____
- By delivering said papers to the attorney general or an assistant attorney general if serving the state.
- Upon a public corporation, body, or authority by delivering said papers to any officer, director, or manager.
Name of person and designation _____

*- Robin Lefebvre -
Town Solicitors office
accepts*



STATE OF RHODE ISLAND
SUPERIOR COURT

Upon a private corporation, domestic or foreign:

By delivering said papers to an officer or a managing or general agent.

Name of person and designation _____

By leaving said papers at the office of the corporation with a person employed therein.

Name of person and designation _____

By delivering said papers to an agent authorized by appointment or by law to receive service of process.

Name of authorized agent _____

If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

I was unable to make service after the following reasonable attempts: _____

SERVICE DATE: 1/5/22
Month Day Year

SERVICE FEES: 55-

Signature of SHERIFF or DEPUTY SHERIFF or CONSTABLE

SIGNATURE OF PERSON OTHER THAN A SHERIFF or DEPUTY SHERIFF or CONSTABLE MUST BE NOTARIZED.

Signature _____

State of _____

County of _____

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____ personally known to the notary or proved to the notary through satisfactory evidence of identification, which was _____, to be the person who signed above in my presence, and who swore or affirmed to the notary that the contents of the document are truthful to the best of his or her knowledge.

Notary Public: _____

My commission expires: _____

Notary identification number: _____

EXHIBIT D

CERTIFICATION

I, Michael J. Marcello, counsel for Defendant, East Providence Fire Department, hereby certify that this document was served upon the plaintiff and/or his or her counsel through the electronic filing system on this 6th day of January, 2022.

/s/ Michael J. Marcello, Esq.

JS 44 (Rev. 08/18)

CIVIL COVER SHEET

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.)

I. (a) PLAINTIFFS

James Lynch

DEFENDANTS

East Providence Fire Department and IAFF Local 850

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

County of Residence of First Listed Defendant Providence County, RI
(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)
Jackson C. Parmenter, Esq. and Dean E. Ardenite, Esq., Kelly, Souza & Parmenter, PC, 128 Dorrance Street, Suite 300, Providence, RI 02903, 401-490-7334

Attorneys (If Known)
Michael J. Marcello, Esq. and Todd J. Romano, Esq., Lewis Brisbois Bisgaard & Smith, LLP, One Citizens Plaza, Suite 1120, Providence, RI 02903, 401-406-3310 for East Providence Fire Department

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)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|--|--|--|--|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS | LABOR | SOCIAL SECURITY | |
| <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act | <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) | |
| | | | IMMIGRATION | FEDERAL TAX SUITS | |
| | | | <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | |

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC 12112

Brief description of cause:
Plaintiff claims he was discriminated against when not provided a reasonable accommodation.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMANDS** : INSTRUCTION
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 01/06/2022 SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____