

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

MICHAEL HAAS  
1927 Cherrywood Lane  
Akron, OH 44312

Plaintiff,

V.

CITY OF AKRON  
161 South High Street, Suite 202  
Akron, OHIO 44308

-and-

LEON HENDERSON  
485 Sumatra Ave  
Akron, OH 44305

-and-

JOSEPH NATKO  
2711 Graybill Rd  
Uniontown, OH 44685

-and-

CLARENCE TUCKER  
535 Woodbury Dr  
Akron, OH 44333

Defendants.

CASE NO.

JUDGE:

## COMPLAINT FOR DAMAGES

**JURY DEMAND ENDORSED**  
**HEREIN**

Plaintiff, Michael Haas, by and through undersigned counsel, as his Complaint against the Defendants, states and avers the following:

## PARTIES

1. Haas is a resident of the city of Akron, county of Summit, state of Ohio.

2. Defendant City of Akron is an Ohio municipality and employer, with its principal place of business located in Summit County, Ohio.
3. Leon Henderson is a resident of the state of Ohio.
4. Henderson was at all times herein employed by Akron as a firefighter, and was acting under color of state law, and within scope of his employment.
5. Joseph Natko is a resident of the state of Ohio.
6. Natko was at all times herein employed by Akron as a firefighter, and was acting under color of state law, and within scope of his employment.
7. Clarence Tucker is a resident of the state of Ohio.
8. Tucker was at all times herein employed by Akron as a firefighter, and was acting under color of state law, and within scope of his employment.

#### **JURISDICTION AND VENUE**

9. Akron was at all times hereinafter mentioned an employer within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C §2000e, the Age Discrimination in Employment Act (“ADEA”) 29 U.S.C. § 620, and Ohio R.C. § 4112.02 *et seq.*
10. Akron hires citizens of the state of Ohio, contracts with companies in Ohio, and owns or rents property in Ohio. As such, the exercise of personal jurisdiction over Akron comports with due process.
11. Haas was hired out of this judicial district and performed work in this district.
12. This cause of action arose from or relates to the contacts of Akron with Ohio residents, thereby conferring specific jurisdiction over Akron.
13. This Court has original subject matter jurisdiction of this case pursuant to 28 U.S.C. § 1331 in that Haas is alleging Federal Law Claims under Title VII of the Civil Rights Act of 1964,

42 U.S.C § 2000e, the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. § 623, 42 U.S.C § 1983, 42 U.S.C § 1985(3), AND 42 U.S.C § 1986.

14. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over Haas’ state law claims under the Ohio R.C. § 4112.01 *et seq.* because those claims derive from a common nucleus of operative facts.
15. Venue is proper in this District because the wrongs herein alleged occurred in this District.
16. All of the material events alleged in this Complaint occurred in Summit County.
17. Venue is proper pursuant to 28 U.S.C. § 1391.

#### **ADMINISTRATIVE PROCEDURE**

18. Within 300 days of the alleged conduct, Haas dually filed a charge of discrimination with the Ohio Civil Rights Commission and Equal Employment Opportunity Commission, asserting claims of gender and race discrimination and retaliation.
19. The OCRC and EEOC issued right to sue letters with respect to Haas’ charge of discrimination.
20. Haas has properly exhausted his administrative remedies pursuant to 29 C.F.R. § 1614.407(b).
21. Haas has properly exhausted his administrative remedies pursuant to R.C. § 4112.01 *et seq.*

#### **FACTS**

22. Haas is a current employee of Akron.
23. Haas is Caucasian.
24. Haas is male.
25. Haas was fifty-seven years old when Akron failed to promote him based on his age.
26. Haas was fifty-seven years old when Akron retaliated against him based on his age.

27. Akron employed Haas as a firefighter on or about July 7, 1997.
28. In *Howe v. City of Akron*, CASE NO. 5:06CV2779 (N.D. Ohio Nov. 26, 2008), Akron fire fighters who took promotional examinations but were not promoted alleged that Akron's Lieutenant promotional process adversely impacted African-American applicants, and the Captain promotional process adversely impacted Caucasian candidates in violation of Title VII, 42 U.S.C. § 2000e *et seq.*, and Ohio Revised Code § 4112.02(A).
29. In *Howe*, a jury found that two promotional processes adversely impacted applicants over the age of forty, and that the exams and promotional processes were not justified by business necessity.
30. In *Howe*, the Court entered a permanent injunction.
31. The Permanent Injunction forbade Akron to do the following: (1) to use the 2004 examination or promotion process or hire any of the entities involved in the creation of the examination or promotion process; (2) to use "any promotional examination process" that "results in disparate impact upon any protected group of applicants and is not job related for the promotional position"; (3) to "take any step" in the promotion process for any firefighters, or use any promotional examination without the approval of the Court Monitor; (4) to retaliate against any employee who has complained of discrimination "on the basis of their race or age in the promotional process, or has participated in the investigation or litigation of any claim or allegation of such discrimination, or has sought or obtained relief from the court in this case"; (5) to discriminate on the basis of race or age "in the development or implementation of its promotional process.
32. In *Howe*, the trial court determined that Akron was that unusual employer who discriminates against the majority.

33. In 2017, and until 2024, Haas was the Captain of Fire Prevention and the Fire Training and Safety Officer.
34. Captain of Fire Prevention also supervises the offices of Community Service and Arson.
35. The safety officer position is a 40-hour a week position assigned to a firefighter whose rank is Captain.
36. Haas was qualified for the position of safety officer.
37. From 2021 until 2023, Haas also served as Provisional Chief in Fire Training, and in Fire Prevention.
38. In March 2024, Joseph Natko retired from the Akron Fire Department.
39. After retirement, Natko took a position with the Akron's Mayor's office.
40. In 2024, Haas participated in the promotional process to be considered for the position of District Chief.
41. Akron uses a ranking system for the promotional process, where seniority, education, certifications, and experience determine an individual's rank on the promotional list.
42. The intent of the ranking system is to award the promotion to the individual with the highest ranking.
43. In April 2024, as a result of the promotional process, Haas was ranked first of six candidates for promotion to Fire District Chief.
44. Haas was ranked first out of six candidates based on education, seniority, and certifications.
45. Haas did not have a history of discipline.
46. Sierjie Lash was ranked fifth out of six candidates for promotion to Fire District Chief.
47. Lash is female.
48. Lash is African American.

49. Lash was 49 years of age at the time she was ranked fifth out of six candidates for promotion to Fire District Chief.
50. Lash had a history of discipline.
51. In 2023, Lash was under investigation for nine months after she coached fire department candidates who admitted to drug use when she threw out government documents, gave the candidates new paperwork, and showed them how to fill them out without making the same disqualifying statements a second time (“Lash Investigation”).
52. Lash pulled recruits into investigation rooms at the Fire Training Academy and at Station Four and helped them fill out new personal history statements.
53. Lash coached African American recruits.
54. Lash did not coach Caucasian recruits.
55. Lash’s choice to coach African American recruits and not Caucasian recruits was discrimination based on race.
56. During all material events asserted herein, Leon Henderson was the Fire Chief.
57. Henderson is African American.
58. Henderson exercised supervisory authority over Haas.
59. In the Lash Investigation, fire department investigators accused Henderson of retaliation when one of the investigators, acting as a whistleblower, contacted human resources to discuss Lash’s bad acts.
60. During the Lash Investigation, Henderson ordered the whistleblower to write a formal statement about what Henderson described as breaking the chain of command for reporting Lash’s misconduct to human resources.

61. Henderson demanded the whistleblower write a statement as punishment for his whistleblowing and to deter others from reporting Lash's bad conduct.
62. During the Lash Investigation, Henderson ordered all future communications with human resources to be handled by Lash.
63. Henderson deterred complaints about Lash's bad acts when he ordered all department personnel to first speak with Lash before speaking to human resources.
64. Investigators wanted to use polygraphs to ferret out the recruits who were coached to lie on their documents.
65. Henderson prohibited the use of polygraphs on recruits.
66. Henderson interfered with the Lash Investigation to benefit Lash.
67. Henderson retaliated against whistleblowers in the Lash Investigation to benefit Lash.
68. Henderson's decision to interfere with the Lash Investigation was discrimination based on race.
69. During the Lash Investigation, Haas was approached by Lt. Chris Bader.
70. On or about February 8, 2024, after Haas became the Akron Fire Department Safety Officer, Bader complained about the status of a discrimination complaint he made to Natko about race discrimination at the department.
71. Bader was upset that Natko did not investigate the discrimination complaint.
72. Haas discovered that Natko failed to report or investigate Bader's race complaint.
73. Per Akron's policies, a manager or supervisor that receives complaints of race discrimination is required to report that complaint to upper management and/or human resources.

74. Natko did not report Bader's complaint of race discrimination to upper management or human resources.
75. Alternatively, Natko did report Bader's complaint of race discrimination to upper management or human resources.
76. Per Akron's policies, a manager or supervisor that receives complaints of race discrimination is required to document said complaint in writing.
77. Natko did not document Bader's complaint of race discrimination.
78. Alternatively, Natko did document Bader's complaint of race discrimination.
79. Natko's failure to document Bader's race complaint was discriminatory.
80. On or about February 8, 2024, Haas notified the Medical Director of the Peer Support Team, Dr. Faii, that Natko did not report or investigate the race complaint.
81. Haas' participation in reporting the race complaint was protected activity.
82. Dr. Faii began investigating Bader's race complaint.
83. As a result of the Lash Investigation, on November 28, 2023, Lash received severe discipline that resulted in a 30-day unpaid suspension.
84. A 30-day unpaid suspension is a rare penalty at the Akron Fire Department.
85. In the two decades before Lash's suspension, only one other firefighter received a 30-day suspension.
86. In December 2023, Lash appealed the 30-day suspension.
87. Lash appeared before Mayor Daniel Horrigan without union representation in the appeal hearing.
88. It is unusual for a union member of the fire department to appear for an appeal with the Mayor without union representation.



89. It is so unusual to appear for an appeal with the Mayor without union representation that the union president asked Lash to document in writing her refusal of union representation at the appeal hearing.
90. Lash's appeal hearing lasted approximately 20 minutes.
91. In Lash's appeal hearing, Horrigan found that Lash's bad acts were a result of poor training Lash received.
92. Horrigan ordered Lash to attend remedial supervisor training.
93. Horrigan overturned Lash's 30-day suspension.
94. Lash's brother, Eufrancia Lash, was a deputy director in the Mayor's office when the Mayor overturned Lash's 30-day suspension.
95. No other Akron firefighter's 30-day suspension has been overturned by the Mayor's office.
96. Despite Lash's discipline history, she was considered for promotion to district chief less than six months after the Mayor found her to have received inadequate training.
97. In July 2024, Henderson was appointed to Fire Chief.
98. One of Henderson's first decisions as Fire Chief was to fill an open district chief position, despite the many open lieutenant positions.
99. The open lieutenant positions were necessary to fill due to the promotion standstill created by the decade-long *Howe* lawsuit and Akron's refusal to create non-discriminatory promotion processes during its pendency.
100. Henderson wanted to promote Lash to district chief quickly, so he refused to promote lieutenants until after he filled the open district chief position.

101. In considering how to promote Lash to district chief, Henderson conferred with Natko and Clarence Tucker about how to skip Haas and other qualified candidates in favor of Lash for promotion to District Chief.
102. Tucker is the former chief of the Akron Fire Department, having served in that role from 2016 until his appointment as deputy mayor for public safety in September 2022.
103. Henderson conferred with Tucker because Tucker had demonstrated a discriminatory bias towards Lash during his tenure as Chief.
104. During Tucker's tenure as Chief, Lash caused damage to a department vehicle.
105. During Tucker's tenure as Chief, Tucker did not allow Lash to be disciplined for the damage to the vehicle.
106. During Tucker's tenure as Chief, a Caucasian male firefighter caused damage to a department vehicle.
107. During Tucker's tenure as Chief, The Caucasian male firefighter was issued a suspension for the damage he caused to a department vehicle.
108. During Tucker's tenure as Chief, Tucker prohibited Lash's direct supervisor from issuing her discipline for the damage she caused to a vehicle.
109. During Tucker's tenure as Chief, Tucker's decision not to discipline Lash was based on her race.
110. During Tucker's tenure as Chief, Tucker's decision not to discipline Lash was based on her gender.
111. Henderson wanted to promote Lash because of her race.
112. Henderson wanted to promote Lash because of her gender.
113. Natko wanted to promote Lash because of her race.

- 114. Natko wanted to promote Lash because of her gender.
- 115. Natko wanted to retaliate against Haas because Haas had reported Natko's failure to report and investigate Bader's race complaint.
- 116. Tucker wanted to promote Lash because of her race.
- 117. Tucker wanted to promote Lash because of her gender.
- 118. Natko assured Henderson that he had the backing of the Mayor's office to promote Lash instead of Haas.
- 119. Natko's participation in skipping Haas for promotion was in retaliation for Haas protected activity.
- 120. Natko's participation in skipping Haas for promotion was race discrimination.
- 121. Natko's participation in skipping Haas for promotion was age discrimination.
- 122. Natko's participation in skipping Haas for promotion was gender discrimination.
- 123. Natko's participation in skipping Haas for promotion based on his race was intentional.
- 124. Natko's participation in skipping Haas for promotion based on his gender was intentional.
- 125. Natko's participation in skipping Haas for promotion based on his age was intentional.
- 126. Natko's participation in skipping Haas for promotion based on retaliation was intentional.
- 127. Tucker assured Henderson that he had the backing of the Mayor's office to promote Lash over Haas.
- 128. Tucker's participation in skipping Haas for promotion was race discrimination.
- 129. Tucker's participation in skipping Haas for promotion was age discrimination.
- 130. Tucker's participation in skipping Haas for promotion was gender discrimination.
- 131. Tucker's participation in skipping Haas for promotion based on his race was intentional.
- 132. Tucker's participation in skipping Haas for promotion based on his gender was intentional.

- 133. Tucker's participation in skipping Haas for promotion based on his age was intentional.
- 134. Tucker's participation in skipping Haas for promotion based on retaliation was intentional.
- 135. On or about July 17, 2024, Henderson, upon being asked whom he was going to promote, told Kevin Gostowski that the Mayor's office was forcing him to promote Lash.
- 136. Akron's Mayor Shammias Malik wanted to promote Lash because of her race.
- 137. Malik wanted to promote Lash because of her gender.
- 138. Malik wanted to promote Lash because of her age.
- 139. Malik did not want to promote Haas based on his race.
- 140. Malik did not want to promote Haas based on his gender.
- 141. Malike did not want to promote Haas based on his age.
- 142. During the months after Lash was ordered by the Mayor to undergo remedial training, but before her promotion to district chief, Lash did not complete the remedial training.
- 143. In August 2024, Henderson promoted Lash to District Chief.
- 144. Henderson did not promote Haas based on his race.
- 145. Henderson did not promote Haas based on his gender.
- 146. Henderson did not promote Haas based on his age.
- 147. Henderson did not promote Haas in retaliation for his protected activity.
- 148. Henderson's failure to promote Haas based on race was intentional.
- 149. Henderson's failure to promote Haas based on gender was intentional.
- 150. Henderson's failure to promote Haas based on age was intentional.
- 151. Henderson's failure to promote Haas in retaliation was intentional.
- 152. Failure to promote based on race is an adverse action.
- 153. Failure to promote based on race is an adverse employment action.

154. Failure to promote based on age is an adverse action.
155. Failure to promote based on age is an adverse employment action.
156. Failure to promote based on gender is an adverse action.
157. Failure to promote based on gender is an adverse employment action.
158. Failure to promote based on retaliation for protected activity is an adverse action.
159. Failure to promote based on retaliation for protected activity is an adverse employment action.
160. On or around July 26, 2024, after learning of Lash's promotion, Haas spoke to Henderson.
161. Haas complained to Henderson that Lash's promotion was discriminatory ("Haas' First Complaint of Discrimination").
162. During Haas' First Complaint of Discrimination, Haas told Henderson he was going to file charges of discrimination with the Equal Employment Opportunity Commission ("EEOC") as a result of the race, age, and gender discrimination.
163. Haas's First Complaint of Discrimination was a protected activity.
164. During Haas' First Complaint of Discrimination, Haas told Henderson he was going to speak to an attorney about the discrimination he suffered.
165. Per Akron's policies, a manager or supervisor that receives complaints of discrimination is required to report that complaint to upper management and/or to human resources.
166. Henderson did not report Haas' First Complaint of Discrimination to upper management or to human resources.
167. Henderson's decision not to report Haas' First Complaint of Discrimination to upper management or to human resources was intentional.

168. Alternatively, Henderson did not report Haas' First Complaint of Discrimination to upper management or to human resources.
169. Per Akron's policies, a manger or supervisor that receives complaints of discrimination is required to document said complaint in writing.
170. Henderson did not document Haas' First Complaint of Discrimination in writing.
171. Henderson's decision to not document Haas' First Complaint of Discrimination in writing was intentional.
172. Alternatively, Henderson did not document Haas' First Complaint of Discrimination.
173. Akron has a policy to investigate reports of discrimination.
174. An investigation should include interviewing the complainant.
175. An investigation should include interviewing the subject of the complaint.
176. An investigation should include interviewing the subject of the reported discrimination.
177. An investigation should include interviewing witnesses to the reported discrimination.
178. An investigation should include getting a written statement from the complainant.
179. An investigation should include getting a written statement from the subject of the complaint.
180. An investigation should include getting a written statement from the subject of the reported discrimination.
181. In response to Haas' First Complaint of Discrimination based on a discriminatory basis, Defendants did not interview Haas.
182. In response to Haas' First Complaint of Discrimination based on a discriminatory basis, Defendants did not interview Henderson.

183. In response to Haas' First Complaint of Discrimination based on a discriminatory basis, Defendants did not interview witnesses.
184. In response to Haas' First Complaint of Discrimination based on a discriminatory basis, Defendants did not get a written statement from Haas.
185. In response to Haas' First Complaint of Discrimination based on a discriminatory basis, Defendants did not get a written statement from Henderson.
186. In response to Haas' First Complaint of Discrimination based on a discriminatory basis, Defendants did not get a written statement from witnesses.
187. Defendants did not investigate Haas' First Complaint of Discrimination based on a discriminatory basis.
188. In failing to report or investigate Haas' First Complaint of Discrimination to Akron, Henderson ratified the discrimination that Haas suffered.
189. Haas' First Complaint of Discrimination was protected activity.
190. Akron's failure to investigate Haas' First Complaint of Discrimination was retaliation for Haas' protected activity.
191. Henderson's decision not to report Haas' First Complaint of Discrimination was reminiscent of Natko's decision not to report a complaint of race discrimination.
192. Henderson's decision not to report Haas' First Complaint of Discrimination was retaliation for Haas' protected activity.
193. Akron fostered an environment of race discrimination and retaliation when it allowed Natko not to report a complaint of race discrimination.
194. Henderson mirrored Natko's behavior because Akron allowed it.

195. In August 2024, Henderson submitted to Chief Kaut and Chief Vober a list of firefighters he wanted transferred within the department.
196. Chief Kaut and Chief Vober discussed with shift leaders the names of firefighters on the transfer list; Haas was not on the list.
197. On or about August 15, 2024, Haas asked Henderson if he planned to transfer Haas.
198. Haas told Henderson he was going to bid for the Fire Prevention position and had that bid document ready, but if he was not going to be transferred, he would not submit the bid.
199. Henderson assured Haas that he had no plans to transfer him.
200. On August 16, 2024, Henderson decided to transfer Haas.
201. On August 16, 2024, Henderson told Vober in a meeting that he wanted to transfer Haas.
202. On August 16, 2024, Vober disagreed with Henderson on transferring Haas.
203. On August 16, 2024, Vober left his meeting with Henderson believing that Henderson was not going to transfer Haas.
204. After the August 16, 2024 meeting with Henderson, Vober and Kaut drafted the transfer list.
205. While drafting the transfer list, Vober and Kaut did not discuss transferring Haas or placing him on the transfer list.
206. On September 4, 2024, Haas filed a charge of discrimination with the EEOC.
207. On September 4, 2024, at 11:31 AM, Haas notified Akron and Henderson in writing about the EEOC charge and his complaint of discrimination (“Haas’ Second Complaint of Discrimination”).
208. On September 4, 2024, at 1:11, less than two hours after receiving Haas’ Second Complaint of Discrimination, Henderson told Vober to add Haas’ name to the transfer list.



- 209. Akron's historical practice was to discuss a transfer with an employee before the transfer was suggested or made.
- 210. Akron did not discuss the transfer with Haas.
- 211. Henderson did not discuss the transfer with Haas.
- 212. Henderson transferred Haas to a 48-hour position on the line.
- 213. The 48-hour position on the line requires Haas to work 24-hour shifts.
- 214. No other Captain assigned to a 40-hour position has been transferred to a 48-hour position without first either requesting it or as a result of discipline.
- 215. A reasonable employee would find the transfer to the 48-hour position to be a demotion and/or to be an adverse action.
- 216. Haas found the transfer to the 48-hour position to be less favorable than his administrative position.
- 217. The transfer to the 48-hour position was an adverse action.
- 218. Henderson transferred Haas in retaliation for Haas' First Complaint of Discrimination.
- 219. Henderson transferred Haas in retaliation for Haas' Second Complaint of Discrimination.
- 220. Henderson's transfer of Haas was retaliation for Haas' protected activity.
- 221. Henderson transferred Haas because of his race.
- 222. Henderson transferred Haas because of his gender.
- 223. Henderson transferred Haas because of his age.
- 224. Henderson's transfer of Haas was intentional.
- 225. Subsequent to Haas' making Haas' Second Complaint of Discrimination, Akron did not investigate Haas' Second Complaint of Discrimination.
- 226. Akron has a policy to investigate reports of discrimination.

- 227. An investigation should include interviewing the complainant.
- 228. An investigation should include interviewing the subject of the complaint.
- 229. An investigation should include interviewing the subject of the reported discrimination.
- 230. An investigation should include interviewing witnesses to the reported discrimination.
- 231. An investigation should include getting a written statement from the complainant.
- 232. An investigation should include getting a written statement from the subject of the complaint.
- 233. An investigation should include getting a written statement from the subject of the reported discrimination.
- 234. In response to Haas' Second Complaint of Discrimination based on a discriminatory basis, Defendants did not interview Haas.
- 235. In response to Haas' Second Complaint of Discrimination based on a discriminatory basis, Defendants did not interview Henderson.
- 236. In response to Haas' Second Complaint of Discrimination based on a discriminatory basis, Defendants did not interview witnesses.
- 237. In response to Haas' Second Complaint of Discrimination based on a discriminatory basis, Defendants did not get a written statement from Haas.
- 238. In response to Haas' Second Complaint of Discrimination based on a discriminatory basis, Defendants did not get a written statement from Henderson.
- 239. In response to Haas' Second Complaint of Discrimination based on a discriminatory basis, Defendants did not get a written statement from witnesses.
- 240. Defendants did not investigate Haas' Second Complaint of Discrimination based on a discriminatory basis.

241. In failing to report or investigate Haas' Second Complaint of Discrimination, Akron ratified the discrimination that Haas suffered.
242. Haas' Second Complaint of Discrimination was protected activity.
243. On September 4, 2024, at 7:58 pm, Haas filed a complaint about the retaliatory transfer ("Haas' Complaint of Retaliation").
244. Akron failed to take prompt remedial action following Haas' Complaint of Retaliation.
245. Akron's failure to take prompt remedial action following Haas' Complaint of Retaliation was retaliation for Haas' protected activity.
246. Akron interviewed Haas on October 9, 2024, to initiate an investigation into Haas' Complaint of Retaliation.
247. Akron stated it would take two weeks to complete an investigation into Haas' Complaint of Retaliation.
248. It took more than 12 weeks for Akron to investigate Haas' Complaint of Retaliation.
249. In October 2024, Union President Kevin Gostowski spoke with a group of city leaders, including Malik, about the discriminatory promotion of Lash over four more qualified candidates.
250. In response to Gostowski, Mayor Malik stated he could pick whom he wanted for promotion because of the "Rule of Five".
251. Akron used to have a Rule of Three before and during the *Howe* lawsuit.
252. The Rule of Three required that for each vacant position, the three top-ranked candidates be considered for the vacancy.
253. According to the Rule of Three, when there was a single vacancy, the chief of the fire department was supposed to interview the three candidates and then select one to promote.

When there were multiple vacancies, a number of candidates from the top of the list, equal to 1.4 times the number of vacancies, would be certified for consideration, and the chief would choose from among them.

254. Although interviews for Akron Fire Department promotion were conducted pursuant to the Rule of Three, the *Howe* Court found that the interviews did not contribute to the promotion selections.
255. Despite the Rule of Three, Akron fire department promotion candidates were promoted congruent with their place in a straight-rank-ordering based on the promotion rank list.
256. The Rule of Three was replaced with the Rule of Five during bargaining for the new collective bargaining agreement.
257. The Rule of Five is a union rule.
258. The Rule of Five is not defined in the Akron policies and procedures manual.
259. The Rule of Five is not defined in the Charter of the City of Akron.
260. Article 40 of the collective bargaining agreement states that promotions will be based on the Rule of Five.
261. Article 40 of the collective bargaining agreement does not define nor explain the procedure for the use of the Rule of Five.
262. The Rule of Five is a method of selecting candidates for promotion wherein the promoting authority chooses from the top five highest-ranking candidates on the promotional list.
263. The Rule of Five violates the permanent injunction entered by the *Howe* Court which prohibits Akron from using “any promotional examination process” that “results in disparate impact upon any protected group of applicants and is not job related for the promotional position”.

264. Mailk knew he was violating the Howe permanent injunction by using the rule of five to skip Haas based on race.
265. According to the Rule of Five, Haas and the next four candidates were considered for promotion, because they were the top five ranked candidates.
266. According to the Rule of Five, Malik and Henderson interviewed the top five candidates for the open position and chose from those top five whom to promote.
267. The Rule of Five afforded the Mayor and Henderson the discretion to make a discriminatory promotion when they chose Lash over more qualified, higher-ranked candidates based on her gender and race.
268. Gostowski admonished Mayor Malik that although they could use the Rule of Five, they should have a good, non-discriminatory reason for whom they skip over.
269. It is so rare to use the Rule of Five to skip qualified candidates that Gostowski knew of only two promotion cycles wherein the Rule of Five was used to skip over a higher-ranked candidate.
270. Those two cycles were the cycle in 2024 with Haas and in 2023 with two lieutenants who were skipped due to having questionable performance issues within a year of the promotion time.
271. When the Rule of Five was used, it was used to skip individuals with severe discipline history or problematic performance.
272. Lash had severe discipline history and problematic performance.
273. Instead of using the Rule of Five to skip Lash's promotion due to performance issues, Malik and Henderson used it to promote Lash over more qualified candidates who had no recent performance issues.

274. On December 6, 2024, Akron concluded its investigation into Haas' Complaint of Retaliation.
275. Despite Haas' First Complaint of Discrimination made two weeks before Henderson discussed the retaliatory transfer, and despite that Henderson violated policy when he failed to report or investigate Haas' First Complaint of Discrimination, Akron did not find that the retaliatory transfer of Haas was retaliatory.
276. Akron has not given a legitimate non-discriminatory reason for failing to promote Haas.
277. Akron has not given a legitimate non-discriminatory reason for transferring Haas.
278. Akron has not given a legitimate non-discriminatory reason for failing to investigate Haas' First Complaint of Discrimination.
279. Akron has not given a legitimate non-discriminatory reason for failing to investigate Haas' Second Complaint of Discrimination.
280. After Haas' retaliatory transfer, a district chief retired, leaving that position vacant.
281. On March 31, 2025, Art Dobbins retired.
282. Dobbins' position must be filled with a provisional appointment until a permanent appointment is chosen.
283. On April 7, 2025, Akron Firefighters Association Local 330 sent a grievance to Henderson, because Akron did not fill the vacancy left by Dobbins' retirement ("April 7, 2025 Grievance").
284. In the April 7, 2025 Grievance, Local 330 grieved that the 2024 District Chief promotional list should be used to fill the vacancy left by Dobbins' retirement.

285. Local 330 stated that the 2024 District Chief promotional list should be used to fill the vacancy left by Dobbins' retirement because the 2025 District Chief promotional list had not been established.
286. The 2024 District Chief promotional list presented Haas as the provisional chief appointee for the vacancy left by Dobbins' retirement.
287. Local 330 stated that Akron's refusal to appoint Haas as the provisional chief appointee for the vacancy left by Dobbins' retirement violated contract language.
288. Henderson refused to appoint Haas as the provisional chief appointee for the vacancy left by Dobbins' retirement.
289. Henderson denied the April 7, 2025 Grievance.
290. Henderson denied the April 7, 2025 Grievance in retaliation for Haas' protected activity.
291. Henderson denied the April 7, 2025 Grievance based on Haas' race.
292. Henderson denied the April 7, 2025 Grievance based on Haas' age.
293. Henderson denied the April 7, 2025 Grievance based on Haas' gender.
294. Henderson's denial of the April 7, 2025 Grievance was intentional.
295. As a result of Defendant's conduct, Haas suffered and will continue to suffer damages.

**COUNT I: RACE DISCRIMINATION IN VIOLATION OF 42 U.S.C. § 2000E *ET SEQ.***

296. Haas restates each and every prior paragraph of this complaint as if it were fully restated herein.
297. Haas is Caucasian.
298. At all times relevant, Haas was a member of a statutorily protected class under 42 U.S.C. § 2000e *et. seq.*
299. Akron treated Haas differently from similarly situated employees based on his race.

- 300. Haas was fully qualified for his position and employment with Akron.
- 301. Akron is and has been determined to be the unusual employer to discriminate against individuals of the majority race.
- 302. During Haas' employment, Haas applied for a promotion.
- 303. Haas was the most qualified candidate for the promotion.
- 304. Akron failed to promote Haas due to his race.
- 305. Akron transferred Haas to a less favorable position because of his race.
- 306. Akron violated 42 U.S.C. § 2000e *et seq.* by discriminating against Haas based on his race.
- 307. As a direct and proximate result of Akron's conduct, Haas suffered and will continue to suffer damages, including economic and emotional distress damages.

**COUNT II: RACE DISCRIMINATION IN VIOLATION OF R.C. § 4112.01 ET SEQ.**

- 308. Haas restates each and every prior paragraph of this complaint as if it were fully restated herein.
- 309. Haas is Caucasian.
- 310. At all times relevant, Haas was a member of a statutorily protected class under R.C. § 4112.02(A).
- 311. Akron treated Haas differently from similarly situated employees based on his race.
- 312. Haas was fully qualified for his position and employment with Akron.
- 313. Akron is and has been determined to be the unusual employer to discriminate against individuals of the majority race.
- 314. During Haas' employment, Haas applied for a promotion.
- 315. Haas was the most qualified candidate for the promotion.



- 316. Akron failed to promote Haas due to his race, when it promoted a lesser qualified person based on her race.
- 317. Akron transferred Haas to a less favorable position because of his race.
- 318. Akron violated Ohio R.C. § 4112.01 *et seq.* by discriminating against Haas based on his race.
- 319. As a direct and proximate result of Akron's conduct, Haas suffered and will continue to suffer damages, including economic and emotional distress damages.

**COUNT III: AGE DISCRIMINATION IN VIOLATION OF AGE DISCRIMINATION IN  
EMPLOYMENT ACT ("ADEA") 29 U.S.C. § 623.**

- 320. Haas restates each and every prior paragraph of this complaint as if it were fully restated herein.
- 321. Haas is over 40 years of age.
- 322. Haas was fifty-seven years old when Akron failed to promote him based on his age.
- 323. Haas was fifty-seven years old when Akron retaliated against him based on his age.
- 324. At all times relevant, Haas was a member of a statutorily protected class under 29 U.S.C. § 623.
- 325. Akron treated Haas differently from similarly situated employees based on his age.
- 326. Haas was fully qualified for his position and employment with Akron.
- 327. During Haas' employment, Haas applied for a promotion.
- 328. Haas was the most qualified candidate for the promotion.
- 329. Akron failed to promote Haas due to his age.
- 330. Akron transferred Haas to a less favorable position because of his age.
- 331. Akron violated 29 U.S.C. § 623 by discriminating against Haas based on his age.

332. As a direct and proximate result of Akron's conduct, Haas suffered and will continue to suffer damages, including economic and emotional distress damages.

**COUNT IV: AGE DISCRIMINATION IN VIOLATION OF R.C. § 4112.01 et seq.**

333. Haas restates each and every prior paragraph of this complaint as if it were fully restated herein.

334. Haas is over 40 years of age.

335. Haas was fifty-seven years old when Akron failed to promote him based on his age.

336. Haas was fifty-seven years old when Akron retaliated against him based on his age.

337. At all times relevant, Haas was a member of a statutorily protected class under R.C. § 4112.01 *et seq.*

338. Akron treated Haas differently from similarly situated employees based on his age.

339. Haas was fully qualified for his position and employment with Akron.

340. During Haas' employment, Haas applied for a promotion.

341. Haas was the most qualified candidate for the promotion.

342. Akron failed to promote Haas due to his age.

343. Akron transferred Haas to a less favorable position because of his age.

344. Akron violated R.C. § 4112.01 *et seq.* by discriminating against Haas based on his age.

345. As a direct and proximate result of Akron's conduct, Haas suffered and will continue to suffer damages, including economic and emotional distress damages.

**COUNT V: GENDER DISCRIMINATION IN VIOLATION OF 42 U.S.C. § 2000E  
ET SEQ.**

346. Haas restates each and every prior paragraph of this complaint as if it were fully restated herein.

347. Haas is male.

348. At all times relevant, Haas was a member of a statutorily protected class under 42 U.S.C. § 2000e et. seq.
349. Akron treated Haas differently from similarly situated employees based on his gender.
350. Haas was fully qualified for his position and employment with Akron.
351. During Haas' employment, Haas applied for a promotion.
352. Haas was the most qualified candidate for the promotion.
353. Akron failed to promote Haas due to his gender, when it promoted a lesser qualified person based on his gender.
354. Akron transferred Haas to a less favorable position because of his gender.
355. Akron violated 42 U.S.C. § 2000e et seq. by discriminating against Haas based on his gender.
356. As a direct and proximate result of Akron's conduct, Haas suffered and will continue to suffer damages, including economic and emotional distress damages.

**COUNT VI: GENDER DISCRIMINATION IN VIOLATION OF R.C. 4112.01 ET SEQ.**

357. Haas restates each and every prior paragraph of this complaint as if it were fully restated herein.
358. Haas is male.
359. At all times relevant, Haas was a member of a statutorily protected class under R.C. § 4112.01 *et seq.*
360. Akron treated Haas differently from similarly situated employees based on his gender.
361. Haas was fully qualified for his position and employment with Akron.
362. During Haas' employment, Haas applied for a promotion.
363. Haas was the most qualified candidate for the promotion.

- 364. Akron failed to promote Haas due to his gender, when it promoted a lesser qualified person based on her gender.
- 365. Akron transferred Haas to a less favorable position because of his gender.
- 366. Akron violated R.C. § 4112.01 *et seq.* by discriminating against Haas based on his gender.
- 367. As a direct and proximate result of Akron's conduct, Haas suffered and will continue to suffer damages, including economic and emotional distress damages.

**COUNT VII: RETALIATION IN VIOLATION OF 42 U.S.C. § 2000E ET SEQ.**

- 368. Haas restates each and every prior paragraph of this complaint, as if it were fully restated herein.
- 369. As a result of Akron's discriminatory conduct described above, Haas complained about the discrimination he was experiencing.
- 370. As a result of Akron's discriminatory conduct described above, Haas filed a charge of discrimination with the EEOC.
- 371. Subsequent to Haas' reporting of discrimination to his supervisor, Haas suffered an adverse employment action.
- 372. Subsequent to Haas' filing a charge of discrimination, Haas suffered an adverse employment action.
- 373. Subsequent to engaging in protected activities, Akron failed to promote Haas.
- 374. Subsequent to engaging in protected activities, Akron failed to take prompt remedial action.
- 375. Subsequent to engaging in protected activities, Akron transferred Haas to a less favorable position.
- 376. Akron's actions were retaliatory in nature based on Haas' opposition to the unlawful discriminatory conduct.

377. Pursuant to 42 U.S.C. § 2000e et seq., it is an unlawful discriminatory practice to discriminate in any manner against any other person because that person has opposed any unlawful discriminatory practice.

378. As a direct and proximate result of Akron's conduct, Haas suffered and will continue to suffer damages.

**COUNT VIII: RETALIATION IN VIOLATION OF R.C. § 4112.02(I)**

379. Haas restates each and every prior paragraph of this complaint, as if it were fully restated herein.

380. As a result of Akron's discriminatory conduct described above, Haas complained about the discrimination he was experiencing.

381. As a result of Akron's discriminatory conduct described above, Haas filed a charge of discrimination with the EEOC.

382. Subsequent to Haas' reporting of discrimination to his supervisor, Haas suffered an adverse employment action.

383. Subsequent to Haas' filing a charge of discrimination, Haas suffered an adverse employment action.

384. Subsequent to engaging in protected activities, Akron failed to promote Haas.

385. Subsequent to engaging in protected activities, Akron failed to take prompt remedial action.

386. Subsequent to engaging in protected activities, Akron transferred Haas to a less favorable position.

387. Akron's actions were retaliatory in nature based on Haas' opposition to the unlawful discriminatory conduct.

388. Pursuant to R.C. § 4112.02(I), it is an unlawful discriminatory practice “to discriminate in any manner against any other person because that person has opposed any unlawful discriminatory practice defined in this section...”
389. As a direct and proximate result of Akron’s conduct, Haas suffered and will continue to suffer damages.
390. COUNT IX – VIOLATION OF 42 U.S.C. § 1983: EQUAL PROTECTION (RACE DISCRIMINATION) (Against City of Akron, Henderson, Tucker, and Natko)
391. Haas incorporates by reference all prior averments as if fully rewritten herein.
392. At all relevant times, the individual Defendants were acting under color of state law and in their official capacities as employees and agents of the City of Akron.
393. Haas had a clearly established constitutional right under the Fourteenth Amendment to be free from race-based discrimination.
394. Defendants intentionally discriminated against Haas on the basis of his race by denying him advancement, overlooking his qualifications, and instead promoting a less qualified candidate based on race.
395. The individual Defendants participated in or facilitated the discriminatory actions, including by manipulating or bypassing the promotion process.
396. These actions deprived Haas of equal protection under the laws in violation of 42 U.S.C. § 1983.
397. As a direct and proximate result, Haas suffered and continues to suffer economic loss, reputational harm, and emotional distress.

**COUNT IX: VIOLATION OF 42 U.S.C. § 1983: FIRST AMENDMENT  
RETALIATION (AGAINST CITY OF AKRON, HENDERSON, AND TUCKER)**

398. Haas incorporates by reference all prior averments as if fully rewritten herein.
399. Haas engaged in constitutionally protected activity by reporting and opposing race discrimination, both internally and externally.
400. Defendants acted under color of law when they retaliated against Haas for this protected speech.
401. The adverse actions taken against Haas—including reassignment, isolation, and denial of advancement—were substantially motivated by his protected activity.
402. These retaliatory actions violated Haas’s rights under the First Amendment and 42 U.S.C. § 1983.
403. As a direct and proximate result, Haas suffered and continues to suffer damages.

**COUNT X: COUNT X – VIOLATION OF 42 U.S.C. § 1985(3): CONSPIRACY TO  
DEPRIVE OF EQUAL PROTECTION (AGAINST HENDERSON, TUCKER,  
AND NATKO)**

404. Haas incorporates by reference all prior averments as if fully rewritten herein.
405. Henderson, Tucker, and Natko conspired with one another to deprive Haas of his right to equal protection of the laws.
406. The conspiracy was motivated by racial animus and undertaken for the purpose of denying Haas promotion and professional advancement.
407. In furtherance of the conspiracy, Defendants took overt acts including excluding Haas from consideration, bypassing him for advancement, and promoting a less qualified candidate.
408. This conduct violated 42 U.S.C. § 1985(3).
409. As a result of this conspiracy, Haas suffered damages, including economic loss, professional setback, and emotional harm.

**COUNT XI: VIOLATION OF 42 U.S.C. § 1986: FAILURE TO PREVENT CIVIL RIGHTS VIOLATION (AGAINST HENDERSON, TUCKER, AND NATKO)**

- 410. Haas incorporates by reference all prior averments as if fully rewritten herein.
- 411. Each individual Defendant had knowledge of the conspiracy and the discriminatory purpose behind it.
- 412. Each Defendant had the power to prevent or intervene to stop the unlawful conduct directed at Haas.
- 413. Despite this knowledge and authority, Defendants failed to act, prevent, or otherwise protect Haas's rights.
- 414. This failure constitutes a violation of 42 U.S.C. § 1986.
- 415. As a result, Haas suffered and continues to suffer damages.

**DEMAND FOR RELIEF**

WHEREFORE, Michael Haas respectfully requests that this Honorable Court grant the following relief:

(a) Issue a permanent injunction:

- i. Requiring Defendant Akron to abolish discrimination, harassment, and retaliation;
- ii. Requiring allocation of significant funding and trained staff to implement all changes within two years;
- iii. Requiring removal or demotion of all supervisors who have engaged in discrimination, harassment, or retaliation, and failed to meet their legal responsibility to investigate complaints promptly and/or take effective action to stop and deter prohibited personnel practices against employees;
- iv. Creating a process for the prompt investigation of discrimination, harassment, or retaliation complaints; and



- v. Requiring mandatory and effective training for all employees and supervisors on discrimination, harassment, and retaliation issues, investigations, and appropriate corrective actions;
- (b) Issue an order requiring Akron to restore and/or promote Haas to one of the positions to which he was entitled by virtue of his application and qualifications, and expunge Haas' personnel file of all negative documentation;
- (c) An award against Defendants of compensatory and monetary damages to compensate Haas for compensatory, non-compensatory, lost wages, emotional distress, and other consequential damages, in an amount in excess of \$25,000 per claim to be proven at trial;
- (d) An award of reasonable attorneys' fees and non-taxable costs for Haas' claims as allowable under law;
- (e) An award of the taxable costs of this action; and
- (f) An award of such other relief as this Court may deem necessary and proper.

Respectfully submitted,

/s/ Brian D. Spitz

Brian D. Spitz (0068816)

Patricia Brandt (0099382)

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*Attorneys for Plaintiff Michael Haas*

**JURY DEMAND**

Plaintiff Michael Haas demands a trial by jury by the maximum number of jurors permitted.

Respectfully submitted,

*/s/ Brian D. Spitz*

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Brian D. Spitz (0068816)

**SPITZ, THE EMPLOYEE'S LAW FIRM**