

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

**KAREN BAKA
a/k/a KAREN BAKA-BRANCHESI,**

Plaintiff,

V. Civil Action No.: _____

CITY OF NORFOLK, VIRGINIA,

Defendant.

COMPLAINT

COMES NOW the plaintiff, Karen Baka a/k/a Karen Baka-Branchesi (hereinafter "Baka") and for her Complaint against City of Norfolk, Virginia (hereinafter "Norfolk"), states as follows:

The Parties

1. At all times relevant to this action, Baka was an individual and a resident of Virginia Beach, Virginia and an employee of Norfolk.
2. At all times relevant to this action, Norfolk was a municipal corporation employing more than 500 individuals in the Norfolk, Virginia area. At all times relevant to this action, Norfolk was an "employer" within the meaning of Title VII §701, 42 U.S.C. §2000e(b) in that Norfolk was a person engaging in an industry

affecting commerce and had fifteen or more employees for each working day in each of the twenty or more calendar weeks during the years that it employed Baka or the preceding calendar year.

Jurisdiction and Venue

3. This case involves an action discrimination in employment based on sex, hostile work environment based upon gender and retaliation pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq.
4. This Court has subject matter jurisdiction pursuant to 42 U.S.C. §2000e-5(f) and 28 U.S.C. §1343(4).
5. Baka timely filed charges of gender discrimination and retaliation with the United States Equal Employment Opportunity Commission (“EEOC”) on January 8, 2019 (See Attached Exhibit A, charge number 437-2019-00361).
6. On June 6 2019, Baka received Notice of Right to Sue letter from the United States Equal Employment Opportunity Commission.
7. Baka has exhausted her administrative remedies prior to filing this action.
8. Venue is proper in this Honorable Court as all acts giving rise to plaintiff’s cause of action occurred within the Eastern District of Virginia in the Norfolk division.

Facts

9. Baka became employed by Norfolk in July of 2005 as firefighter and paramedic. From July 2005 through the present, Baka performed all of her job duties in a manner that met or exceeded Norfolk's requirements.
10. Baka is a female and a member of a protected class within the meaning of Title VII of the Civil Right Act of 1964.
11. In October of 2014, Baka solicited a large number of staff to write letters of complaint regarding Captain Ansell of the Norfolk Fire Department due to disparate and discriminatory treatment of a female employee in the Norfolk Fire Department. Captain Christopher Ansell is a male.
12. At all times relevant to this action, Chief Roger Burris, Captain Christopher Ansell, Chief James Davis, supervisor Michael Rose, and Chief Jeff Wise were direct supervisors of Baka. All aforementioned parties are also male.
13. On July 20 of 2017, Baka interviewed for a promotion to the position of Assistant Fire Marshal. Baka was well qualified for the position. However, the positions were given to Eric Phillips and Lyndon Walston, male co-workers whom was less qualified for the position as Baka.
14. On November 2 of 2018, Baka again interviewed for a promotion to another open position for Assistant Fire Marshal. Once again,

Norfolk passed over Baka and elected to promote Bryant Lambert for the position. Lambert is a male and was less qualified for the position than Baka.

15. Throughout her employment within Norfolk Fire-Rescue division of Norfolk Fire Marshal's Office, Chief Roger Burris, Chief Jeff Wise and others routinely subjected Baka and other female employees, including Renee Criswell, to less favorably than similarly situated male employees.
16. Chief Roger Burris, Chief James Davis, and supervisor Michael Rose had significant input as to which applicants would be considered for the Assistant Fire Marshal Position.

Count I (Title VII--Hostile Work Environment)

17. Paragraphs 1 through 16 of the Complaint are hereby fully incorporated by reference as if fully re-alleged herein.
18. As a term and condition of her employment, Norfolk supervisors subjected Baka to an offensive, demeaning, humiliating and hostile work environment based upon Baka's sex.
19. The conduct of Norfolk was unwelcome, was based upon Baka's gender and was severe and pervasive enough to create an objectively hostile, offensive and abusive working environment based upon sex/gender so as to alter the conditions of Baka's employment.

20. The offensive conduct of Norfolk was severe and pervasive enough to cause Baka to suffer humiliation and stress at work, as well as psychological harm that interfered with her quality of life.
21. Even after Baka and others reported the severe and pervasive harassment by supervisors to Norfolk's human resources department, Norfolk took no remedial action.
22. As a direct and proximate result of the hostile and offensive work environment based upon gender that was created and maintained by Norfolk, Baka has suffered damages including denial of job promotions, pain and suffering and loss of enjoyment of life.

Count II (Title VII—Gender Discrimination)

23. Paragraphs 1 through 22 of the Complaint are hereby fully incorporated by reference as if fully re-alleged herein.
24. Norfolk routinely treated its female employees, including Baka less favorably than similarly situated male employees.
25. Norfolk, through its supervisors, routinely discriminated against its female employees, including Baka, by subjecting them to harsh and demeaning terms and conditions of employment while not subjecting similarly situated male employees to those same terms and conditions of employment.
26. Norfolk, through its supervisors failed to promote Baka while promoting similarly situated male employees whom were less qualified for the jobs applied for.

27. At all times that Baka was subjected to the foregoing adverse employment actions, Baka performed her job duties at a level that reasonably met Norfolk's legitimate expectations.
28. As a direct and proximate result of Norfolk's actions, Baka was subjected to adverse employment actions based upon her gender including the denial of promotions.
29. As a direct and proximate result of Norfolk's actions, Baka suffered damages including lost opportunity for job promotions and the incidental lost salary and benefits as well as pain and suffering, inconvenience and loss of enjoyment of life.

Count III (Title VII—Retaliation—Oppositional Activities)

30. Paragraphs 1 through 29 of the Complaint are hereby fully incorporated by reference as if fully re-alleged herein.
31. Norfolk knowingly and intentionally retaliated against Baka, including but not limited to denying Baka's promotion to open positions of Assistant Fire Marshal, in direct retaliation for Baka's actions taken to oppose gender discrimination against Karen Barnes and Renee Criswell, and Baka's opposition gender discrimination against herself.
32. As a direct and proximate result of Norfolk's actions, Baka suffered damages including lost opportunity for job promotions and the incidental lost salary and benefits as well as pain and suffering, inconvenience and loss of enjoyment of life.

Jury Demand

33. Baka demands a trial by jury on all issues so triable in this action.

Relief Sought

WHEREFORE, Baka moves this Honorable Court to enter judgment in her favor against Norfolk and to award:

- A. All of Baka's lost salary and benefits from September 22, 2017 (the denial for promotion) until entry of judgment in this action plus interest on such back pay;
- B. Baka's lost future salary and benefits;
- C. Damages for emotional pain and suffering, inconvenience and loss of enjoyment of life;
- D. An award of Baka's attorney's fees and costs incurred in this action as well as other costs incurred in this action.

KAREN BAKA



Of Counsel

W. Barry Montgomery, Esquire (VSB# 43042)
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JS 44 (Rev. 02/19)

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

Karen Baka
a/k/a Karen Baka-Branchesi

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
W. Barry Montgomery
KPM Law, 901 Moorefield Park Dr., Ste 200, Richmond, VA 23236
Tel: (804) 320-6300

DEFENDANTS

City of Norfolk, Virginia

County of Residence of First Listed Defendant City of Norfolk
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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)

Click here for: [Nature of Suit Code Descriptions.](#)

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"/> 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 SOCIAL SECURITY <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))	<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	FEDERAL TAX SUITS
<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 checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input 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"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <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"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	

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 U.S.C. 2000e(b)

Brief description of cause:
Employment discrimination and retaliation

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
Unliquidated

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE
08/30/2019

SIGNATURE OF ATTORNEY OF RECORD


W. B. M.

FOR OFFICE USE ONLY

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

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION		Charge Presented To: Agency(ies) Charge No(s):	
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
Virginia Division of Human Rights		437-2019-00361	
State or local Agency, if any			
Name (indicate Mr., Ms., Mrs.)		Home Phone (Incl. Area Code)	Date of Birth
Karen A. Baka		(757) 474-3769	
Street Address		City, State and ZIP Code	
4620 Gilling Court, Virginia Beach, VA 23464			
Named Is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name		No. Employees, Members	Phone No. (Include Area Code)
NORFOLK CITY OF		500 or More	
Street Address		City, State and ZIP Code	
Norfolk Fire-Rescue, 100 Brooke Ave. #500, Norfolk, VA 23510			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRIMINATION TOOK PLACE	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		Earliest Latest 11-15-2018	
		<input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
<p>I. I began employment on July 18, 2005, as a Firefighter/Paramedic. Throughout my tenure, I have always met or exceeded performance expectations. During the past thirteen months I have been passed over for promotion three times. The male co-workers selected over me were less qualified than I. I have previously complained about gender discrimination and have opposed protected activities.</p> <p>II. Chief Wise told me that I needed to take more leadership courses.</p> <p>III. I believe I was denied promotion because of my sex, female and in retaliation for participating in a protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended.</p>			

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.	NOTARY - When necessary for State and Local Agency Requirements I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)
Jan 08, 2019 Date	 Charging Party Signature

