

**IN THE CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT
IN AND FOR VOLUSIA COUNTY, FLORIDA**

**RACHEL ANTHA VICTORIA
WIGGINS f/k/a RICHARD WIGGINS,**

Case No.:

Plaintiff,

vs.

**ADVANCED TACTICAL SECURITY,
LLC.,**

Defendant.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, RACHEL ANTHA VICTORIA WIGGINS (hereinafter "Plaintiff"), by and through her undersigned attorneys, and sues Defendant, ADVANCED TACTICAL SECURITY, LLC, a Florida limited liability company , and alleges as follows:

JURISDICTION AND VENUE

1. This is an action for damages in excess of \$15,000.00.
2. Venue lies within Volusia County because a substantial part of the events giving rise to this claim arose in this Judicial District.

INTRODUCTION

3. This is an action brought pursuant to the Florida Civil Rights Act, as amended ("FCRA"). Defendant discriminated against and retaliated against Plaintiff based upon her gender (sex) and the fact she filed a charge of discrimination and Plaintiff seeks economic and non-economic damages including but not limited to back pay, front pay, lost benefits, emotional distress, pain and suffering, compensatory damages, punitive damages, equitable relief,

injunctive relief and attorneys' fees and costs.

ADMINISTRATIVE PREREQUISITES

4. All conditions precedent to bringing this action have occurred.

5. Plaintiff timely filed a dual-charge of discrimination with the Florida Commission on Human Relations ("FCHR") and the Equal Employment Opportunity Commission ("EEOC"). A copy of the charge is attached as Exhibit "A."

6. On September 16, 2014, after conducting a thorough investigation, the federal EEOC issued a **CAUSE FINDING** and found that, based on the evidence presented, there was reasonable cause to believe that Plaintiff was discriminated against on the basis of her sex and in retaliation for her filing a charge of discrimination. This lawsuit is timely filed. A copy of the "Cause Finding" is attached as Exhibit "B," and the "Notice of Right to Sue" is attached as Exhibit "C."

7. The Defendant is an EMPLOYER as defined by the FCRA and Defendant employs the requisite number of employees to be covered by the statute. Defendant's own website bolsters that it employs a minimum of 18 employees.

8. The EEOC, during its investigation, found:

A. That the evidence obtained during its investigation was sufficient to establish that the Defendant discriminated against Plaintiff on the basis of her sex and terminated her on the basis of her sex, and/or in retaliation for having filed a charge of discrimination.

B. The evidence obtained showed that Defendant's purported reasons for terminating the Plaintiff were pretextual.

C. The evidence obtained during the investigation was sufficient to establish

that the Defendant adopted a dress code policy that violates the law and discriminates against individuals based upon their sex and discriminates against transgender individuals.

D. The evidence obtained also demonstrated that Defendant violated disability laws with its progressive discipline policy.

PARTIES AND GENERAL ALLEGATIONS

9. At all times material hereto, the Plaintiff was a resident of Volusia County, Florida.

10. At all times material hereto, Defendant, ADVANCED TACTICAL SECURITY, LLC, is a Florida limited liability company licensed and authorized to conduct business in the State of Florida and doing business within Volusia County.

11. At all times material hereto, Defendant acted with malice and with reckless disregard for Plaintiff's state and federally protected rights.

12. At all times material hereto, Plaintiff was qualified to perform her job duties within the legitimate expectations of her employer.

13. Plaintiff has been required to retain the undersigned counsel to represent her in this action and is obligated to pay her counsel a reasonable fee for legal services.

14. Plaintiff requests a jury trial for all issues so triable.

FACTS

15. Plaintiff is currently a transgender female.

16. Defendant hired Plaintiff on or about March 30, 2012 as a Security Enforcement Officer and Defendant gave Plaintiff positive reviews, raises, told her she was a model security officer, and even stated that Plaintiff would be promoted to management. At this time, Plaintiff

was presenting as a male however she had been undergoing preparations and therapy in order to become female for 6 years.

17. At all times Plaintiff dressed appropriately for work and in the spring of 2013, began to grow out her hair, wear appropriate earrings and make-up for work. At all times, she followed the Defendant's dress code policy.

18. On or about March 25, 2013, Defendant instructed Plaintiff that she must present herself as a male while working as a security officer or she would be immediately terminated.

19. In addition to the above, Defendant retaliated against Plaintiff for presenting as a female and forced Plaintiff to work at night and at a different solitary location where she would not come into contact with the public.

20. Plaintiff wrote a letter to the Defendant's management team and owner, explaining that she was transitioning from male to female, and was under a doctor's care.

21. Defendant began to further discriminate against Plaintiff by cutting her hours, her schedule, and taking actions to isolate her, not communicating with her and sending her to remote locations to work at odd hours.

22. Having no other option, Plaintiff filed a charge of discrimination with the federal EEOC seeking help and protection.

23. Defendant continued to further retaliate and discriminate against Plaintiff and then Defendant fired Plaintiff based upon her protected status, her sex, her transition from male to female, and the fact that she engaged in protected activity by filing a charge of discrimination with the federal EEOC.

24. Defendant's reasons for terminating Plaintiff were pretextual and the true reasons for terminating Plaintiff were motivated by her sex, her transition to female, and in retaliation for

her report of discrimination and harassment to the EEOC and to the Defendant.

COUNT I
FCRA- SEX DISCRIMINATION

25. Plaintiff re-alleges and adopts the allegations stated in Paragraphs 1–23.

26. Plaintiff is a member of a protected class under the Florida Civil Rights Act (“FCRA”).

27. By the conduct described above, Defendant engaged in unlawful employment practices and discriminated against Plaintiff on account of sex by subjecting her to disparate treatment in work, assignments, scheduling, humiliation, isolation, harassment work and her termination, in violation of the Florida Civil Rights Act.

28. Defendant knew, or should have known of the discrimination. Defendant’s conduct was willful, malicious and done in reckless disregard for her rights.

29. As a result of Defendant’s unlawful discrimination, Plaintiff has suffered and continues to suffer damages.

WHEREFORE, Plaintiff prays for the following damages against Defendant:

- a. Back pay and benefits;
- b. Interest on back pay and benefits;
- c. Front pay and benefits;
- d. Compensatory damages for emotional pain and suffering;
- e. Punitive damages;
- f. Attorneys’ fees and costs;
- g. Injunctive relief; and
- h. For any other relief this Court deems just and equitable.

COUNT II
FCRA- HARASSMENT

30. Plaintiff re-alleges and adopts the allegations stated in Paragraphs 1-23.
31. Plaintiff is a member of a protected class under the Florida Civil Rights Act.
32. Defendant, through its managers and employees, harassed Plaintiff on the basis of her sex.
33. The harassment suffered by Plaintiff was severe and pervasive and created a discriminatorily hostile and abusive working environment.
34. By the conduct described above, Defendant engaged in unlawful employment practices and discriminated against Plaintiff on account of sex in violation of the Florida Civil Rights Act.
35. Defendant knew, or should have known, of the harassment and failed to take remedial action to stop it.
36. As a result of Defendant's unlawful discrimination, Plaintiff has suffered and continues to suffer damages.

WHEREFORE, Plaintiff prays for the following damages against Defendant:

- a. Back pay and benefits;
- b. Interest on back pay and benefits;
- c. Front pay and benefits;
- d. Compensatory damages for emotional pain and suffering;
- e. Punitive damages;
- f. Attorneys' fees and costs;
- g. Injunctive relief; and
- h. For any other relief this Court deems just and equitable.

COUNT III
FCRA- RETALIATION

37. Plaintiff re-alleges and adopts the allegations stated in Paragraphs 1-23.

38. Plaintiff is a member of a protected class under the Florida Civil Rights Act.

39. Plaintiff engaged in protected activity when she filed a Charge of Discrimination with the federal EEOC.

40. Shortly after her complaints and in retaliation for her complaints, Defendant terminated Plaintiff for false and pre-textual reasons.

41. By the conduct described above, Defendant engaged in unlawful employment practices and retaliated against Plaintiff because she engaged in protected activity in violation of the Florida Civil Rights Act.

42. Defendant knew, or should have known, of the retaliation and discrimination. Defendant's conduct was willful, malicious and done in reckless disregard for her rights.

43. As a result of Defendant's unlawful retaliation, Plaintiff has suffered and continues to suffer damages.

WHEREFORE, Plaintiff prays for the following damages against Defendant:

- a. Back pay and benefits;
- b. Interest on back pay and benefits;
- c. Front pay and benefits;
- d. Compensatory damages for emotional pain and suffering;
- e. Punitive damages;
- f. Attorney's fees and costs;
- g. Injunctive relief; and
- h. For any other relief this Court deems just and equitable.

DATED this 16th day of February, 2016.

Respectfully submitted,

CHANFRAU & CHANFRAU, P.L.

/s/ Kelly H. Chanfrau

Kelly H. Chanfrau, B.C.S.

FL Bar No. 560119

701 N. Peninsula Drive

Daytona Beach, FL 32118

P: 386-258-7313

F: 386-238-1464

E-mail: Kelly@chanfraulaw.com

COUNSEL FOR PLAINTIFF

CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>	Charge Presented to: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC
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FLORIDA COMMISSION ON HUMAN RELATIONS and EEOC

State or local Agency, if any

Name (indicate Mr. Ms. Mrs.) Richard Wiggins	Home Phone (Incl. Area Code) (386) 341-9623	Date of Birth 9-22-63
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Street Address 1303 Arroyo Parkway,	City, State and ZIP Code Ormond Beach, FL 37174
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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.)

Advanced Tactical Security	No. Employees, Members 15+	Phone No. (Include Area Code) (386) 304-5106
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Street Address 5652 Isabelle Avenue,	City, State and ZIP Code Port Orange, FL 32127
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	No. Employees, Members	Phone No. (Include Area Code)
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Street Address	City, State and ZIP Code
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DISCRIMINATION BASED ON (Check appropriate box(es).) <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 checked="" type="checkbox"/> OTHER (Specify below)	DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest March 23, 2013 <input checked="" type="checkbox"/> CONTINUING ACTION
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THE PARTICULARS ARE (If additional paper is needed, attached extra sheet(s)):


I. Personal Harm: I was hired by Respondent as a Security Enforcement Officer on March 30, 2012. I am a transgender who has been undergoing estrogen therapy for approximately 6 years. On March 25, 2013, I received an email from my employer advising me that I must present myself as a male while working as a security officer or be immediately dismissed and terminated. I have had my hours reduced, am being assigned to remote locations where I can not be seen by anyone and I am concerned about future retaliation.

II. Respondent's Reason: The respondent details the discrimination in an email, which is attached.

III. Discrimination Statement: I believe I have been discriminated against, harassed and retaliated against on the basis of my sex and transgender status, and my complaints of discrimination in violation of Title VII of the Civil Rights Act ("Title VII"), the Florida Civil Rights Act ("FCRA") and all local laws, ordinances and regulations, prohibiting discrimination in the workplace.

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.
YES

NOTARY - When necessary for State and Local Agency Requirements



KIM L. WILD
 MY COMMISSION # EE 169308
 EXPIRES: February 14, 2016
 Bonded Third Budget Notary Services

 Signature

I declare under penalty of perjury that the above is true and correct.

4/25/13
 Date

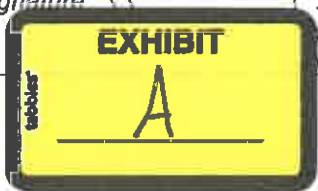
Richard Wiggins
 Charging Party Signature

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

Richard Wiggins

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (month, day, year)





U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Miami District Office

Miami Tower
100 SE 2nd Street, Suite 1500
Miami, FL 33131
Miami Direct Dial: (305) 808-1740
TTY (305) 808-1742
FAX (305) 808-1855

EEOC No: 510-2013-02906C

Richard Wiggins
1303 Arroyo Parkway
Ormond Beach, FL 37174

Charging Party

and

ADVANCED TACTICAL SECURITY
Frank Thorton, CEO
5652 Isabelle Avenue,
Port Orange, FL 32127

Respondent

Letter of Determination

Under the authority vested in me by the Commission, I issue the following determination as to the merits of the above-cited charge, filed under Title VII of the Civil Rights Act of 1964, as amended (Title VII), and the Americans with Disabilities Act, as amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA). Timeliness and all other jurisdictional requirements for coverage have been met.

Charging Party, a transgender individual, alleged Respondent discriminated against her on the basis of sex and terminated her from her position as a security guard on the basis of sex and/or in retaliation for having filed a charge of discrimination. According to Charging Party, when she began to transition from male to female, Respondent instructed her that she was required to dress and appear male at work, and began subjecting her to different terms and conditions of employment. Charging Party further alleged that Respondent terminated her employment on July 13, 2013, because of her sex and/or in retaliation for having filed a charge of discrimination.

Respondent admitted that the company advised Charging Party that she must present herself as a male while on duty. Respondent denied, however, that it subjected Charging Party to different terms and conditions of employment, and stated that Charging Party was terminated for other violations of Respondent's policies.

The evidence obtained during the course of the investigation is sufficient to demonstrate that Respondent discriminated against Charging Party on the basis of her sex and terminated her employment on the basis of sex and/or in retaliation for having filed a charge of discrimination. The evidence further shows that Respondent's stated reasons for terminating Charging Party are pretextual.

The evidence obtained during the investigation also demonstrates that Respondent has adopted a Dress Code Policy that violates Title VII in that it discriminates against individuals on the basis of sex. Specifically, the Dress Code Policy states that female officers hired by Respondent as female officers must present themselves as female in every aspect of appearance, speech and actions, and that male officers hired by Respondent as male officers must present themselves as male in every aspect of appearance, speech, or actions. Respondent's Dress Code Policy unlawfully prohibits transgender



individuals from transitioning from one sex to another and requires individuals to conform to socially prescribed gender roles in violation of Title VII.

In addition, the evidence obtained during the investigation demonstrates that Respondent has adopted a Progressive Discipline Policy in violation of the ADAAA in that Respondent makes unlawful disability-related inquiries. Specifically, Respondent's policy states that it is a Group 2 Offense to misrepresent ones mental or physical condition when seeking employment or to fail to report any and all prescribed special medications needed or required.

I have determined that the evidence obtained during the investigation establishes a violation of Title VII and the ADAAA. Upon finding that there is reason to believe that violations have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Therefore, the Commission now invites the Parties to join with it in reaching a just resolution of this matter.

Please complete the enclosed Invitation to Participate in Settlement Discussions, EEOC Form 153, and return it to the Commission at the above address **within seven (7) days** from the date of this letter. You may fax your response directly to 305-808-1758, to the attention of Mario Heruandez, Investigator. Failure to respond within ten calendar days of the date of this letter will indicate that you are not interested in conciliating this matter and the Commission will determine that efforts to conciliate this charge have not been successful.

The confidentiality provisions of Sections 706 and 709 of Title VII and the Commission's Regulations apply to information obtained during conciliation.

If the Respondent declines to discuss settlement or when, for any other reason, a settlement acceptable to the office Director is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission.

You are reminded that federal law prohibits retaliation against persons who have exercised their right to inquire or complain about matters they believe may violate the law. Discrimination against persons who have cooperated in Commission's investigations is also prohibited. These protections apply regardless of the Commission's determination on the merits of the charge.

SEP 16 2014

Date

On Behalf of the Commission,



Malcolm S. Medley
District Director

Enclosures: Invitation to Conciliate

cc: Respondent Representative
Advanced Tactical Security
Frank Thornton, CEO
5652 Isabelle Avenue
Port Orange, FL 32127

Charging Party Representative
Chanfrau & Chanfrau
Kelly Chanfrau
701 N. Peninsula Drive
Daytona Beach, 32118

NOTICE OF RIGHT TO SUE
(CONCILIATION FAILURE)

To: Rachel Wiggins
1303 Arroyo Parkway
Ormond Beach, FL 32174

From: Miami District Office
Miami Tower, 100 S E 2nd Street
Suite 1500
Miami, FL 33131

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
510-2013-02906	Mario R. Hernandez, Investigator	(305) 808-1746

TO THE PERSON AGGRIEVED:

This notice concludes the EEOC's processing of the above-numbered charge. The EEOC found reasonable cause to believe that violations of the statute(s) occurred with respect to some or all of the matters alleged in the charge but could not obtain a settlement with the Respondent that would provide relief for you. In addition, the EEOC has decided that it will not bring suit against the Respondent at this time based on this charge and will close its file in this case. This does not mean that the EEOC is certifying that the Respondent is in compliance with the law, or that the EEOC will not sue the Respondent later or intervene later in your lawsuit if you decide to sue on your own behalf.

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Ozzie L. Black

Ozzie L. Black,
Acting District Director

24 Nov 2015
(Date Mailed)

Enclosures(s)

CC: Respondent's Representative
Frank Thornton
CEO
ADANCED TACTICAL SECURITY
5652 Isabelle Avenue
Port Orange, FL 32127

Charging Party's Representative
Kelly H. Chanfrau
Chanfrau & Chanfrau
701 N. Peninsula Drive
Daytona, FL 32118

