

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION**

<b>JEFFREY CROSLIN</b>	)
	)
	)
<b>Plaintiff,</b>	)
	) <b>Civil Action File No.:</b> _____
<b>v.</b>	)
	) <b><u>JURY TRIAL DEMANDED</u></b>
<b>CITY OF SAVANNAH,</b>	)
<b>GEORGIA, and CHIEF ELZIE</b>	)
<b>KITCHEN, in his Individual</b>	)
<b>Capacity,</b>	)
	)
	)
<b>Defendants.</b>	)

**COMPLAINT**

Plaintiff **Jeffrey Croslen** (“Croslen” or “Plaintiff”) brings this civil rights action for relief and damages against Defendant **City of Savannah, Georgia** (“Savannah”) and **Chief Elzie Kitchen, in his Individual Capacity** (“Chief Kitchen”) (collectively “Defendants”) based on the following factual allegations and causes of action.

## NATURE OF THE ACTION

1. This action to correct unlawful employment practices by Savannah, a Georgia municipality, and its Fire Chief arises under Title VII of the Civil Rights Act of 1964 (“Title VII”), as amended, 42 U.S.C.A. § 2000e-3(a) and 42 U.S.C.A. §§ 1981 and 1983.

2. The Savannah Fire Department (“SFD”) has a long and entrenched history of passing over qualified African-American officers for top-level leadership positions. Even though the politically appointed Fire Chief has been black for most of the last two decades, the enduring pattern has been that white men hold virtually every other senior role at SFD. As of the filing of this Complaint, 17 of the 19 upper management positions are held by White men.

3. Plaintiff Croslen is the rare Black officer who has broken through the glass ceiling, making it to Battalion Chief on his fifth application to the job in 2020. When he sought to advance to one of SFD’s two Assistant Chief slots, despite qualifications and credentials superior to the other contenders, he was denied, in part because of racial quota politics: one Assistant Chief slot was reserved for a Black, the other for a White.

4. When Croslen made internal complaints about race driving the Assistant Chief’s promotion process, Chief Kitchen moved to orchestrate Croslen’s

dismissal and, when that effort failed, his eventual demotion, all in violation of the anti-retaliation provisions of the federal race discrimination statutes.

5. To address the discriminatory and retaliatory practices of the Defendants, Croslen seeks economic damages of back pay, front pay, and lost benefits. Additionally, Croslen seeks compensatory damages for emotional distress and mental anguish, as well as his attorneys' fees and costs of litigation. Croslen further petitions the court for injunctive and declaratory relief as appropriate, including his reinstatement to the position of Battalion Chief from which he was illegally ousted.

### **THE PARTIES**

6. Plaintiff Croslen is a resident of Savannah, and remains employed by SFD as a Captain.

7. Chief Kitchen is a resident of Savannah, and has been employed since 2022 as the Chief of SFD. Kitchen is subject to suit under §§ 1981 and 1983 for certain acts undertaken under color of state law while he was within the scope of his discretionary authority as Chief of SFD.

8. Savannah is a municipal entity created by the laws of the state of Georgia, and it is an entity subject to suit under Title VII and §§ 1981 and 1983.

**PERSONAL JURISDICTION**

9. Savannah and Chief Kitchen may be served with process at the City Hall address at 2 E. Bay St., Savannah, Georgia 31401.

**SUBJECT-MATTER JURISDICTION AND VENUE**

10. Jurisdiction of this court is invoked pursuant to 28 U.S.C.A. §§ 1331 and 1343.

11. Venue is proper in this district and division under 28 U.S.C.A. §1391(b)(1)-(2), as Defendants reside in and conduct business in this district and division and the acts or omissions giving rise to the claim occurred in the same venue.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES**

12. Croslen filed a charge of race discrimination and retaliation against Savannah with the Equal Employment Opportunity Commission (“EEOC”), Charge No. 415-2024-01068, on March 13, 2024. A copy is attached as Exhibit A.

13. Croslen subsequently received a right-to-sue letter from the EEOC on May 22, 2024. A copy is attached as Exhibit B.

**FACTUAL ALLEGATIONS**

**Croslen’s prior discrimination allegations**

14. In 1995, after 10 years with SFD, Croslen was promoted to the position of Captain. Despite an exemplary record of performance, his career stalled over the next two decades.

15. Four times, Croslen was denied promotions to Battalion Chief, a senior management role that is the next rank above Captain (2006, 2007, 2011, 2013), and to the position of Training Captain, a job that is considered a stepping stone.

16. In 2012 and 2013, Croslen filed charges of discrimination with the EEOC, alleging that SFD disproportionately promoted to senior-level management positions White candidates with less experience and fewer qualifications than African American candidates

17. Croslen's case proceeded at a slow pace. The EEOC's investigation lasted over two years, and after Croslen filed a federal lawsuit in 2014, the discovery process dragged on for over 15 months. There were repeated briefing extensions, further delaying the district court's consideration of dispositive motions.

18. A number of Croslen's claims survived the initial ruling in the fall of 2016, but the district court directed another round of briefing to address the implications of other lawsuits challenging promotional practices within SFD. In

early 2017, Croslen's case was administratively stayed pending a resolution of an appellate decision regarding another SFD lawsuit.

19. In the fall of 2017, Croslen's case was reopened and the parties resumed the summary judgment process. While briefing concluded in early 2018, the case remained under review for another year and a half until it was reassigned to a Magistrate Judge in the fall of 2019.

20. From 2019 to the fall of 2023, Croslen's case remained under submission with no judicial action, a remarkably long delay. In the interval, Croslen's attorney died in 2021.

21. While the judicial process remained frozen, Croslen finally secured promotion to the upper management rank of Battalion Chief in early 2020. The Fire Chief who promoted him, Derik Minard, was a Coloradan who served for only three years at SFD and played no role in Croslen's history of thwarted promotions. Chief Minard told Croslen that given his abilities and credentials, he should have long ago been promoted to senior leadership.

22. When Croslen was promoted to Battalion Chief, he was one of 2 Blacks out of 12 officers serving in that role. Both were promoted in 2020 by Chief Minard. In addition, four other senior level positions are considered parallel in status to Battalion Chief: Special Operations Chief, Chief Medical Officer,

Training Chief, and Emergency Manager Director. Between 2012 and now, with a two year exception in the past decade, these four roles have been held exclusively by Whites. There is also a white Deputy Chief, a position created in 2023 and filled without following the standard posting and advertisement protocol.

**Croslen's unsuccessful application for Assistant Fire Chief**

23. Croslen's stint as Battalion Chief was successful. He received strong evaluations and a number of verbal commendations from upper management at SFD.

24. In late 2022, Croslen applied for two open slots for the position of Assistant Fire Chief. Croslen was passed over for both positions in February 2023.

25. During the promotional process for Assistant Fire Chief, Croslen was the most accomplished candidate in terms of longevity with SFD, and had been a ranking officer for 13 years longer than one candidate and 19 years longer than the other.

26. Croslen had accumulated several career milestones that the selected candidates lacked. During the selection process, he earned the prestigious designation of Chief Fire Officer, as awarded by the national Center for Public Safety Excellence, and the distinction of Fire Officer 4, the Georgia Public Safety Training Center's highest ranking certification.

27. Croslen outstripped the qualifications of both selectees, Jack McCutcheon, who is white, and Steven Frazier, who is Black. While SFD defended the process as race neutral, based partly on Frazier's elevation, the realities of the selection process were in fact tainted with racial considerations.

28. Croslen heard from at least one other high ranking officer that Chief Elzie Kitchen, who had ascended to the position of Fire Chief in November 2022, had decided to treat one Assistant Chief opening as a "Black slot" and the other as a "White slot": in other words, a racial quota.

29. Under this quota, instead of selecting the most meritorious candidate for each slot, Chief Kitchen's plan was to pit Blacks against Blacks, and Whites against Whites, without an opportunity for a candidate to compete for an opportunity outside the opening reserved for their race.

30. While SFD employs internal review boards to recommend and interview candidates for upper level management, Chief Kitchen sits on the board and it is routine practice that SFD Chiefs advocate for candidates openly and behind the scenes. The selection process is insulated from review from any citywide personnel board. A quota policy for SFD is not obligated by any judicial consent decree, and it is anathema to well-established federal judicial precedent in this circuit and at the Supreme Court level.



31. Whether or not it provides political value to Chief Kitchen, and even if it serves an abstract goal of promoting diversity, quota promotions disadvantage qualified candidates like Croslen because it limits their ambitions to slots set aside for their race.

**Croslen's opposition to the selection process for Assistant Chief**

32. On March 17, 2023, Croslen sent an email to Chief Kitchen and Deputy Chief William Handy alluding to a history of race discrimination within the department, Croslen's own role in litigating against discrimination, and his plan to open a dialogue "with the city manager, human resources, and other agencies. My intent is to make a positive impact within the City." Croslen's language alludes to a potential challenge to aspects of SFD's promotional system.

33. Within approximately 10 days of his email, Croslen was notified by the internal affairs department ("IAD") that he was under investigation for violating Section 21.14 of SFD's standard operating procedures, which directs that officers "shall not adversely criticize [SFD's] policies or the official activities of other employees in the presence of subordinates."

34. Croslen was told by IAD that there were reports that Croslen stated in the presence of officers under his command that the Assistant Fire Chief position "had been stolen" from him. Croslen made no such remark.

35. During the course of the IAD inquiry, Croslen was interviewed by investigators. During the interview, he voiced criticism of an apparent use of a racial quota to select the Assistant Fire Chiefs.

36. On June 19, 2023, Croslen sent Kitchen a letter by email denying that he violated SFD's policies but reiterating concerns about the promotional process and the allotment of seats to candidates based on race.

37. On June 26, 2023, Croslen was informed that the internal affairs investigation had determined there was no specific violation of department policy, but in a memo from Chief Kitchen that same day, he was directed to begin counseling with SFD's employee assistance program ("EAP") and informed that if EAP recommended further psychological counseling, he would be mandated to receive therapy or risk termination.

38. EAP is a valuable tool for troubled employees, but Chief Kitchen's order of mandatory participation is inconsistent with SFD policies, which envision voluntary EAP referrals for firefighters who have experienced trauma on the job or who have exhibited signs of distress at work.

39. EAP is not designed to punish dissenters to internal personnel policies.

**Croslen's suspension and eventual demotion**

40. On August 1, 2023, Chief Kitchen convened a forum for operational leaders within SFD to discuss programmatic issues within the organization. Kitchen advised the attendants that they were authorized to speak freely without repercussions.

41. During the forum, Croslen expressed that SFD had a tendency to stifle dissent. Kitchen became visibly agitated and loudly admonished Croslen that “a personal attack on my leadership” would not be tolerated.

42. On August 4, Chief Kitchen ordered Croslen to resign or face termination for “insubordination.” When Kitchen refused, he was suspended pending a review of his termination.

43. Not until October 6, 2023 did City Manager Joseph Melder, who is the final decision-maker regarding challenged municipal terminations, conduct a meeting in his office to hear Croslen's argument to reverse Kitchen's recommendation.

44. After the October 6 meeting, Croslen's dormant federal case started to become active again. The case was transferred to another district judge, who appointed counsel for Croslen and set a hearing on the long-pending summary judgment motion for late November.

45. Prior to the hearing, Croslen decided that he did not wish to pursue his federal civil case and that he would instead devote his energy to saving his job. Pursuant to being notified of Croslen's change of heart, the district judge issued an order on November 28, 2023, dismissing Croslen's case.

46. The very next day, Savannah's Assistant Human Resources Director notified Croslen that he could resign or accept a demotion to Captain.

47. Croslen would not resign, and effective December 3, 2023, Croslen was demoted to the level of Captain and his pay was reduced by \$11,215.22.

48. To Croslen's knowledge, no other Battalion Chief has been involuntarily demoted. He is aware of one instance in which a Battalion Chief disseminated confidential medical information regarding the mental health of a firefighter's late wife but faced no disciplinary consequences.

49. Croslen was denied an opportunity to ascend to an Assistant Fire Chief role because one of the positions for which he applied was not a "Black" slot.

50. Then, Croslen lost his job as Battalion Chief because he engaged in protected activity opposing the injection of race into SFD's promotional processes. Prior to his demotion, he was subjected to other retaliatory measures, including

what amounted to a four-month suspension, an involuntary assignment of EAP counseling, and Chief Kitchen's effort to terminate him altogether.

**CAUSES OF ACTION**

**COUNT I**

**(Against City of Savannah)**

**(Retaliatory demotion in violation of Title VII, 42 U.S.C.A. § 2000e-3(a))**

51. Plaintiff incorporates by reference paragraphs 1-50 of this complaint as though set forth fully and separately herein.

52. Plaintiff engaged in protected activity under Title VII in that he opposed racially discriminatory promotion practices within the Savannah Fire Department.

53. But for Plaintiff's protected activity, he would not have been demoted in rank.

54. As a result of the retaliatory conduct by the City of Savannah, Plaintiff Croslen has suffered monetary damages, including but not limited to back pay and front pay; loss of future benefits; and noneconomic damages including emotional distress, humiliation, embarrassment, and mental anguish.

**COUNT II**

**(Against Elzie Kitchen, in his individual capacity)**

**(Retaliatory hostile environment in violation of 42 U.S.C.A. §§ 1981 and 1983)**

55. Plaintiff incorporates by reference paragraphs 1-50 of this complaint as though set forth fully and separately herein.

56. Plaintiff Croslen engaged in protected activity under Section 1981 in that he opposed racially discriminatory promotion practices within the Savannah Fire Department.

57. Defendant Kitchen retaliated against Plaintiff Croslen for engaging in protected activity by subjecting him to conduct including but not limited to coerced participation in Savannah's EAP, a prolonged administrative suspension, and an attempt to terminate his employment.

58. The cumulative retaliatory conduct by Chief Kitchen well might have dissuaded a reasonable person from engaging in protected activity, creating a retaliatory hostile environment.

59. Defendant Kitchen's retaliatory conduct occurred while he was acting under color of state law and was within the scope of his discretionary authority as a municipal official, thereby subjecting him to liability under Section 1983.

60. Defendant Kitchen's retaliatory conduct violated the clearly established right under Section 1981 to be free from retaliation for opposing racially discriminatory practices.

61. As a result of Defendant Kitchen's retaliatory conduct, Plaintiff has suffered compensatory damages, including emotional distress, humiliation, embarrassment, and mental anguish.

62. Because Defendant Kitchen's actions in his individual capacity demonstrate malice or reckless indifference to Plaintiff's federally protected rights, Plaintiff is entitled to punitive damages.

### **COUNT III**

**(against City of Savannah)**

**(discriminatory failure to promote in violation of 42 U.S.C.A. §§ 1981 and 1983)**

63. Plaintiff incorporates by reference paragraphs 1-50 of this complaint as though set forth fully and separately herein.

64. Defendant Chief Kitchens engaged in racially discriminatory conduct by treating race as a determinative factor in the evaluation of candidates for the role of Assistant Fire Chief that Plaintiff sought in 2022-23.

65. Defendant City of Savannah is liable under Section 1981 and 1983 for Chief Kitchen's discriminatory actions because he had final policy-making authority for the process of selecting SFD's Assistant Fire Chief, and Savannah exercised no meaningful administrative review over that process.

66. As a result of Savannah's discriminatory conduct, Plaintiff has suffered monetary damages, including but not limited to back pay and front pay; loss of future benefits; and noneconomic damages including emotional distress, humiliation, embarrassment, and mental anguish.

### **PRAYER FOR RELIEF**

Wherefore, based on the above-stated claims, Plaintiff demands a trial by jury and that the following relief be granted:

- A. Back pay, front pay, and lost benefits.
- B. Compensatory damages to the extent allowed by law.
- C. Punitive damages against Chief Kitchen in his individual capacity.
- D. Attorneys' fees and costs of litigation.
- E. Pre-judgment and post-judgment interest at the highest lawful rate.
- F. Such other equitable and monetary relief as the court deems just and proper, including reinstatement to the position of Battalion Chief.
- G. A declaratory judgment that Defendant's actions violated Plaintiff's statutory and constitutional rights and that Defendant shall refrain



from future unlawful discriminatory conduct in its employment practices.

Respectfully submitted the 10th day of July, 2024.

**HKM Employment Attorneys LLP**

s/Artur Davis

Artur Davis<sup>1</sup>

ASB-3672-D56A

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**Counsels for Plaintiff Jeffrey Croslen**

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<sup>1</sup> Artur Davis will promptly file for admission *pro hac vice* as an attorney of record in this action. Mr. Davis is licensed in the state of Alabama and the District of Columbia.

<sup>2</sup> Jerilyn Gardner will promptly file for admission *pro hac vice* as an attorney of record in this action. Ms. Gardner is licensed in the state of Georgia.

EEOC Form 5 (11/09)

<b>CHARGE OF DISCRIMINATION</b> <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 <b>415-2024-01068</b>

NA _____ and EEOC _____ <small>State or local Agency, if any</small>
-------------------------------------------------------------------------

Name (indicate Mr., Ms., Mrs.) <b>Mr. Jeffrey Croslen</b>	Home Phone (Incl. Area Code) <b>912-441-4040</b>	Date of Birth 
--------------------------------------------------------------	-----------------------------------------------------	-------------------

Street Address <b>2340 Pine Tree Rd</b>	City, State and ZIP Code <b>Savannah, Georgia 31404</b>
--------------------------------------------	------------------------------------------------------------

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 <b>City of Savannah, GA</b>	No. Employees, Members <b>500+</b>	Phone No. (Include Area Code) <b>912-651-6565</b>
-------------------------------------	---------------------------------------	------------------------------------------------------

Street Address <b>2 E Bay St. Savannah, Georgia 31401</b>
--------------------------------------------------------------

Name	No. Employees, Members	Phone No. (Include Area Code)
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Street Address City, State and ZIP Code
-----------------------------------------

DISCRIMINATION BASED ON (Check appropriate box(es).)  <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN  <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)	DATE(S) DISCRIMINATION TOOK PLACE Earliest                      Latest <b>03/23                              03/2024</b>
	<input checked="" type="checkbox"/> CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

My name is Jeffrey Croslen and I am an African-American. I have worked for the Savannah Fire Department ("SFD") for approximately 40 years. In 1995, I was promoted to the rank of Captain. I made repeated attempts to be promoted to higher level positions and was repeatedly passed over for the roles of Battalion Chief (2006, 2007, 2011, 2013), and Training Captain (2010). I filed multiple charges of discrimination and retaliation with the Equal Employment Opportunity Commission and in 2014, I filed a federal lawsuit alleging race discrimination and retaliation.

My lawsuit remained in federal court for an extended period due to a number of procedural disputes and the illness of my original attorney, who eventually died in early 2021. In 2020, while the case was still underway, I was promoted to the position of Battalion Chief in 2020. In early 2023, I unsuccessfully applied for an opening for Assistant Fire Chief. A white candidate was selected instead.

I have heard from multiple colleagues that the current Fire Chief Elzie Kitchen practices a quota system in which promotions are allocated based not on merit but race: specifically, Chief Kitchen alternates promotions between "black" and "white" slots, which means candidates are compared solely to their racial peers and precluded from consideration at all when a promotional opportunity arises that is not reserved for their race. In effect, I was denied the chance to be considered for a job or to have my credentials given the weight they deserved because my race was not next in line.

**U.S. EEOC Savannah Local Office**  
**Received: March 13, 2024**

In March of 2023, I was informed that I was the subject of an internal investigation under a municipal policy that restricts public safety officers from engaging in commentary critical of their department. I was told that the scope of the investigation related to comments I was alleged to have made critical of Chief Kitchen's racial quotas; when the internal affairs team interviewed me, I was open with them that I believe SFD employs race as a factor in promotions.

On June 26, 2023, I was notified that the claims against me were not substantiated, but I was ordered to participate in the city's employee assistance program ("EAP") on the grounds that I "was showing signs of workplace stress." I have learned that Chief Kitchen made multiple attempts to inquire about the status of my EAP counseling during July 2023.

On August 1, 2023, Chief Kitchen convened a forum of all 11 Battalion Chiefs and the special operations heads to discuss departmental issues. During the session, I voiced my concern that there was a systematic pattern of dissenting viewpoints being punished. Chief Kitchen became visibly agitated, and told me in front of the entire group that he would not tolerate a "personal attack" on his leadership. On August 4, Chief Kitchen requested my resignation, and when I refused, he told me that I was being terminated for "insubordination". For the next several months, I pursued an appeal through the city's administrative process, and was placed on paid administrative leave while my appeal was considered.

On October 6, City Manager Joseph Melder, who is the final decision-maker regarding the appeal of termination decisions, held a hearing in his office but did not announce a decision. During the months of October and November 2023, my long pending federal case started to become active again. The court appointed a lawyer to represent me, and a hearing on pending motions was held. I made the decision in late November, however, that I did not want to pursue my case given my current situation with the city and my focus on getting my job back. The Court issued a formal order dismissing my case on November 28.

On the very next day, November 29, the City Assistant Human Resources Director told me a decision had been made regarding my future and that my options were to resign or take a demotion to the rank of captain, which would result in a pay cut of \$11,215.22. I refused to resign and was demoted effective last December 3. Under Savannah's municipal ordinances, I had no right to administratively appeal a demotion. I believe that this is the first time a Battalion Chief has been demoted, but I know of other instances of Battalion Chiefs violating departmental policy with no consequences, including one incident in which a Battalion Chief disseminated confidential information regarding the mental health condition of a firefighter's late wife.

In January 2024, I hired a new attorney who sent a letter on my behalf on February 19 putting the city on notice that I was raising a new set of legal claims and planned to file a second discrimination and retaliation suit. Within two weeks, I was suddenly informed that SFD has ordered me to take a physical exam by the third week in March. Normally, notices of physicals occur two to three months in advance.

I believe that my federal rights have been violated under Title VII of the Civil Rights Act of 1964, in that I have been subjected to a retaliatory hostile environment after I told internal affairs investigators of a discriminatory quota practice for promotions; and eventually demoted in retaliation for my reporting of discrimination. I also believe that my rights under the Americans with Disabilities Act were violated, in that my demotion was also based on SFD's belief that I am a person with a mental health impairment.

**U.S. EEOC Savannah Local Office**

**Received: March 13, 2024**

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.

NOTARY – *When necessary for State and Local Agency Requirements*

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

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

03 / 13 / 2024

*Jeffrey J. Croslen*

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

*Date*

*Charging Party Signature*





**U.S. EEOC Savannah Local Office**  
**Received: March 13, 2024**

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Title	EEOC Charge Jeffrey Croslen
File name	Croslen, Jeffrey- EEOC Charge .pdf
Document ID	fa7d5802d6f504f2060e05b56808b245452ccb45
Audit trail date format	MM / DD / YYYY
Status	● Signed

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## Document History

 SENT	<b>03 / 13 / 2024</b> 07:26:13 UTC-4	Sent for signature to Jeffrey Croslen (croslenj@gmail.com) from jwalker@hkm.com IP: 76.97.141.204
 VIEWED	<b>03 / 13 / 2024</b> 07:46:16 UTC-4	Viewed by Jeffrey Croslen (croslenj@gmail.com) IP: 71.229.55.95
 SIGNED	<b>03 / 13 / 2024</b> 07:53:42 UTC-4	Signed by Jeffrey Croslen (croslenj@gmail.com) IP: 71.229.55.95
 COMPLETED	<b>03 / 13 / 2024</b> 07:53:42 UTC-4	The document has been completed.



## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Savannah Local Office  
7391 Hodgson Memorial Drive, Suite 200  
Savannah, GA 31406  
(912) 358-2810  
Website: [www.eeoc.gov](http://www.eeoc.gov)

### **DISMISSAL AND NOTICE OF RIGHTS**

(This Notice replaces EEOC FORMS 161, 161-A & 161-B)

Issued On: 05/22/2024

To: Jeffrey Croslen  
2340 Pine Tree Rd.  
Savannah, GA 31404

Charge No: 415-2024-01068

EEOC Representative and email: Chantel Johnson  
Investigator  
[chantel.johnson@eeoc.gov](mailto:chantel.johnson@eeoc.gov)

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### **DISMISSAL OF CHARGE**

The EEOC has granted your request that the agency issue a Notice of Right to Sue, where it is unlikely that EEOC will be able to complete its investigation within 180 days from the date the charge was filed.

The EEOC is terminating its processing of this charge.

### **NOTICE OF YOUR RIGHT TO SUE**

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign in to the EEOC Public Portal and upload the court complaint to charge 415-2024-01068.

On behalf of the Commission,  
Jennifer Bessick

Digitally signed by Jennifer Bessick  
Date: 2024.05.22 08:34:19 -04'00'

Digitally Signed By: Jennifer Bessick  
05/22/2024

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Jennifer Bessick  
Director  
Savannah Local Office



**Cc:**

Shawn Kachmar  
Hunter Maclean  
P.O. Box 9848  
Savannah, GA 31412

Jeff Grant  
City of Savannah  
2 E Bay St.  
Savannah, GA 31401

Artur Davis  
HKM Employment  
2024 3<sup>rd</sup> Ave. N. Suite 212  
Birmingham, AL 35203

Please retain this notice for your records.

Enclosure with EEOC Notice of Closure and Rights (01/22)

**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law. If you also plan to sue claiming violations of State law, please be aware that time limits may be shorter and other provisions of State law may be different than those described below.)*

**IMPORTANT TIME LIMITS – 90 DAYS TO FILE A LAWSUIT**

If you choose to file a lawsuit against the respondent(s) named in the charge of discrimination, you must file a complaint in court **within 90 days of the date you receive this Notice**. Receipt generally means the date when you (or your representative) opened this email or mail. You should **keep a record of the date you received this notice**. Once this 90-day period has passed, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and the record of your receiving it (email or envelope).

If your lawsuit includes a claim under the Equal Pay Act (EPA), you must file your complaint in court within 2 years (3 years for willful violations) of the date you did not receive equal pay. This time limit for filing an EPA lawsuit is separate from the 90-day filing period under Title VII, the ADA, GINA, the ADEA, or the PWFA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA, the ADEA or the PWFA, in addition to suing on the EPA claim, your lawsuit must be filed within 90 days of this Notice and within the 2- or 3-year EPA period.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Filing this Notice is not enough. For more information about filing a lawsuit, go to <https://www.eeoc.gov/employees/lawsuit.cfm>.

**ATTORNEY REPRESENTATION**

For information about locating an attorney to represent you, go to:  
<https://www.eeoc.gov/employees/lawsuit.cfm>.

In very limited circumstances, a U.S. District Court may appoint an attorney to represent individuals who demonstrate that they are financially unable to afford an attorney.

**HOW TO REQUEST YOUR CHARGE FILE AND 90-DAY TIME LIMIT FOR REQUESTS**

There are two ways to request a charge file: 1) a Freedom of Information Act (FOIA) request or 2) a "Section 83" request. You may request your charge file under either or both procedures. EEOC can generally respond to Section 83 requests more promptly than FOIA requests.

Since a lawsuit must be filed within 90 days of this notice, please submit your FOIA and/or Section 83 request for the charge file promptly to allow sufficient time for EEOC to respond and for your review.

**To make a FOIA request for your charge file**, submit your request online at <https://eeoc.arkcase.com/foia/portal/login> (this is the preferred method). You may also submit a FOIA request for your charge file by U.S. Mail by submitting a signed, written request identifying your request as a "FOIA Request" for Charge Number 415-2024-01068 to the



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District Director at Darrell E. Graham, 100 Alabama Street, SW Suite 4R30, Atlanta, GA 30303.

**To make a Section 83 request for your charge file**, submit a signed written request stating it is a "Section 83 Request" for Charge Number 415-2024-01068 to the District Director at Darrell E. Graham, 100 Alabama Street, SW Suite 4R30, Atlanta, GA 30303.

You may request the charge file up to 90 days after receiving this Notice of Right to Sue. After the 90 days have passed, you may request the charge file only if you have filed a lawsuit in court and provide a copy of the court complaint to EEOC.

For more information on submitting FOIA requests, go to <https://www.eeoc.gov/eeoc/foia/index.cfm>.

For more information on submitted Section 83 requests, go to <https://www.eeoc.gov/foia/section-83-disclosure-information-charge-files>.

#### **NOTICE OF RIGHTS UNDER THE ADA AMENDMENTS ACT OF 2008 (ADAAA)**

The ADA was amended, effective January 1, 2009, to broaden the definitions of disability to make it easier for individuals to be covered under the ADA/ADAAA. A disability is still defined as (1) a physical or mental impairment that substantially limits one or more major life activities (actual disability); (2) a record of a substantially limiting impairment; or (3) being regarded as having a disability. *However, these terms are redefined, and it is easier to be covered under the new law.*

If you plan to retain an attorney to assist you with your ADA claim, we recommend that you share this information with your attorney and suggest that he or she consult the amended regulations and appendix, and other ADA related publications, available at: [http://www.eeoc.gov/laws/types/disability\\_regulations.cfm](http://www.eeoc.gov/laws/types/disability_regulations.cfm).

#### **“Actual” disability or a “record of” a disability**

If you are pursuing a failure to accommodate claim you must meet the standards for either “actual” or “record of” a disability:

- ✓ **The limitations from the impairment no longer must be severe or significant** for the impairment to be considered substantially limiting.
- ✓ In addition to activities such as performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, thinking, concentrating, reading, bending, and communicating (more examples at 29 C.F.R. § 1630.2(i)), **“major life activities” now include the operation of major bodily functions**, such as: functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions; or the operation of an individual organ within a body system.
- ✓ **Only one** major life activity need be substantially limited.
- ✓ Except for ordinary eyeglasses or contact lenses, the beneficial effects of **“mitigating measures”** (e.g., hearing aid, prosthesis, medication, therapy, behavioral modifications) **are not considered** in determining if the impairment substantially limits a major life activity.

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- ✓ An impairment that is “**episodic**” (e.g., epilepsy, depression, multiple sclerosis) or “**in remission**” (e.g., cancer) is a disability if it **would be substantially limiting when active**.
- ✓ An impairment **may be substantially limiting even though** it lasts or is expected to last **fewer than six months**.

#### “Regarded as” coverage

An individual can meet the definition of disability if an **employment action was taken because of an actual or perceived impairment** (e.g., refusal to hire, demotion, placement on involuntary leave, termination, exclusion for failure to meet a qualification standard, harassment, or denial of any other term, condition, or privilege of employment).

- ✓ “Regarded as” coverage under the ADAAA no longer requires that an impairment be substantially limiting, or that the employer perceives the impairment to be substantially limiting.
- ✓ The employer has a defense against a “regarded as” claim only when the impairment at issue is objectively **both** transitory (lasting or expected to last six months or less) **and** minor.
- ✓ A person is not able to bring a failure to accommodate claim **if** the individual is covered only under the “regarded as” definition of “disability”.

*Note: Although the amended ADA states that the definition of disability “shall be construed broadly” and “should not demand extensive analysis,” some courts require specificity in the complaint explaining how an impairment substantially limits a major life activity or what facts indicate the challenged employment action was because of the impairment. Beyond the initial pleading stage, some courts will require specific evidence to establish disability. For more information, consult the amended regulations and appendix, as well as explanatory publications, available at [http://www.eeoc.gov/laws/types/disability\\_regulations.cfm](http://www.eeoc.gov/laws/types/disability_regulations.cfm).*

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

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (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, 2 U.S. Government Defendant, 3 Federal Question, 4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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, 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): Brief description of cause:

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD Sheri Bagheri

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.