

*Alicea v. Cromwell Police Department, et al. – Statement of Harm*

1. I have worked as Patrol Officer for Respondent Cromwell Police Department (“Respondent CPD”) since June 2013.
2. Out of Respondent CPD’s force of 27 sworn officers, I am one of just 3 women.
3. During my employment with Respondent CPD, I have performed well, consistently receiving commendations and other positive feedback. I also have progressed to the top of the pay scale for my position.
4. As a Patrol Officer, my duties include responding to calls for service, investigating potential criminal activity, patrolling the Cromwell area in a marked squad car, initiating traffic stops, issuing traffic citations, and making arrests when necessary.
5. I am a certified Field Training Officer, and am trained as an Accident Reconstructionist. In this latter capacity, I am a member of the Mid-State Accident Reconstruction Team, charged with responding to serious car accidents, comprising approximately 13 officers from 5 local towns: Cromwell, Rocky Hill, Wethersfield, Newington, and Berlin.
6. In July 2015, I accepted an assignment with Respondent as a School Resource Officer. In that position, during the academic year I am assigned to work in Cromwell’s elementary and middle schools, where I teach various classes on topics including health, child safety basics for students who babysit, and the practical aspects of police compliance with the Constitution; lead drug prevention efforts; help organize events promoting the police-community relationship; and, when necessary, assist in conflict resolution and other emergencies.
7. During the summers, I resume my regular Patrol Officer duties.
8. In December 2016, I learned I was pregnant with my first child.

9. On March 28, 2017, I met with Respondent CPD's Chief of Police, Denise Lamontagne, along with my union representative, Sergeant Ryan Bengston. I informed Lamontagne that I was roughly 20 weeks pregnant and that I would need to temporarily modify my duties until my August 13, 2017 due date, given the potential for physical confrontations posed by my School Resource Officer job and, once the school year ended in June, my Patrol Officer job.

10. I provided Lamontagne with a list of several job tasks I still was capable of performing, including evidence processing, fingerprinting, accident reconstruction, and issuance of pistol permits. Bengston told Lamontagne that there was sufficient administrative work of this kind at Respondent CPD to justify my temporarily doing such tasks full-time.

11. Lamontagne told me that the Town Manager, Anthony Salvatore, would have to approve such a request. She also told me to obtain a note from my doctor detailing what work I could and could not safely perform.

12. The next day, March 29, I met with Lamontagne, Bengston, and Salvatore. I presented a note from my doctor stating that I should be assigned to "light duty capacity for the duration of [my] pregnancy" and instructing that I not lift more than 40 pounds unassisted.

13. Salvatore told me, "We don't have light duty, so we're not going to discuss that," or words to that effect.

14. Salvatore further told me that although I was healthy and able to work, if I could not perform in full duty capacity I must stop working and begin my leave under the Family and Medical Leave Act ("FMLA"). He told me to obtain another doctor's note detailing more of my restrictions.

15. Neither Salvatore nor Lamontagne discussed with me the feasibility of modifying my School Resource Officer or Patrol Officer duties to be consistent with my doctor's directives, nor did they discuss transferring me to an alternative position.

16. On April 4, 2017, I provided a new doctor's note, stating that although I would not be able to carry people, supplies, equipment, and the ambulance stretcher because they are over 40 pounds, and should avoid "high levels of stress as a regular duty police officer with the possibility of physical violence," I could perform "all office functions such as typing and computer work."

17. In response to this note, Respondent began the FMLA leave approval process and my leave subsequently was approved.

18. My 12 weeks of FMLA leave ran out on June 21, 2017. My 74 days of accrued paid sick, vacation, holiday, and personal time, which I had planned to use in order to avoid losing income during the period I recovered from childbirth, ran out on July 13, 2017, one month before my due date.

19. I had my daughter on August 21, 2017. My doctor estimates that I will need approximately 6 weeks to recover, i.e., until early October 2017. Since August 1, I have been responsible for paying the Town's portion of my medical, dental, and disability insurance coverage.

20. While I am on unpaid leave, Respondent CPD is making no monetary contribution toward my pension, I am not earning credits toward my pension, and I am not accumulating paid sick, vacation, holiday, or personal time.

21. Respondent CPD maintains no written policies concerning accommodation of disability pursuant to the Americans with Disabilities Act ("ADA"), accommodation of pregnancy

pursuant to the Pregnancy Discrimination Act (“PDA”), or accommodation of disability or pregnancy pursuant to Connecticut law. Nor does it maintain a procedure for modifying an officer’s duties in the event that s/he is not able to work at full capacity.

22. Instead, officers who are not able to work at full capacity due to an on-the-job injury receive Workers’ Compensation benefits and a subsidy paid by Respondent CPD so as to make up the difference between those benefits and the officer’s regular salary, until s/he is able to return to full duty.

23. Officers who are not able to work at full capacity for any other reason, however, must take an unpaid leave of absence.

24. By the time I return to work with Respondent CPD in or around early October 2017, I will have been without a regular paycheck for roughly 6 months. I will have no FMLA time to use to care for myself or my family until 2018, and will have no accrued sick, vacation, holiday, or personal leave time available, either.

25. Respondent discriminated against me on the basis of pregnancy by refusing to transfer me to a position consistent with my medical restrictions while pregnant.

26. Respondent discriminated against me on the basis of pregnancy by forcing me to take unpaid leave while providing paid leave to officers with occupational injuries who are similar in their ability or inability to work.

27. Respondent discriminated against me on the basis of pregnancy by forcing me to exhaust my accrued paid sick, vacation, holiday, and personal time during my unjustified forced leave, while officers with occupational injuries are not required to exhaust such accrued benefits.

28. Respondent has not articulated a sufficiently strong reason to justify the significant burden on me posed by forcing me onto unpaid leave.

29. Respondent's stated policy of not providing light duty or other accommodations for workers with temporary impairments has a disparate impact on pregnant workers that cannot be justified by business necessity.