

RESOLUTION NO. R06-15 CMS

A RESOLUTION AUTHORIZING AND DIRECTING THE LAW DIRECTOR TO REPRESENT THE CITY OF OBERLIN IN REGARD TO A COMPLAINT OF DISCRIMINATION PRESENTLY PENDING BEFORE THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION AND DECLARING AN EMERGENCY

BE IT RESOLVED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That the Law Director is hereby authorized and directed to represent the City of Oberlin in a discrimination complaint presently pending before the United States Equal Employment Opportunity Commission, being Charge No. 532-2006-01473, and to conduct any and all investigations, discovery and other proceedings in said matter as he deems appropriate, all to be charged as extraordinary expense to the City.


SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operation of a municipal department, to wit:

"to provide for the immediate defense of a pending complaint" and shall take effect immediately upon passage.

PASSED: 1st Reading – October 2, 2006 (E)
2nd Reading –
3rd Reading –

ATTEST:


Eugene F. Simon, CMC
CLERK OF COUNCIL


Daniel Gardner
PRESIDENT OF COUNCIL

POSTED: October 3, 2006

EFFECTIVE DATE: October 3, 2006

a:/RES06-15Reinhold.EEOCComplaint

092506

Telephone
440-774-8519

Facsimile
440-776-2210

City of
Oberlin


Office of the Law Director
85 South Main Street Oberlin, Ohio 44074

Eric R. Severs
Law Director

James Leo Walsh
Asst. Law Director & Prosecutor

MEMO

CONFIDENTIAL
SUBJECT TO ATTORNEY-CLIENT PRIVILEGE

TO: Oberlin City Council; Council Appointees
FROM: Eric R. Severs, Law Director 
DATED: September 25, 2006
RE: Rudy Reinhold, Jr. EEOC Charge

Rudy Reinhold, who was employed by the City of Oberlin as a mechanic at the City garage, has filed an EEOC Charge against the City. A copy is enclosed. Mr. Reinhold was terminated by the City for a multitude of reasons, generally relating to his inability to perform his job duties and his excessive absenteeism from work. Mr. Reinhold has alleged in his charge that he is disabled and was terminated as a result of his disability. He claims that the City should have provided him with a reasonable accommodation.

The Resolution before Council tonight authorizes me to represent the City in the matter and prepare a response to the Charge. As the City's response to the Charge is due no later than October 23, 2006, I ask that Council pass the Resolution upon an emergency basis.

Finally, as is customary with these types of matters, I ask that Council refrain from discussing the substance of the Charge during the public meeting.

Please call me if you have any questions.

U.S. Equal Employment Opportunity Commission

<p>Mr Robert Dispirito City Director CITY OF OBERLIN 85 South Main Street Oberlin, OH 44074</p>	<p>PERSON FILING CHARGE</p> <p style="text-align: center;">Rudolph F. Reinhold, Jr.</p> <p>THIS PERSON (check one or both)</p> <p><input type="checkbox"/> Claims To Be Aggrieved</p> <p><input type="checkbox"/> Is Filing on Behalf of Other(s)</p> <p>EEOC CHARGE NO. 532-2006-01473</p>
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NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:

- | | |
|---|---|
| <input type="checkbox"/> Title VII of the Civil Rights Act | <input checked="" type="checkbox"/> The Americans with Disabilities Act |
| <input type="checkbox"/> The Age Discrimination in Employment Act | <input type="checkbox"/> The Equal Pay Act |

The boxes checked below apply to our handling of this charge:

1. No action is required by you at this time.
2. Please call the EEOC Representative listed below concerning the further handling of this charge.
3. Please provide by **23-OCT-06** a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
4. Please respond fully by _____ to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
5. EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by **05-OCT-06** to **Loretta Feller, ADR Coordinator, at (216) 522-7678**
 If you DO NOT wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Daniel Cabot,
 Director

EEOC Representative

Telephone (216) 522-7447

Cleveland Field Office - 532
AJCFB - Suite 3001
1240 E. 9th St
Cleveland, OH 44199

Enclosure(s): Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

- RACE
 COLOR
 SEX
 RELIGION
 NATIONAL ORIGIN
 AGE
 DISABILITY
 RETALIATION
 OTHER

See enclosed copy of charge of discrimination.

Date	Name / Title of Authorized Official	Signature
September 21, 2006	Jacqueline D. Rosemond, Intake Supervisor	

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

 FEPA
 EEOC
532-2006-01473**Ohio Civil Rights Commission**

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Mr. Rudolph F. Reinhold, Jr.

Home Phone (Incl. Area Code)

(440) 724-8203

Date of Birth

10-17-1966

Street Address

City, State and ZIP Code

10370 Leavitt Road, Elyria, OH 44035

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

CITY OF OBERLIN

No. Employees, Members

201 - 500

Phone No. (Include Area Code)

(440) 775-7211

Street Address

City, State and ZIP Code

69 South Main Street, Oberlin, OH 44074

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

 RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

12-15-2005**03-17-2006** CONTINUING ACTION

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

I was hired by the above named Respondent on March 28, 1999. My last position was Mechanic. I am a qualified individual with a disability. In December 2005 I was denied a reasonable accommodation and on March 17, 2006, I was terminated by Jeff Baumann, Director of Public Works.

In June 2005, I was taken off work due to my disability. In October 2005 and December 2005, I had surgery. In December 2005, I requested and was denied light duty by Dave Rucker, Superintendent. On March 17, 2006, I was terminated because I could not perform my duties. I filed a grievance through my union and the City denied my grievance.

I believe I was terminated because of my disability, in violation of Title I of the Americans with Disabilities Act of 1990.

EEOC
CLDO-CART UNIT

SEP 18 2006

RECEIVED

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

X *Rudolph F. Reinhold Jr.* 9/18/06
 SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (month, day, year)

Date

Charging Party Signature

9-18-06 Mrs. M. Betts

IT MAY BE POSSIBLE TO RESOLVE THIS CHARGE BEFORE YOU SUBMIT THE POSITION STATEMENT OR OTHER INFORMATION WE HAVE REQUESTED.....

If you are interested in exploring settlement or other early resolution of the charge, please contact us as soon as possible. Free voluntary mediation is available and is highly recommended for resolving a charge in a manner acceptable to both charging party and the employer. *Information on our highly successful mediation program is enclosed for you information.* If you are interested in trying to resolve the enclosed charge as soon as possible or want more information about voluntary mediation, please contact our Alternative Dispute Coordinator at (216) 522-7678.

HOWEVER, IF YOU ELECT AGAINST MEDIATION OR OTHER EARLY RESOLUTION OF THE CHARGE, YOU MUST PROVIDE THE POSITION STATEMENT OR OTHER INFORMATION WE HAVE REQUESTED ON THE ENCLOSED FORM 131.

The position statement is your opportunity to provide your response to the charge. If you dispute the charge allegations, your position statement must.

- ◆ provide a specific response to all charge allegations, with specific detail to your reasons and facts supporting your position;
- ◆ describe all witnesses, records or other materials relevant to the charge allegations which support the representations made in your position statement; and
- ◆ be accompanied by copies of the records or documents you identify in the statement.

FOR THOSE CHARGES ALLEGING SEXUAL, RACIAL OR OTHER UNLAWFUL HARASSMENT:

If you contend that the employer....

- ◆ took reasonable care to prevent the harassment and/or
- ◆ took appropriate corrective action when confronted with harassment conduct or allegations.

your position statement must

- ◆ describe in detail all your reasonable care efforts, including the dates and manner the reasonable care actions were implemented;
- ◆ describe the specific steps taken to investigate and remedy harassment, including the dates investigation was commenced and completed;
- ◆ be accompanied by all interview notes/statements prepared or obtained during the internal investigation, a copy of the final report and description of the disposition of the matter, and copies of all counseling /disciplinary notices which may have resulted;
- ◆ include a copy of the employer's anti harassment policy, including a description of the date the policy was implemented and information about the dates, manner and places the policy was posted/otherwise disseminated to staff.

Failure to provide this requested information with the position statement may be interpreted to mean the material does not exist or that the employer refuses to disclose it to EEOC.

Thank you for your cooperation. EEOC Cleveland District Office



EEOC MEDIATION

YOUR PARTNER IN WORKPLACE SOLUTIONS

- ✓ **Free**
Mediation is available at no cost to the parties.
- ✓ **Fair and Neutral**
Parties have an equal say in the process and decide settlement terms, not the mediator. There is no determination of guilt or innocence in the process.
- ✓ **Saves Time and Money**
Mediation usually occurs early in the charge process, and many mediations are completed in one meeting. Legal or other representation is optional but not required.
- ✓ **Confidential**
All parties sign a confidentiality agreement. Information disclosed during mediation will not be revealed to anyone, including other EEOC investigative or legal staff.
- ✓ **Avoids Litigation**
Lengthy litigation CAN be avoided. Mediation costs less than a lawsuit and avoids the uncertainty of judicial outcome.
- ✓ **Fosters Cooperation**
Mediation fosters a problem solving approach to complaints and workplace disruptions are reduced. With investigation, even if the charge is dismissed by EEOC, the underlying problems may remain, affecting others in the workforce and human resources staff.
- ✓ **Improves Communication**
Mediation provides a neutral and confidential setting where both parties can openly discuss views on the underlying dispute.
- ✓ **Discover the Real Issues in your Workplace**
Parties share information, which can lead to a better understanding of issues affecting the workplace.
- ✓ **Design your own Solution**
A neutral third party assists the parties in reaching a voluntary, mutually beneficial resolution. Mediation can resolve all issues important to the parties, not just the underlying legal dispute.
- ✓ **Everyone Wins**
An independent survey showed 96% of all respondents and 91% of all charging parties who used mediation would use it again if offered.

Find out more at: www.eeoc.gov
1 (800) 669-4000 (Voice) or 1 (800) 669-6820 (TTY)

“Once the employer gets past the myth of “If we didn’t do anything wrong, we shouldn’t go to mediation” and decides to participate, the real issues in the dispute become clear. Through mediation, we have had the opportunity to proactively resolve issues and avoid potential charges in the future. We have seen the number of charges filed with EEOC against us actually decline. We believe that our participating in mediation and listening to employees’ concerns has contributed to that decline.”

Donna M. Gwin
Director of Human Resources
Eastern Division
Safeway Inc.

“As an employer’s attorney, I routinely recommend mediation to my clients. In mediation, you can build a sense of what the issues are, learn the problems, explore possible options for resolution, and make informed decisions whether or not resolving at that time or moving on is the best outcome for that matter. It makes both business and economic sense from the employer’s perspective.”

Charles C. Warner, Esq.
Porter Wright Morris & Arthur LLP

“Regardless of the issue or whether it has merit under Title VII, if it is draining resources, weighing on the mind of the employee, or having a negative impact on productivity, then getting the issue out on the table, mediating it and resolving it is often the smartest and most expeditious way to ensure workforce effectiveness.”

Linda I. Workman
Vice President
Workforce Effectiveness
ConAgra Foods, Inc.

“Hopkins is striving to be an employer of choice. We think that participating in EEOC’s mediation program moves us that much closer to meeting that goal. . . . We learned that settlement is not always about money. Sometimes there are non-economic ways to settle a case that may be important to the charging party and the respondent.”

Laurice Royal, Esq.
Johns Hopkins Health System Corporation



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Cleveland Mediation Program**

A.J. Celebrezze Federal Office Building
1240 East 9th Street, Suite 3001
Cleveland, Ohio 44199
ADR Hotline (216) 522-7415
TTY (216) 522-8441
ADR FAX (216) 522-7389

Website: <http://www.eeoc.gov/mediate/index.html>

Invitation to Mediate

Charge No. & Case Name _____

This is an invitation to participate in the EEOC's Mediation Program. We offer this neutral, confidential, and popular alternative to both charging parties and respondents as an alternative to investigation (and possible litigation) of employment disputes.

If you choose to participate in mediation, you do not need to respond to the charge or to any request for information at this time. Action on the charge will be suspended until the mediation is complete.

If you choose not to mediate, you must respond to the charge and to any request for information by the date specified in the Notice of Charge of Discrimination.

Please return this form to:

Loretta J. Feller, ADR Coordinator
Equal Employment Opportunity Commission
1240 East 9th Street, Suite 3001
Cleveland, OH 44199
Phone: (216) 522-7678
FAX: (216) 522-7389
loretta.feller@eeoc.gov

Check here to accept mediation.

Propose 3 possible mediation dates during the next 6 weeks: _____, _____, _____

Name and title of attendee(s) _____

Check here to decline mediation.
We would appreciate your telling us why you declined mediation. This information will be used exclusively by the ADR Coordinator to evaluate the ADR program.
Comments: _____

On behalf of Respondent:

Name: _____ Title: _____

Street Address: _____

City, State & Zip: _____

Telephone: _____ Fax: _____

E-mail: _____