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Orange County Fire Authority Sued For Retaliation

Posted by: Curt Varone | 🕒 March 17, 2019 | 💬 0 Comments

Two California dispatchers who were terminated last year, have filed suit accusing the Orange County Fire Authority, a deputy chief and the dispatch center manager of unlawfully retaliating against them for raising legitimate concerns and for their union activities.

Megan Soman, a veteran firefighter, union representative, and Fire Communication Supervisor claims she was terminated after expressing her dissatisfaction with the termination of one of her subordinates, Travis Fader. Soman also claims she became a target of Emergency Communications Center Manager Jeff Logan after she cooperated with investigators following a major wildland fire, the Canyon 2 Fire, in October, 2017. Both Soman and Fader claim they were fired in part because they opposed a proposed shift change.

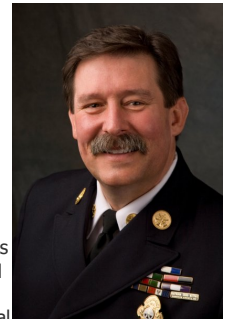
The lawsuit filed earlier this year in Orange County Superior Court names the County Fire Authority, Deputy Chief David Anderson, and EEC Manager Logan as defendants. It accuses all three of violating Soman and Feder's free speech rights, their rights to engage in union political activities, political retaliation, and discrimination against Soman on account of her gender. The complaint alleges that Logan retaliated against Soman because she was critical of him following the Canyon 2 Fire.

According to the complaint:

- *Soman expressed strong criticism of Logan (to several high ranking Chiefs, as well as to the interviewers) that Logan's failure to properly upstaff the ECC on the day they received the initial call contributed to the C2F and resulting aftermath.*
- *In addition, Soman was critical of the competency of the ECC staff including Katie Farrell who was promoted into a supervisory position by Chief Anderson to be charged with running the Department Operations Center ("DOC") room to manage this type of fire event.*
- *Farrell was heard by a number [of] persons crying that she "can't do it" when tasked with assisting in the management of the C2F. Farrell was taken off managing this significant fire event and was replaced by Funk and Soman. This in turn left the ECC floor understaffed during this time, as personnel were forced to make up for Farrell's shortcomings. Farrell was also unfit to perform as a shift supervisor concerning day to day operations.*
- *Soman also criticized Logan for failing to issue a mandatory recall of ECC dispatchers and other supervisory staff to handle the C2F. Instead Logan simply asked for volunteers of the FCS rank to return to the ECC. Due to Soman, during C2F, the mismanagement of the ECC was well known by members of the highest levels of the OCFA. Soman's criticisms and complaints of these work practices at the OCFA resulted in adverse employment actions being against her, including initiating a manufactured investigation against her, and ultimately terminating her from employment.*
- *Soman also actively advocated as a Union Representative against a proposal to change OCFA dispatcher shifts from 24-hour to 12-hour shifts. Soman negotiated on behalf of the Union members to fight this change, as it impacted public safety by leading to reduced staffing levels.*
- *Fader... prepared an open letter addressed to the OCFA in which he strenuously argued against the change to 12-hour shifts as it would impact patient care, and firefighter safety.*
- *Not only did Soman oppose the policy change before the Board, she also attended Board members' City*

ABOUT CURT VARONE

Curt Varone has over 40 years of fire service experience and 30 as a practicing attorney licensed in both Rhode Island and Maine. His background includes 29 years as a career firefighter in Providence (retiring as a Deputy Assistant Chief), as well as volunteer and paid on call experience. He is the author of two books: *Legal Considerations for Fire and Emergency Services*, (2006, 2nd ed. 2011, 3rd ed. 2014) and *Fire Officer's Legal Handbook* (2007), and is a contributing editor for Firehouse Magazine writing the Fire Law column.



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- Several months into Fader's position as a FCD, he was subjected to harassment by two staff Fire Communications Supervisors – Katie Farrell and Jenny Cradle. They treated Fader in a hostile manner in front of other dispatchers that Fader believed was both degrading and humiliating. Fader brought Farrell and Cradle's misconduct to the attention of Soman. Soman advised Fader that she spoke with both Farrell and Cradle about how they treated him in the workplace. Soman further advised Fader that she also spoke to Logan about how Farrell and Cradle treated Fader, but that Logan showed no concern for Fader's complaints.
- Fader filed a grievance against supervisor Chris Funk ("Funk") for inappropriate comments he made to Fader while at work saying "are you just another dispatcher lying to me the supervisor?" What made this comment particularly significant and inappropriate was that Funk was already under investigation for his malfeasance related to the C2F.
- After filing the grievance, Fader met with Logan and Human Resources Manager Tia Grasso (who was also a probationary employee) to discuss what Funk said to Fader about lying to him. Both of them assured Fader that he would not be subject to retaliation for the filing of the grievance against Funk.
- After Fader's meeting with Logan and Grasso, Soman informed Fader that Logan approached her and said, "we have to get rid of that kid" — referring to Fader. When Fader heard this, he became concerned that OCFA was retaliating against him for filing the grievance against Funk. Logan also stated to Soman, "if this is this person's [Mr. Fader] personality, we should just cut him loose."
- During her tenure at the ECC, Soman had several issues with Logan's using his body to physically intimidate her. On several occasions, Logan physically stood over Soman while she was seated at her desk in an intimidating posture. During this time, Soman was visibly uncomfortable with this invasion of her personal space. During the workday, Logan would also physically close in on Soman and use his body to prevent her from moving. When Logan would use his body to hang over Soman, she would repeatedly complain to him and tell him to "back off" but Logan would refuse to move forcing Soman to manipulate her body to get away from
- Logan's physical posturing. When Soman would make such evasive maneuvers, Logan would smile wryly at her while she struggled to get away from him. Logan did not treat other male employees this way.
- Soman received a group text message from Fader advising Soman and other union stewards that he was being fired.
- Upon receiving the text message Soman went to the IT Room, knocked and entered the room, and asked Logan "what are you doing?" Soman then asked Fader what happened and he responded that he was fired. Soman was focused and purposeful in her request for information, and continued to ask Logan and Grasso for an explanation but neither of them would provide her with any information. Soman then left the room, closed the door behind her, and yelled an expletive that was not directed at anyone in particular but was an expression of frustration.
- During this brief meeting, Soman did not say or do anything in a threatening, hostile or violent manner, or that threatened violence, or even suggested a threat of violence to anyone in that meeting.
- During this meeting, however, Soman did ask that Logan and Grasso call Chief Dave Anderson, Chief Mark Sanchez, and Fire Chief Fennessy to come down to the conference room because she felt strongly that Fader was released without any just cause. In addition, Soman felt that Logan treated her in a discriminatory manner for failing to inform her of Fader's release because she is woman.
- While Fader was taking his personal effects, Logan was smiling, and laughing at Fader and making strange, cruel and deranged comments such as "isn't this great?" and "wow! this is so cool!"
- On June 21, 2018, Soman was advised she was being placed on paid administrative leave effective immediately for alleged "misconduct" but never provided her with any specific information as to why.
- On September 4, 2018 OCFA wrote a letter from Chief Anderson notifying Soman of the OCFA's intent to discharge her from employment due to allegations of misconduct related to Fader's termination.
- The OCFA terminated Soman even though there are several male employees who have violated one or more of the tenets of the Professional Working Environment Memorandum.
- There is even a male dispatcher who had been disciplined twice, and sent to in-patient anger management therapy after he destroyed OCFA property and used profanity. He still works as a dispatcher. Further, Chief Anderson authorized his discipline, treatment, and ultimate return to duty.
- The OCFA has been guided by progressive discipline principles to its employees. That is to say, discipline is to be imposed in a progressive sequence and is to be corrective and not punitive. Soman, a career OCFA employee, was never given any progressive discipline, and was immediately slated for termination.
- After Fader was terminated from OCFA he pursued employment with the Metro Net Dispatch Center as a dispatcher. However, Logan spoke to a Metro Net employee charged with hiring, and lied to him by stating that Fader was a "problem child", that he "had a huge role in the union and needed to be released" and Fader would be a "headache."

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