

Former Newburgh employee seeks \$5M in federal discrimination suit against city, Joe Donat

[Lana Bellamy](#) Times Herald-Record

CITY OF NEWBURGH — A former city employee is seeking \$5 million in what is a third discrimination lawsuit filed against Newburgh and its former city manager.

Naomi Fay, an executive assistant to Joe Donat starting when he was named interim city manager in late 2018, is suing him and the city. She claims that Donat sexually harassed her at work and that the city did not react appropriately to her complaint.

Donat and the city are being represented by Richard Zuckerman, an attorney in Melville. Fay is represented by Frederick K. Brewington Law Offices in Hempstead. Her suit was filed in April in U.S. District Court for the Southern District of New York.

Zuckerman said in a telephone interview July 12 that both the city and Donat deny Fay's charges in the lawsuit.

"They were innocuous then (when the suit was filed) and are innocuous now," he said.

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Fay had served as executive assistant for Donat's predecessor, Michael Ciaravino, from 2014 until Ciaravino resigned in the fall of 2018. Prior to that she had been a typist in the city's engineering department, hired in 2010. Fay currently lives in the state of Washington, where she is a city clerk for Mill Creek, where Ciaravino is now the city manager.

"No one thinks that it's a coincidence that Ms. Fay's so-called complaints began when the person for whom she is currently working in Washington left Newburgh city government," Zuckerman said.

Fay's claims

Fay's claims of sexual harassment are alleged to have happened in February and March of 2019 "when Donat sent a series of improperly and sexually suggestive text messages,

including emojis," according to the lawsuit.

According to the suit, Fay tried to inform Donat that his attention was "unwelcome and unwanted," and that displeased Donat.

Fay claims Donat began retaliating against her starting in March by "aggressively criticizing" her work. According to the suit, Fay reported concerns about her safety to the city's legal department and filed a complaint.

The city's legal department investigated the complaint, according to the lawsuit, and deemed Fay's claims to be "unfounded."

Zuckerman, an attorney representing the city and Donat, says that Newburgh "promptly implemented its workplace policies, gave her (Fay) a paid leave of absence and hired an outside investigator to look into her allegations or claims. The investigator rejected her claims."

According to the lawsuit, Fay was fired June 14, 2019 after she refused to return to work. She claims in the suit she did not return because her workplace concerns were not properly addressed.

A few days prior to her termination, Fay filed a complaint with the state Division of Human Rights and cross-filed with the federal Equal Employment Opportunity Commission. Several months later, according to the suit, the DHR ruled Fay had "probable cause" to move forward with her discrimination lawsuit.

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Had the city made changes to address Fay's concerns after the DHR's ruling, there wouldn't have been a need to file a federal lawsuit, said Fay's attorney Frederick Brewington during a phone interview July 12.

"She (Fay) made every good effort to try and avoid bringing a case into federal court," Brewington said. "But the city of Newburgh, as far as we're concerned, missed a golden opportunity."

Fay's counsel is demanding a jury trial for this case, according to court documents. She is seeking \$5 million in damages, associated costs and attorney fees, as well as "equitable and injunctive relief," according to the suit.

Three lawsuits

Donat is named in two other discrimination lawsuits, both filed in May by city employees who are being represented by Goshen attorney Michael Sussman.

One lawsuit was filed on behalf of six Black or Hispanic employees alleging that Donat, as well as the former fire chief and DPW director intentionally discriminated against them on the basis of race by denying them employment opportunities, such as promotions.

The other suit filed by a former city planning employee against Donat and the Planning and Development director alleges the city violated the employee's first and fourteenth amendment rights when she was fired from her job because she promoted the rights and interests of people of color, and opposed municipal practices which devalue their rights and interests, according to the suit.

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