

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
ILBEY AYKAC

Plaintiff,

-against-

THE CITY OF NEW YORK; NEW YORK CITY POLICE
PENSION FUND; JESSICA S. TISCH; KEVIN
HOLLORAN; STEPHANIE L. ZIMBERG; BRYAN
THOMAS BERGE; PHILIP LAURENCE DUKES;
MICHAEL YON; JOHN F. DORSA; NICHOLAS MASI;
ALBERT R. ACIERNO; ARTHUR J. EGNER; RAYMOND
P. SALAMONE; LOUIS A. TURCO; ANTHONY BORELLI;
EDMUND J. SMALL; CHRISTOPHER T. MONAHAN;
KATHRYN KO, M.D.; BRUCE DAVID, D.O.; and
DAMIAN J. MARTINO, M.D.

Defendants
-----X

To the Defendants Named Above:

You are hereby summoned and required to serve a written answer to the attached Verified Complaint upon plaintiff's attorney at the address stated below.

If this Summons is personally delivered to you within the State of New York, you must serve your answer within twenty (20) days after such service, exclusive of the date of service.

If this Summons is served upon you in any other manner authorized by law, you must serve your answer within thirty (30) days after service is complete, as provided by the New York Civil Practice Law and Rules.

Should you fail to appear or answer within the applicable period stated above, judgment may be entered against you by default for the relief demanded in the Verified Complaint, without further notice.

This action will be heard in the Supreme Court of the State of New York, County of New York, 60 Centre Street, New York, New York 10007.

Venue is designated in New York County pursuant to CPLR 504(3) and CPLR 503(a) because the City of New York is a defendant and a substantial part of the events and omissions giving rise to plaintiff's claims occurred in New York County. CPLR 504(3) provides that an action against the City of New York shall be tried in the county within the City in which the cause of action arose.

The claims asserted in the Verified Complaint arise from the structure, administration, processing, medical review, legal-causation analysis, and final adjudication of plaintiff's application for Accident Disability Retirement benefits by the New York City Police Pension Fund and its officials. The challenged administrative process included proceedings before the Article II Medical Board and the Board of Trustees of the New York City Police Pension Fund, including the August 13, 2025 executive session and adjudication conducted at 233 Broadway, New York, New York, during which plaintiff's application for Accident Disability Retirement was ultimately denied by a 6–6 vote.

The discriminatory, disparate, arbitrary, and procedurally deficient conduct alleged in the Verified Complaint concerns the administration of a disability-related employment and pension benefit through standards, policies, practices, medical-review procedures, causation determinations, Board procedures, and decision-making occurring within New York County and administered by defendants located and operating within New York City.

Venue is not designated based upon plaintiff's residence.

Dated: September 29, 2026
Yonkers, N.Y.

Respectfully submitted,

By: s/Eric Sanders
Attorney for Plaintiff ILBEY AYKAC

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DEFENDANT ADDRESSES

THE CITY OF NEW YORK
c/o New York City Law Department
100 Church Street
New York, New York 10007

NEW YORK CITY POLICE PENSION FUND; JESSICA S. TISCH; KEVIN HOLLORAN;
STEPHANIE L. ZIMBERG; BRYAN THOMAS BERGE; PHILIP LAURENCE DUKES;
MICHAEL YON; JOHN F. DORSA; NICHOLAS MASI; ALBERT R. ACIERNO; ARTHUR J.
EGNER; RAYMOND P. SALAMONE; LOUIS A. TURCO; ANTHONY BORELLI;
EDMUND J. SMALL; CHRISTOPHER T. MONAHAN; KATHRYN KO, M.D.; BRUCE
DAVID, D.O.; and DAMIAN J. MARTINO, M.D.,
c/o New York City Pension Fund
233 Broadway
New York, New York 10007

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DAMIAN J. MARTINO, M.D.

Defendants
-----X

Verified Complaint

Index No.

Jury Demand

The Plaintiff ILBEY AYKAC through his attorney The Sanders Firm, P.C., files this
Verified Complaint against defendants THE CITY OF NEW YORK; NEW YORK CITY POLICE
PENSION FUND; JESSICA S. TISCH; KEVIN HOLLORAN; STEPHANIE L. ZIMBERG;
BRYAN THOMAS BERGE; PHILIP LAURENCE DUKES; MICHAEL YON; JOHN F. DORSA;
NICHOLAS MASI; ALBERT R. ACIERNO; ARTHUR J. EGNER; RAYMOND P.
SALAMONE; LOUIS A. TURCO; ANTHONY BORELLI; EDMUND J. SMALL;
CHRISTOPHER T. MONAHAN; KATHRYN KO, M.D.; BRUCE DAVID, D.O.; and DAMIAN
J. MARTINO, M.D., respectfully set forth and allege that:

INTRODUCTION

This action challenges the discriminatory administration of Accident Disability
Retirement benefits by THE CITY OF NEW YORK and the NEW YORK CITY POLICE

PENSION FUND under the New York State Human Rights Law and New York City Human Rights Law. This is not merely a challenge to a single unfavorable pension determination. Plaintiff ILBEY AYKAC challenges a disability-benefit system administered through inadequately defined, inconsistently applied, and materially elastic standards, training, and guidance governing disability, medical evidence, actual job functions, pre-existing conditions, aggravation, causation, and entitlement to Accident Disability Retirement.

THE CITY OF NEW YORK and the NEW YORK CITY POLICE PENSION FUND maintained and administered that system. The statutory structure further places the Police Commissioner in inherently overlapping roles: the Commissioner may initiate a disability-retirement referral while simultaneously serving as Chairperson of the Board of Trustees that ultimately adjudicates ADR applications and exercising a weighted vote upon those applications. Defendant JESSICA S. TISCH presently occupies both positions. Defendant KEVIN HOLLORAN, as Executive Director of the NEW YORK CITY POLICE PENSION FUND, administered the process through which plaintiff's application was reviewed, including remanding the application to the Article II Medical Board for consideration of additional evidence.

Defendants KATHRYN KO, M.D., BRUCE DAVID, D.O., and DAMIAN J. MARTINO, M.D., as members of the Article II Medical Board, personally evaluated plaintiff and applied the challenged medical, disability, and causation criteria. They unanimously denied both ADR and ODR in November 2022, reaffirmed those determinations in October 2023, and, only after plaintiff underwent a two-level cervical fusion, reversed their disability determination in November 2024 and found plaintiff incapable of performing full police duty. Nevertheless, they continued to deny ADR on causation grounds without identifying or applying a defined

standard governing whether plaintiff's line-of-duty trauma precipitated, aggravated, accelerated, or rendered symptomatic his pre-existing or chronic cervical pathology, notwithstanding the established New York causation principle that aggravation of a latent or pre-existing condition may constitute the natural and proximate cause of disability. *See Matter of Tobin v. Steisel*, 64 N.Y.2d 254, 259 (1985).

Defendants STEPHANIE L. ZIMBERG, BRYAN THOMAS BERGE, PHILIP LAURENCE DUKES, MICHAEL YON, JOHN F. DORSA, NICHOLAS MASI, ALBERT R. ACIERNO, ARTHUR J. EGNER, RAYMOND P. SALAMONE, LOUIS A. TURCO, ANTHONY BORELLI, EDMUND J. SMALL, and CHRISTOPHER T. MONAHAN exercised governance and adjudicative authority as members of the Board of Trustees and participated in the August 13, 2025 proceeding concerning plaintiff's ADR application. Plaintiff specifically presented the issues of aggravation, pre-existing pathology, causation, his pre-accident ability to perform full police duty, and his treating physicians' causation opinions. Defendant DUKES nevertheless announced that the City side would not support the upgrade based principally upon the Medical Board's prior causation determinations, and plaintiff's ADR application was denied by a 6–6 vote.

The deficiencies affecting plaintiff's application were not confined to a single medical determination or Board vote. In September 2026, the New York City Department of Investigation independently examined the Pension Fund's administration of ADR and found that its regulations governing disability evaluation were limited, that the Medical Board applied a generalized "essential functions" approach rather than an applicant's actual job duties, and that clear training and guidance were necessary to ensure even-handed determinations. DOI further reported that it had no visibility into how the Medical Board was trained despite subpoenaing the

Pension Fund for training and guidance materials. DOI recommended additional regulations, training, and guidance, which the Pension Fund rejected in material part.

The consequences of that discretion are illustrated by the Fund's treatment of former Chief of Department JOHN CHELL. In considering CHELL's ADR application, the Board engaged in an individualized examination of whether the activity producing his injury fell within his actual duties as Chief of Department. Plaintiff alleges that this demonstrates that the Fund's criteria are not immutable, but sufficiently flexible to accommodate individualized analysis when defendants choose to employ it. Plaintiff, by contrast, was subjected to an unusually restrictive causation barrier despite documented line-of-duty spinal trauma, treating-physician causation evidence, failed conservative treatment, cervical fusion surgery, and the Medical Board's eventual determination that he could no longer perform full police duty.

Plaintiff does not allege that rank itself constitutes a protected characteristic or that DOI found discrimination in CHELL's case. Rather, the differential administration demonstrates that the Pension Fund's standards were sufficiently undefined, elastic, and applicant-dependent to permit materially different levels of scrutiny. Plaintiff alleges that defendants exercised that discretion adversely against the nature, history, manifestations, and perceived origin of his disability by imposing an unusually restrictive causation barrier upon a spinal condition that had not prevented him from performing full police duty before his line-of-duty accident and that thereafter became symptomatic, disabling, and surgically treated.

Plaintiff alleges that THE CITY OF NEW YORK and NEW YORK CITY POLICE PENSION FUND maintained the challenged system; TISCH exercised governing authority within its structurally conflicted framework; HOLLORAN administered its procedures; KO, DAVID, and MARTINO applied its medical and causation criteria directly to plaintiff; and

ZIMBERG, BERGE, DUKES, YON, DORSA, MASI, ACIERNO, EGNER, SALAMONE, TURCO, BORELLI, SMALL, and MONAHAN reviewed and adjudicated plaintiff's ADR application. Through those respective actions, defendants subjected plaintiff's disability, medical history, pre-existing cervical pathology, aggravation evidence, and causation evidence to materially harsher and less favorable treatment and denied ADR because of the nature, history, manifestations, and perceived causation of his disability, in violation of the NYSHRL and NYCHRL. Plaintiff further alleges that the individual defendants, through their actual participation in the conduct alleged herein, aided and abetted that unlawful discrimination within the meaning of Executive Law § 296(6) and Administrative Code § 8-107(6).

JURISDICTION AND VENUE

1. This Court has subject-matter jurisdiction over this action because plaintiff ILBEY AYKAC asserts claims arising under the New York State Human Rights Law, N.Y. Exec. Law § 296, including claims for disability discrimination, aiding and abetting, and related legal and equitable relief arising from defendants' administration of plaintiff's disability-related pension benefits.

2. Plaintiff further asserts claims under the New York City Human Rights Law, N.Y.C. Admin. Code § 8-107, including claims for disability discrimination, aiding and abetting, and related relief arising from defendants' conduct occurring within New York City and affecting the terms, conditions, privileges, compensation, and benefits of plaintiff's employment with THE CITY OF NEW YORK.

3. This Court has jurisdiction over defendants THE CITY OF NEW YORK and NEW YORK CITY POLICE PENSION FUND because THE CITY OF NEW YORK was

plaintiff's employer and the NEW YORK CITY POLICE PENSION FUND administered, processed, reviewed, and adjudicated the disability-retirement benefits challenged in this action.

4. This Court has jurisdiction over defendants JESSICA S. TISCH and KEVIN HOLLORAN because, at all relevant times, TISCH acted as Police Commissioner and Chairperson of the Board of Trustees of the NEW YORK CITY POLICE PENSION FUND, and HOLLORAN acted as Executive Director of the Fund and participated in the administration and processing of plaintiff's disability-retirement application.

5. This Court has jurisdiction over defendants STEPHANIE L. ZIMBERG, BRYAN THOMAS BERGE, PHILIP LAURENCE DUKES, MICHAEL YON, JOHN F. DORSA, NICHOLAS MASI, ALBERT R. ACIERNO, ARTHUR J. EGNER, RAYMOND P. SALAMONE, LOUIS A. TURCO, ANTHONY BORELLI, EDMUND J. SMALL, and CHRISTOPHER T. MONAHAN because, at all relevant times, each acted as a member of the Board of Trustees and participated in, administered, maintained, applied, approved, facilitated, or adjudicated the disability-retirement practices challenged herein. The August 13, 2025 executive session concerning plaintiff's application identifies these defendants as members of the Board of Trustees participating in that proceeding.

6. This Court has jurisdiction over defendants KATHRYN KO, M.D., BRUCE DAVID, D.O., and DAMIAN J. MARTINO, M.D. because each personally participated in the Article II Medical Board's review and adjudication of plaintiff's disability-retirement application, including the determinations denying Accident Disability Retirement and the application of the medical and causation standards challenged in this action.

7. Venue is proper in New York County pursuant to CPLR 503(a) and 504(3) because THE CITY OF NEW YORK is a defendant and substantial portions of the challenged

pension administration, review, and adjudicative process occurred in New York County.

Plaintiff's August 13, 2025 Board of Trustees proceeding was conducted at 233 Broadway, New York, New York, where his application for Accident Disability Retirement was denied by a 6–6 vote.

8. Plaintiff's NYCHRL claims bear the requisite nexus to New York City because plaintiff was employed by THE CITY OF NEW YORK as an NYPD police officer and alleges that defendants' discriminatory administration of a disability-related employment and pension benefit occurred through City entities and officials operating within New York City and deprived him of benefits and privileges arising directly from that employment.

9. Plaintiff does not bring this plenary action merely to obtain judicial review of the August 13, 2025 pension determination. Plaintiff asserts statutory civil-rights claims under the NYSHRL and NYCHRL challenging discriminatory practices throughout the administration, medical evaluation, processing, review, and adjudication of his disability-retirement benefits, together with the individual defendants' participation in and aiding and abetting of those practices.

PROCEDURAL HISTORY AND CONDITIONS PRECEDENT

10. On December 2, 2025, plaintiff commenced a proceeding pursuant to CPLR Article 78 in Supreme Court, New York County, captioned *Matter of Aykac v. Tisch, et al.*, Index No. 165638/2025, challenging the August 13, 2025 determination denying his application for Accident Disability Retirement.

11. In the Article 78 proceeding, plaintiff seeks annulment of the administrative determination denying Accident Disability Retirement and an order directing defendants to award the benefit or, alternatively, remanding the application for further administrative review.

12. The pending Article 78 proceeding challenges the legality and rationality of plaintiff's individual pension determination. This plenary action separately asserts statutory civil-rights claims under the NYSHRL and NYCHRL arising from defendants' discriminatory administration, maintenance, application, and adjudication of the disability-retirement process and seeks compensatory, declaratory, equitable, and other relief available under those statutes.

13. Plaintiff's claims under the NYSHRL and NYCHRL do not require exhaustion of administrative remedies before commencement of a plenary civil action, and plaintiff has satisfied all conditions precedent applicable to the claims asserted herein.

14. Service of a notice of claim pursuant to General Municipal Law §§ 50-e and 50-i is not a condition precedent to plaintiff's NYSHRL and NYCHRL causes of action because those statutory discrimination claims are not claims founded upon tort.

15. Plaintiff brings this action within the applicable limitations periods and seeks relief for defendants' discriminatory conduct, including the individual defendants' direct participation in, facilitation of, approval of, maintenance of, and aiding and abetting of the discriminatory practices alleged herein.

PLAINTIFF

16. Plaintiff ILBEY AYKAC is a resident and citizen of the State of New York who was appointed to the uniformed force of the New York City Police Department on January 7, 2008. Before his appointment, AYKAC successfully completed the physical and psychological examinations required by the NYPD and was medically qualified to perform the full duties of a police officer.

17. During his employment, AYKAC was a member of the NEW YORK CITY POLICE PENSION FUND and made the contributions required by law. After sustaining line-of-

duty injuries affecting his cervical and lumbar spine, AYKAC underwent extensive medical treatment, remained subject to work restrictions, and ultimately underwent a two-level cervical fusion on March 28, 2024.

18. As a result of AYKAC's line-of-duty injuries and continuing physical limitations, then-Police Commissioner Keechant L. Sewell directed that AYKAC be examined by the Article II Medical Board for Accident Disability Retirement and, alternatively, Ordinary Disability Retirement. The November 15, 2022 Medical Board report expressly states that the Police Commissioner directed the Article II Medical Board to examine AYKAC to determine whether he remained capable of performing full police duty. Sewell was serving as Police Commissioner at that time.

19. AYKAC's applications were thereafter repeatedly evaluated by defendants KATHRYN KO, M.D., BRUCE DAVID, D.O., and DAMIAN J. MARTINO, M.D., who constituted the Article II Medical Board. Those defendants denied both applications in November 2022, reaffirmed their determinations in October 2023, and, following AYKAC's cervical fusion, determined in November 2024 that he was disabled from performing police duty but continued to deny Accident Disability Retirement on causation grounds.

20. Defendant KEVIN HOLLORAN, as Executive Director of the NEW YORK CITY POLICE PENSION FUND, participated in the administration and processing of AYKAC's application, including remanding the matter to the Article II Medical Board for review of additional medical evidence. Defendant JESSICA S. TISCH thereafter served simultaneously as Police Commissioner and Chairperson of the Board of Trustees responsible for the administration and adjudication of disability-retirement benefits.

21. On August 13, 2025, AYKAC's request for Accident Disability Retirement was considered by defendants STEPHANIE L. ZIMBERG, BRYAN THOMAS BERGE, PHILIP LAURENCE DUKES, MICHAEL YON, JOHN F. DORSA, NICHOLAS MASI, ALBERT R. ACIERNO, ARTHUR J. EGNER, RAYMOND P. SALAMONE, LOUIS A. TURCO, ANTHONY BORELLI, EDMUND J. SMALL, and CHRISTOPHER T. MONAHAN as members of the Board of Trustees. The application was denied by a 6–6 vote, leaving AYKAC on service retirement rather than Accident Disability Retirement.

DEFENDANTS

22. Defendant THE CITY OF NEW YORK is a municipal corporation and was plaintiff's employer through the New York City Police Department. THE CITY OF NEW YORK is responsible for the employment-related pension and disability-benefit practices challenged herein, including the maintenance and administration of a disability-retirement process lacking sufficiently defined, published, and uniformly applied standards, training, guidance, and conflict safeguards governing disability, medical evidence, actual job duties, pre-existing conditions, aggravation, and causation.

23. Defendant NEW YORK CITY POLICE PENSION FUND administers pension and disability-retirement benefits for eligible NYPD members, including Accident Disability Retirement. The NEW YORK CITY POLICE PENSION FUND maintained and administered the challenged application, medical-review, and adjudicative process despite the absence of sufficiently articulated regulations, standards, training, guidance, and conflict procedures necessary to ensure consistent and even-handed determinations. DOI specifically recommended additional regulations, training, and guidance and reported that it lacked visibility into how the Medical Board was trained.

24. Defendant JESSICA S. TISCH is the Police Commissioner of the City of New York and Chairperson of the Board of Trustees of the NEW YORK CITY POLICE PENSION FUND and is sued individually and in both official capacities. The statutory structure places TISCH at both ends of the disability-retirement process: the Police Commissioner may direct an NYPD member to the Article II Medical Board for disability-retirement consideration, while the same Police Commissioner chairs the Board ultimately responsible for adjudicating the application and is entitled to cast one and one-half votes. The Police Commissioner also appoints the Fund's Executive Director. N.Y.C. Admin. Code § 13-216(a)(1), (c). Plaintiff alleges that this overlapping authority creates an inherent institutional conflict by permitting the head of the employing agency to initiate, administer, chair, participate in, and materially influence the adjudication of disability-retirement applications arising from that same employment.

25. Defendant KEVIN HOLLORAN is the Executive Director of the NEW YORK CITY POLICE PENSION FUND and is sued individually and in his official capacity. HOLLORAN, whose office is appointed through the statutory authority of the Police Commissioner, participated in the administration and processing of plaintiff's disability-retirement application, including remanding the matter to the Article II Medical Board for additional review, and participated in administering the challenged standards, procedures, training, and guidance governing ADR applications.

26. Defendants STEPHANIE L. ZIMBERG, BRYAN THOMAS BERGE, PHILIP LAURENCE DUKES, MICHAEL YON, JOHN F. DORSA, NICHOLAS MASI, ALBERT R. ACIERNO, ARTHUR J. EGNER, RAYMOND P. SALAMONE, LOUIS A. TURCO, ANTHONY BORELLI, EDMUND J. SMALL, and CHRISTOPHER T. MONAHAN are sued individually and in their official capacities as members of the Board of Trustees of the NEW

YORK CITY POLICE PENSION FUND. Each participated in governing, maintaining, applying, reviewing, or adjudicating a disability-retirement process lacking sufficiently defined standards, transparent training and guidance, and adequate conflict and recusal safeguards, and each participated in the August 13, 2025 proceeding concerning plaintiff's ADR application.

27. Defendants KATHRYN KO, M.D., BRUCE DAVID, D.O., and DAMIAN J. MARTINO, M.D. are sued individually and in their official capacities as members of the Article II Medical Board. Each personally examined, reviewed, and adjudicated plaintiff's disability-retirement application and applied the challenged disability and causation standards to plaintiff. DOI subsequently determined that clear Medical Board training and guidance were necessary to ensure even-handed disability determinations and reported that it could not determine how the Medical Board was trained despite seeking that information from the Pension Fund.

28. At all relevant times, the individual defendants personally participated in, administered, maintained, applied, approved, facilitated, or aided and abetted the discriminatory practices alleged herein, including a disability-retirement process in which inadequately defined standards, insufficiently transparent training and guidance, and unresolved structural conflicts permitted subjective assessments of plaintiff's disability, medical evidence, pre-existing conditions, aggravation, and causation.

BACKGROUND

A. The New York City Police Pension Fund and the Article II Disability-Retirement Process

29. The NEW YORK CITY POLICE PENSION FUND is the public retirement system responsible for administering retirement and disability benefits for eligible members of the New York City Police Department. Although the Pension Fund works closely with the

NYPD, New York City Administrative Code § 13-216(e)(5)(i) expressly provides that the Pension Fund is an entity separate from the NYPD.

30. The NEW YORK CITY POLICE PENSION FUND is administered by a Board of Trustees vested with authority to establish rules and regulations governing the administration and transaction of the Fund's business. N.Y.C. Admin. Code § 13-216(a).

31. Applications for Accident Disability Retirement may be initiated by the Police Commissioner, by the member, or by a person acting on the member's behalf. The governing statute requires an examination and investigation to determine whether the member is physically or mentally incapacitated from city service as the natural and proximate result of an accidental injury sustained in such service. N.Y.C. Admin. Code § 13-252.

32. The Article II Medical Board consists of three physicians and is responsible for conducting required medical examinations, investigating the statements and certifications submitted in connection with disability-retirement applications, and reporting its conclusions and recommendations to the Board of Trustees. N.Y.C. Admin. Code § 13-223.

33. The Medical Board's determination concerning whether an applicant is medically incapacitated constitutes the medical predicate for the ADR process. The Board of Trustees thereafter determines whether the disability satisfies the statutory requirements for Accident Disability Retirement, including whether the disability resulted from qualifying city service.

34. Defendant KEVIN HOLLORAN, as Executive Director of the NEW YORK CITY POLICE PENSION FUND, participates in the administration and processing of disability-retirement applications. In plaintiff's case, HOLLORAN communicated remands of plaintiff's application to the Article II Medical Board for review of additional evidence.

B. The Absence of Defined Standards, Training, and Guidance

35. Notwithstanding the substantial financial and employment consequences of an ADR determination, defendants THE CITY OF NEW YORK and NEW YORK CITY POLICE PENSION FUND maintained the disability-retirement system; defendant JESSICA S. TISCH, as Police Commissioner and Chairperson of the Board of Trustees, and defendants STEPHANIE L. ZIMBERG, BRYAN THOMAS BERGE, PHILIP LAURENCE DUKES, MICHAEL YON, JOHN F. DORSA, NICHOLAS MASI, ALBERT R. ACIERNO, ARTHUR J. EGNER, RAYMOND P. SALAMONE, LOUIS A. TURCO, ANTHONY BORELLI, EDMUND J. SMALL, and CHRISTOPHER T. MONAHAN, as trustees, governed and continued that system; defendant KEVIN HOLLORAN administered its procedures; and defendants KATHRYN KO, M.D., BRUCE DAVID, D.O., and DAMIAN J. MARTINO, M.D. applied its medical and causation criteria. Collectively, those defendants operated and applied the ADR process without sufficiently defined and published standards, training, and guidance governing how disability applications were to be evaluated and how the statutory criteria were to be consistently and even-handedly applied.

36. In September 2026, the New York City Department of Investigation examined the NEW YORK CITY POLICE PENSION FUND's administration of Accident Disability Retirement and found that the Fund had not promulgated regulations further defining when a member is "incapacitated for the performance of city-service" or "duty."

37. DOI further found that, in practice, the Medical Board evaluated members by determining whether they could perform generalized "essential functions of a police officer," rather than assessing incapacity by reference to the applicant's actual duties. DOI contrasted that practice with the disability-retirement system applicable to State Police officers, which evaluates incapacity according to the individual applicant's actual duties.

38. DOI concluded that additional regulations, training, and guidance were necessary to ensure that ADR applications were evaluated under appropriate and consistently applied standards. DOI specifically recommended that the NEW YORK CITY POLICE PENSION FUND adopt regulations, training, and guidance requiring disability applications to be evaluated according to an officer's actual job duties.

39. DOI separately determined that clear Medical Board training and guidance were necessary to ensure even-handed disability determinations because the Medical Board serves as the principal medical decisionmaker concerning whether an ADR applicant is incapacitated.

40. DOI was unable to determine how the Medical Board was trained. DOI reported that it subpoenaed the NEW YORK CITY POLICE PENSION FUND on March 6, 2026 for materials concerning Medical Board guidance and training, but the Fund had neither produced responsive materials nor confirmed that no such materials existed. DOI thereafter requested an informational interview with a Medical Board representative, which the Fund had not facilitated when DOI issued its report.

41. Plaintiff alleges that these deficiencies were directly relevant to the process applied to him. Defendants KO, DAVID, and MARTINO evaluated plaintiff's disability, medical evidence, functional limitations, pre-existing pathology, and causation without sufficiently articulated and transparent standards, training, or guidance capable of ensuring that those considerations were assessed consistently and even-handedly rather than through subjective medical and administrative judgment.

C. The Police Commissioner's Structural Conflict of Interest

42. Although the NEW YORK CITY POLICE PENSION FUND is statutorily separate from the NYPD, the statutory structure places the Police Commissioner in multiple positions of authority within the disability-retirement process.

43. The Police Commissioner may initiate an ADR application and thereby direct that an NYPD member be examined for disability retirement. N.Y.C. Admin. Code § 13-252. In plaintiff's case, then-Police Commissioner Sewell exercised that authority and directed the Article II Medical Board to examine plaintiff for Accident Disability Retirement or, alternatively, Ordinary Disability Retirement.

44. The same statutory office that may initiate the disability-retirement process also serves as Chairperson of the Board of Trustees that ultimately acts upon ADR applications. The Police Commissioner is entitled to cast one and one-half votes as a trustee. N.Y.C. Admin. Code § 13-216(a)(1).

45. The Police Commissioner also appoints the Executive Director of the NEW YORK CITY POLICE PENSION FUND, subject to Board approval when the appointee is not a member of the uniformed force, and the Executive Director performs duties conferred by the Chairperson, the Board, or law. N.Y.C. Admin. Code § 13-216(c).

46. Defendant JESSICA S. TISCH presently occupies both positions of Police Commissioner and Chairperson of the Board of Trustees. Plaintiff alleges that this structure creates an inherent institutional conflict because the head of the employing law-enforcement agency may initiate disability-retirement referrals while simultaneously chairing, participating in, and exercising a weighted vote upon the pension body responsible for ultimately adjudicating those applications.

47. The absence of sufficiently defined substantive standards, transparent training and guidance, and adequate structural safeguards magnifies that conflict by permitting the Police Commissioner and other trustees to exercise substantial discretion within a process affecting disability-related employment benefits. Plaintiff alleges that these structural conditions formed part of the discriminatory process through which his own ADR application was reviewed and denied.

D. Plaintiff's Line-of-Duty Injuries and Resulting Disability

48. On June 26, 2019, while plaintiff was a passenger in an NYPD vehicle responding to an emergency, the vehicle was struck on the passenger side. Plaintiff sustained injuries to his cervical spine, lumbar spine, and right hip.

49. On November 7, 2019, plaintiff sustained a second line-of-duty injury while attempting to secure a combative prisoner during an authorized strip search. The prisoner suddenly pulled plaintiff toward him in an aggressive jerking motion, causing injuries to plaintiff's neck, lower back, right arm, and right knee. The NYPD investigation determined that plaintiff was not negligent in the performance of his duties.

50. Following those incidents, plaintiff experienced continuing cervical and lumbar pain, radicular symptoms, restricted range of motion, and other functional limitations. His treating physicians repeatedly attributed his cervical and lumbar symptoms to the line-of-duty incidents, and diagnostic imaging documented cervical and lumbar pathology during the years following those injuries.

51. Conservative treatment failed to resolve plaintiff's cervical condition. On March 28, 2024, plaintiff underwent a C5 through C7 anterior cervical discectomy and fusion. His pre-

and post-operative diagnoses included C6-C7 spondylolisthesis, a chronic C6 burst fracture, a C5-C6 herniated disc, and C6 radiculopathy.

52. Following surgery, plaintiff's treating spine surgeon continued to find that plaintiff could not return to full police duty and attributed the competent cause of plaintiff's condition to the June 26, 2019 line-of-duty motor-vehicle accident.

E. Defendants KO, DAVID, and MARTINO's Application of the Challenged Standards

53. On November 15, 2022, defendants KATHRYN KO, M.D., BRUCE DAVID, D.O., and DAMIAN J. MARTINO, M.D., acting as the Article II Medical Board, evaluated plaintiff under the disability-retirement process maintained and administered by the other defendants.

54. KO, DAVID, and MARTINO concluded that plaintiff's reported symptoms were not adequately supported by objective findings, determined that he remained capable of performing full police duty, and unanimously recommended disapproval of both Accident Disability Retirement and Ordinary Disability Retirement.

55. In 2023, defendant KEVIN HOLLORAN remanded plaintiff's application to the Article II Medical Board based upon new evidence. KO, DAVID, and MARTINO re-reviewed plaintiff's medical file but again concluded that there were no objective findings supporting plaintiff's subjective complaints and reaffirmed their prior determinations denying both ADR and ODR.

56. After plaintiff underwent the two-level cervical fusion, his application was again remanded for consideration of new evidence, including the March 28, 2024 operative report documenting significant cervical pathology and surgical intervention.

57. On November 19, 2024, KO, DAVID, and MARTINO reversed their prior conclusion concerning disability and determined that plaintiff's two-level fusion and resulting restricted range of motion rendered him unable to perform full police duty. They therefore approved Ordinary Disability Retirement but continued to disapprove Accident Disability Retirement, asserting that the medical documentation did not demonstrate a causal relationship between plaintiff's line-of-duty injuries and his disabling cervical condition.

58. Thus, the same Medical Board defendants who had repeatedly characterized plaintiff's limitations as unsupported subjective complaints ultimately acknowledged that plaintiff was, in fact, disabled from full police duty, yet continued to deny ADR based upon causation under the inadequately defined standards, training, and guidance alleged above.

F. Defendants' Treatment of Pre-Existing Conditions, Aggravation, and Causation

59. Plaintiff entered NYPD service medically qualified to perform full police duty and performed those duties for more than eleven years before the June 26, 2019 line-of-duty accident.

60. Imaging performed immediately following that accident identified a left C6 pars defect described as possibly chronic, congenital, or the product of prior trauma, together with C6-C7 anterolisthesis. Plaintiff's treating physicians thereafter documented post-traumatic symptoms and repeatedly related his cervical condition to the line-of-duty accident.

61. The existence of pre-existing, degenerative, congenital, or chronic pathology did not defeat causation. New York law recognizes that an accident which precipitates the development of a latent condition or aggravates a pre-existing condition may constitute the natural and proximate cause of the resulting disability. *Matter of Tobin v. Steisel*, 64 N.Y.2d 254, 259 (1985).

62. Plaintiff had performed full police duty for more than eleven years before the June 26, 2019 accident without a disabling cervical condition. Following that line-of-duty trauma, plaintiff developed continuing cervical symptoms, received repeated treating-physician opinions relating his condition to the accident, failed conservative treatment, underwent a two-level cervical fusion, and was ultimately determined by defendants KATHRYN KO, M.D., BRUCE DAVID, D.O., and DAMIAN J. MARTINO, M.D. to be incapable of performing full police duty.

63. Nevertheless, defendants KO, DAVID, and MARTINO denied ADR on causation grounds without identifying or applying a defined standard addressing whether the June 26, 2019 accident precipitated, aggravated, accelerated, or rendered symptomatic plaintiff's pre-existing or chronic cervical pathology. Their analysis therefore failed to address the central causation inquiry presented where an officer performs full duty before an accident and thereafter becomes disabled from a condition that may previously have been latent, asymptomatic, or non-disabling.

64. On August 12, 2025, plaintiff specifically presented that causation and aggravation theory to defendants STEPHANIE L. ZIMBERG, BRYAN THOMAS BERGE, PHILIP LAURENCE DUKES, MICHAEL YON, JOHN F. DORSA, NICHOLAS MASI, ALBERT R. ACIERNO, ARTHUR J. EGNER, RAYMOND P. SALAMONE, LOUIS A. TURCO, ANTHONY BORELLI, EDMUND J. SMALL, and CHRISTOPHER T. MONAHAN, acting as trustees of the NEW YORK CITY POLICE PENSION FUND. Notwithstanding plaintiff's evidence that he had performed full police duty before the accident and became disabled thereafter, the trustee defendants denied ADR without identifying any uniform standard governing aggravation of pre-existing pathology or explaining how plaintiff's evidence was evaluated under the causation principle recognized in Tobin.

G. The Board of Trustees' August 13, 2025 Adjudication

65. On August 13, 2025, plaintiff's request for an upgrade to Accident Disability Retirement came before defendants STEPHANIE L. ZIMBERG, BRYAN THOMAS BERGE, PHILIP LAURENCE DUKES, MICHAEL YON, JOHN F. DORSA, NICHOLAS MASI, ALBERT R. ACIERNO, ARTHUR J. EGNER, RAYMOND P. SALAMONE, LOUIS A. TURCO, ANTHONY BORELLI, EDMUND J. SMALL, and CHRISTOPHER T. MONAHAN, acting as members of the Board of Trustees of the NEW YORK CITY POLICE PENSION FUND.

66. Plaintiff's counsel had submitted a memorandum specifically addressing causation, aggravation, plaintiff's pre-existing or latent cervical pathology, his ability to perform full police duty before the June 26, 2019 accident, and the medical evidence attributing his disabling condition to that accident.

67. During the August 13, 2025 proceeding, defendant DUKES stated on behalf of the City side that "we are not going to support the upgrade," principally because the Medical Board had previously found no causal relationship between plaintiff's line-of-duty injuries and his disability. DUKES did not identify any articulated Pension Fund standard governing aggravation of pre-existing pathology or explain how plaintiff's specific aggravation evidence had been evaluated under such a standard.

68. The proceeding concluded with a 6–6 determination on ADR. Defendant ZIMBERG participated in the discussion concerning plaintiff's retirement status, and defendant EGNER confirmed the 6–6 disposition and withdrawal of ODR because plaintiff had already retired on service retirement. Plaintiff therefore remained on service retirement rather than receiving ADR.

69. Plaintiff alleges that defendants ZIMBERG, BERGE, DUKES, YON, DORSA, MASI, ACIERNO, EGNER, SALAMONE, TURCO, BORELLI, SMALL, and MONAHAN adjudicated plaintiff's application within the same system described above, without sufficiently defined and uniformly applied standards or training governing aggravation, causation, pre-existing conditions, and the evaluation of competing medical evidence.

H. The Chell Example Demonstrates the Elastic and Subjective Application of ADR Standards

70. The absence of defined and consistently applied standards is illustrated by the NEW YORK CITY POLICE PENSION FUND's treatment of former Chief of Department JOHN CHELL, the highest-ranking uniformed member of the NYPD, who received Accident Disability Retirement totaling approximately \$295,919.64 annually following an ankle injury sustained in July 2024.

71. In evaluating CHELL's application, the Board of Trustees did not mechanically apply a rigid or predetermined causation rule. Instead, the trustees debated whether the field activity during which CHELL was injured fell within his actual duties as Chief of Department. One trustee emphasized that the Chief of Department position was principally administrative, while another characterized field activity as a leadership function. DOI reported that one trustee resorted to information found online to determine what CHELL's actual duties entailed. Yet there was no disagreement that CHELL's particular duties should be examined in determining causation.

72. Plaintiff, by contrast, was a rank-and-file police officer who sustained documented line-of-duty trauma, performed full police duty before those injuries, thereafter developed continuing cervical symptoms, received treating-physician opinions relating those symptoms to his line-of-duty accident, failed conservative treatment, underwent a two-level

cervical fusion, and was ultimately determined by defendants KO, DAVID, and MARTINO to be incapable of performing full police duty.

73. Nevertheless, defendants KO, DAVID, and MARTINO imposed an extraordinarily restrictive causation barrier upon plaintiff. They repeatedly rejected his medical evidence, characterized his symptoms as subjective or non-organic, and, even after acknowledging that plaintiff's cervical condition rendered him permanently incapable of full police duty, continued to deny ADR without identifying any defined standard governing whether plaintiff's line-of-duty trauma caused, aggravated, accelerated, or converted pre-existing cervical pathology into a disabling condition.

74. Defendants ZIMBERG, BERGE, DUKES, YON, DORSA, MASI, ACIERNO, EGNER, SALAMONE, TURCO, BORELLI, SMALL, and MONAHAN thereafter adjudicated plaintiff's ADR application without applying any identified uniform standard governing aggravation or pre-existing pathology. Defendant DUKES expressly relied upon the Medical Board's repeated statement that causation had not been established and announced that the City side would not support plaintiff's upgrade, notwithstanding plaintiff's specific presentation of aggravation evidence and treating-physician causation opinions.

75. Plaintiff alleges that the contrast demonstrates the elasticity of the Pension Fund's decision-making criteria. When adjudicating the application of a senior NYPD executive such as CHELL, the Fund was willing to engage in an individualized examination of what constituted that particular official's duties and whether the activity producing his injury fell within them. When adjudicating plaintiff's claim, however, defendants imposed an exacting causation requirement without any published or consistently articulated standard explaining what evidence

would establish aggravation of a pre-existing condition or overcome defendants' characterization of plaintiff's spinal pathology.

76. The disparity is particularly significant because DOI itself identified a reported perception that senior NYPD officials such as CHELL could obtain ADR benefits more readily than rank-and-file officers and concluded that clearer regulations were necessary to reduce the risk of differential treatment based upon rank.

77. Plaintiff does not allege that DOI determined CHELL's ADR award was unlawful or that DOI itself made a finding of discrimination. Rather, plaintiff alleges that CHELL's treatment provides concrete evidence of a system sufficiently undefined and discretionary to permit its standards to expand or contract depending upon the applicant. That discretion permitted individualized flexibility for a high-ranking official while defendants subjected plaintiff's line-of-duty spinal disability to an ultra-strict and inadequately defined causation barrier.

I. DOI's Independent Examination of the Challenged Practices

78. In September 2026, DOI independently examined the administration of Accident Disability Retirement by the NEW YORK CITY POLICE PENSION FUND and identified deficiencies concerning the standards, procedures, training, and guidance governing ADR determinations.

79. DOI found that the Article II Medical Board evaluates applicants under generalized police-officer functions rather than the applicant's actual job duties and concluded that additional regulations, training, and guidance were necessary to ensure that ADR applications were evaluated under clear and consistently applied standards.

80. DOI further determined that clear Medical Board training and guidance were necessary to ensure even-handed disability determinations and reported that it had “no visibility” into how the Medical Board was trained. After subpoenaing the NEW YORK CITY POLICE PENSION FUND for materials concerning Medical Board training and guidance, DOI had received neither responsive materials nor confirmation that such materials did not exist.

81. DOI also identified the consequences of leaving ADR determinations to inadequately defined standards. In discussing senior NYPD officials, including JOHN CHELL, DOI noted a reported perception that high-ranking members could obtain ADR benefits more readily than rank-and-file officers and concluded that clearer regulations would reduce the risk of differential treatment based upon rank.

82. The NEW YORK CITY POLICE PENSION FUND rejected DOI’s recommendation that it adopt regulations, training, and guidance requiring ADR applications to be evaluated according to an applicant’s actual duties.

83. Plaintiff does not allege that DOI itself found discrimination or determined that CHELL improperly received ADR. Plaintiff alleges that DOI independently documented the institutional conditions that made differential treatment possible: limited regulations, undefined evaluative criteria, opaque Medical Board training, substantial discretion, and the absence of sufficient guidance to ensure even-handed administration.

84. Those deficiencies are directly relevant to plaintiff because the same NEW YORK CITY POLICE PENSION FUND, Article II Medical Board, and Board of Trustees applied that discretionary system to plaintiff’s spinal disability, medical history, pre-existing pathology, aggravation evidence, and causation evidence.

J. Disability-Based Differential Treatment Under the NYSHRL and NYCHRL

85. Plaintiff is a person with a disability based upon his cervical and related physical impairments, which ultimately required a two-level cervical fusion and rendered him incapable of performing full police duty.

86. Defendants THE CITY OF NEW YORK and NEW YORK CITY POLICE PENSION FUND maintained and administered a disability-retirement system that lacked sufficiently defined and consistently applied standards, training, and guidance and thereby vested substantial discretion in the officials responsible for determining whether disabled officers would receive ADR.

87. Defendants KATHRYN KO, M.D., BRUCE DAVID, D.O., and DAMIAN J. MARTINO, M.D. exercised that discretion directly against plaintiff. They repeatedly discounted his symptoms and treating-physician evidence, characterized his complaints as unsupported or non-organic, denied the existence of disabling objective pathology, and then, after plaintiff underwent a two-level cervical fusion, reversed themselves and determined that he was incapable of performing full police duty. Despite that finding, they continued to deny ADR without identifying a defined standard governing pre-existing pathology, aggravation, acceleration, or what evidence was sufficient to establish causation.

88. Defendant KEVIN HOLLORAN administered plaintiff's application through that same standardless process, including remanding the matter to KO, DAVID, and MARTINO for additional review while the NEW YORK CITY POLICE PENSION FUND continued to operate without the regulations, training, and guidance DOI later determined were necessary for even-handed decision-making.

89. Defendants STEPHANIE L. ZIMBERG, BRYAN THOMAS BERGE, PHILIP LAURENCE DUKES, MICHAEL YON, JOHN F. DORSA, NICHOLAS MASI, ALBERT R.

ACIERNO, ARTHUR J. EGNER, RAYMOND P. SALAMONE, LOUIS A. TURCO, ANTHONY BORELLI, EDMUND J. SMALL, and CHRISTOPHER T. MONAHAN thereafter adjudicated plaintiff's ADR application without identifying or applying a uniform standard governing aggravation of pre-existing pathology or the evidentiary showing necessary to establish causation.

90. Defendant DUKES expressly announced that the City side would not support plaintiff's ADR upgrade based upon the Medical Board's prior causation determinations, notwithstanding plaintiff's specific presentation of evidence that he had performed full police duty before the accident, became symptomatic thereafter, received treating-physician causation opinions, failed conservative treatment, underwent cervical fusion, and was ultimately found incapable of performing full police duty.

91. Defendant JESSICA S. TISCH exercised governing authority over this system as both Police Commissioner and Chairperson of the Board of Trustees within the structurally overlapping framework alleged above.

92. The treatment of JOHN CHELL demonstrates why the absence of fixed standards is material. The Fund was capable of interpreting and adapting its causation analysis to the actual duties and circumstances of a high-ranking official, while defendants subjected plaintiff's line-of-duty spinal disability to an extraordinarily restrictive causation requirement without identifying a comparable written or consistently applied standard.

93. Plaintiff alleges that rank itself is not the protected characteristic upon which these claims are based. Rather, the disparate administration illustrated by CHELL is evidence that defendants' standards were elastic and applicant-dependent, permitting defendants to subject

plaintiff's particular disability, medical history, pre-existing cervical pathology, and asserted accident-related aggravation to materially harsher scrutiny.

94. Through those actions, plaintiff was treated less favorably and, under the NYCHRL, treated less well at least in part because of his disability, including the nature, history, manifestations, and perceived causation of his spinal impairment. Under the NYSHRL, plaintiff's disability was a motivating factor in defendants' adverse administration and denial of his disability-related pension benefit.

95. As a direct result of that differential treatment, plaintiff was denied Accident Disability Retirement and the materially greater pension benefits associated with ADR and remained on service retirement.

CONCLUSION

96. Plaintiff's denial of ADR was not the product of a neutral, clearly defined, and uniformly administered disability-retirement system. THE CITY OF NEW YORK and NEW YORK CITY POLICE PENSION FUND maintained a system characterized by limited regulations, inadequately defined standards, opaque training and guidance, substantial discretionary authority, and an inherent institutional conflict arising from the Police Commissioner's overlapping roles.

97. Within that system, defendants KO, DAVID, and MARTINO applied subjective medical and causation criteria to plaintiff; HOLLORAN administered the process through which those determinations were repeatedly reviewed; ZIMBERG, BERGE, DUKES, YON, DORSA, MASI, ACIERNO, EGNER, SALAMONE, TURCO, BORELLI, SMALL, and MONAHAN exercised governance and adjudicative authority over plaintiff's application; and TISCH exercised governing authority within the structurally conflicted framework.

98. The CHELL example demonstrates that the Fund's criteria were sufficiently elastic to permit individualized and flexible consideration when adjudicating the ADR application of a high-ranking NYPD official. Plaintiff, by contrast, was subjected to an exacting and inadequately defined causation barrier despite documented line-of-duty spinal trauma, treating-physician causation evidence, failed conservative treatment, a two-level cervical fusion, and the Medical Board's ultimate determination that he could no longer perform full police duty. Plaintiff does not rely upon rank as a protected characteristic, but upon this differential administration as evidence that defendants were not compelled by any fixed and uniformly applied causation rule.

99. Plaintiff alleges that defendants exercised that discretion materially less favorably against the nature, history, and perceived origin of his disability by treating his pre-existing or chronic cervical pathology as a basis for denying ADR without applying a defined standard addressing whether his line-of-duty accident precipitated, aggravated, accelerated, or rendered symptomatic that condition. That treatment disregarded the established causation principle that a line-of-duty accident may constitute the natural and proximate cause of disability where it precipitates or aggravates a latent or pre-existing condition. *See Matter of Tobin v. Steisel*, 64 N.Y.2d 254, 259 (1985).

100. Through the acts alleged above, defendants JESSICA S. TISCH, KEVIN HOLLORAN, STEPHANIE L. ZIMBERG, BRYAN THOMAS BERGE, PHILIP LAURENCE DUKES, MICHAEL YON, JOHN F. DORSA, NICHOLAS MASI, ALBERT R. ACIERNO, ARTHUR J. EGNER, RAYMOND P. SALAMONE, LOUIS A. TURCO, ANTHONY BORELLI, EDMUND J. SMALL, CHRISTOPHER T. MONAHAN, KATHRYN KO, M.D., BRUCE DAVID, D.O., and DAMIAN J. MARTINO, M.D. each participated, within their

respective roles, in the administration, medical evaluation, governance, review, or adjudication of the discriminatory disability-retirement practices challenged herein and, as alleged, aided and abetted the resulting violations of the NYSHRL and NYCHRL.

VIOLATIONS AND CLAIMS ALLEGED

**First Cause of Action
Disability Discrimination and Aiding and Abetting in Violation of the
New York State Human Rights Law
Executive Law §§ 296(1)(a) and 296(6)
Against All Defendants**

101. Plaintiff repeats and realleges each preceding allegation as though fully set forth herein.

102. At all relevant times, plaintiff was a person with a disability within the meaning of the NYSHRL based upon his cervical and related physical impairments.

103. THE CITY OF NEW YORK was plaintiff's employer, and plaintiff's pension and disability-retirement benefits constituted compensation and privileges of his employment. The NEW YORK CITY POLICE PENSION FUND administered the process through which plaintiff's entitlement to ADR was evaluated and determined.

104. Defendants did not administer plaintiff's ADR application pursuant to fixed, transparent, and consistently applied standards. Instead, they exercised substantial discretion over disability, medical evidence, pre-existing pathology, aggravation, and causation, without sufficiently defined standards, training, or guidance governing whether a line-of-duty accident precipitated, aggravated, accelerated, or rendered disabling a latent or pre-existing condition.

105. Defendants exercised that discretion adversely against the nature and medical history of plaintiff's disability by treating his pre-existing or chronic cervical pathology as a basis for imposing an unusually restrictive causation barrier, notwithstanding the established

New York principle that an accident may constitute the natural and proximate cause of disability by precipitating a latent condition or aggravating a pre-existing condition. *Matter of Tobin v. Steisel*, 64 N.Y.2d 254, 259 (1985). That causation principle continues to be applied in New York disability-retirement cases.

106. As alleged above, the Fund's administration of other ADR applications demonstrates that its criteria were sufficiently elastic to permit individualized and flexible causation analysis rather than application of an immutable neutral rule. Plaintiff alleges that defendants applied that discretion materially less favorably to his spinal disability and disability-related medical history and denied his ADR benefit because of the nature, history, manifestations, and perceived causation of his disability, in violation of Executive Law § 296(1)(a).

107. Defendants JESSICA S. TISCH, KEVIN HOLLORAN, STEPHANIE L. ZIMBERG, BRYAN THOMAS BERGE, PHILIP LAURENCE DUKES, MICHAEL YON, JOHN F. DORSA, NICHOLAS MASI, ALBERT R. ACIERNO, ARTHUR J. EGNER, RAYMOND P. SALAMONE, LOUIS A. TURCO, ANTHONY BORELLI, EDMUND J. SMALL, CHRISTOPHER T. MONAHAN, KATHRYN KO, M.D., BRUCE DAVID, D.O., and DAMIAN J. MARTINO, M.D., through the acts attributed to each above, actually participated in, facilitated, implemented, approved, maintained, or adjudicated the discriminatory practices affecting plaintiff and thereby aided and abetted violations of the NYSHRL within the meaning of Executive Law § 296(6).

108. As a direct and proximate result of defendants' violations of the NYSHRL, plaintiff was denied Accident Disability Retirement and sustained economic and non-economic damages, including the loss of the enhanced pension benefits associated with ADR.

Second Cause of Action
Disability Discrimination and Aiding and Abetting in Violation of the
New York City Human Rights Law
Administrative Code §§ 8-107(1)(a) and 8-107(6)
Against All Defendants

109. Plaintiff repeats and realleges each preceding allegation as though fully set forth herein.

110. At all relevant times, plaintiff was a person with an actual disability within the meaning of the NYCHRL based upon his cervical and related physical impairments.

111. THE CITY OF NEW YORK was plaintiff's employer, and the NEW YORK CITY POLICE PENSION FUND and individual defendants participated in the administration, medical evaluation, governance, review, or adjudication of the disability-related employment benefit challenged herein.

112. Defendants exercised substantial subjective discretion in evaluating plaintiff's disability and entitlement to ADR without sufficiently defined, transparent, and consistently applied standards, training, or guidance governing pre-existing pathology, aggravation, causation, and the evidentiary showing necessary to establish that a line-of-duty accident precipitated or aggravated a latent or pre-existing condition.

113. Defendants used that discretion to subject plaintiff's spinal disability and disability-related medical history to materially harsher scrutiny, treating the pre-existing or chronic character of his cervical pathology as a basis for imposing an exacting causation barrier without applying a defined aggravation standard, even though New York law recognizes that an accident may cause disability by precipitating or aggravating a latent or pre-existing condition. *Matter of Tobin v. Steisel*, 64 N.Y.2d 254, 259 (1985).

114. The Fund's demonstrated ability to interpret and apply its ADR criteria flexibly in other cases supports plaintiff's allegation that the treatment imposed upon him was not the unavoidable application of a neutral rule. Plaintiff was treated less well in the administration of a term, condition, or privilege of employment at least in part because of the nature, history, manifestations, and perceived causation of his disability.

115. Defendants JESSICA S. TISCH, KEVIN HOLLORAN, STEPHANIE L. ZIMBERG, BRYAN THOMAS BERGE, PHILIP LAURENCE DUKES, MICHAEL YON, JOHN F. DORSA, NICHOLAS MASI, ALBERT R. ACIERNO, ARTHUR J. EGNER, RAYMOND P. SALAMONE, LOUIS A. TURCO, ANTHONY BORELLI, EDMUND J. SMALL, CHRISTOPHER T. MONAHAN, KATHRYN KO, M.D., BRUCE DAVID, D.O., and DAMIAN J. MARTINO, M.D., through the conduct specifically attributed to them above, actually participated in, facilitated, implemented, approved, maintained, or adjudicated the discriminatory practices and thereby aided and abetted violations of the NYCHRL within the meaning of Administrative Code § 8-107(6).

116. As a direct and proximate result of defendants' violations of the NYCHRL, plaintiff was denied Accident Disability Retirement and sustained economic and non-economic damages, including the loss of the enhanced pension benefits associated with ADR, emotional distress, and all other legal and equitable damages recoverable under the NYCHRL.

JURY TRIAL

117. Plaintiff ILBEY AYKAC demands a trial by jury of all issues in this action that are so triable.

PRAYER FOR RELIEF

WHEREFORE, plaintiff ILBEY AYKAC respectfully demands judgment against defendants THE CITY OF NEW YORK; NEW YORK CITY POLICE PENSION FUND; JESSICA S. TISCH; KEVIN HOLLORAN; STEPHANIE L. ZIMBERG; BRYAN THOMAS BERGE; PHILIP LAURENCE DUKES; MICHAEL YON; JOHN F. DORSA; NICHOLAS MASI; ALBERT R. ACIERNO; ARTHUR J. EGNER; RAYMOND P. SALAMONE; LOUIS A. TURCO; ANTHONY BORELLI; EDMUND J. SMALL; CHRISTOPHER T. MONAHAN; KATHRYN KO, M.D.; BRUCE DAVID, D.O.; and DAMIAN J. MARTINO, M.D., jointly and severally where legally applicable, as follows:

- a. awarding plaintiff compensatory damages in an amount to be determined at trial;
- b. awarding plaintiff all economic damages caused by defendants' unlawful conduct, including the past and future difference between the retirement benefits plaintiff received and the Accident Disability Retirement benefits he would have received absent discrimination, lost pension value, lost benefits, consequential economic losses, and all other economic damages recoverable by law;
- c. awarding plaintiff damages for emotional distress, humiliation, indignity, frustration, and other non-economic injuries resulting from defendants' discriminatory treatment and denial of disability-related benefits;
- d. awarding punitive damages against JESSICA S. TISCH, KEVIN HOLLORAN, STEPHANIE L. ZIMBERG, BRYAN THOMAS BERGE, PHILIP LAURENCE DUKES, MICHAEL YON, JOHN F. DORSA, NICHOLAS MASI, ALBERT R. ACIERNO, ARTHUR J. EGNER, RAYMOND P. SALAMONE, LOUIS A. TURCO, ANTHONY BORELLI, EDMUND J. SMALL, CHRISTOPHER T. MONAHAN, KATHRYN KO, M.D., BRUCE DAVID, D.O., and DAMIAN J.

MARTINO, M.D., and against any other defendant against whom such relief is legally available, to the fullest extent permitted by law;

- e. declaring that defendants discriminated against plaintiff because of disability and violated the New York State Human Rights Law and New York City Human Rights Law in the administration, medical evaluation, review, and adjudication of plaintiff's Accident Disability Retirement application;
- f. declaring that the individual defendants, through their actual participation in the discriminatory practices alleged herein, aided and abetted violations of the NYSHRL and NYCHRL;
- g. enjoining defendants from subjecting plaintiff to any further disability-retirement determination through subjective, undefined, inconsistently applied, or inadequately documented standards governing disability, medical evidence, pre-existing conditions, aggravation, causation, or entitlement to Accident Disability Retirement;
- h. directing defendants, to the fullest extent legally authorized, to conduct any further review or determination concerning plaintiff's entitlement to Accident Disability Retirement under defined, transparent, consistently applied, and nondiscriminatory standards and procedures, with appropriate training and guidance for the persons responsible for applying those standards;
- i. enjoining defendants, to the extent legally authorized and appropriate, from continuing to maintain or apply disability-retirement practices that permit materially subjective and inconsistent treatment of applicants because of

disability, disability history, medical condition, or the nature or perceived causation of an applicant's impairment;

- j. directing defendants, where legally authorized and appropriate, to implement written standards, procedures, training, and guidance sufficient to ensure consistent and even-handed consideration of disability, actual job functions, medical evidence, pre-existing conditions, aggravation, and causation in the administration of Accident Disability Retirement benefits;
- k. directing defendants, where legally authorized and appropriate, to adopt safeguards sufficient to prevent institutional conflicts of interest from affecting the referral, administration, review, or adjudication of plaintiff's disability-retirement application;
- l. awarding plaintiff all equitable monetary relief necessary to place him in the position he would have occupied absent defendants' unlawful discrimination, including retroactive pension-related relief and prospective pension losses to the fullest extent recoverable in this action;
- m. awarding plaintiff pre-judgment and post-judgment interest;
- n. awarding plaintiff reasonable attorneys' fees, costs, and disbursements pursuant to the NYSHRL, NYCHRL, and all other applicable law; and
- o. awarding plaintiff such other and further legal, equitable, declaratory, injunctive, and statutory relief as this Court deems just and proper.

Dated: September 29, 2026
Yonkers, N.Y.

Respectfully submitted,

By: s/Eric Sanders
Attorney for Plaintiff ILBEY AYKAC

THE SANDERS FIRM, P.C.
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ATTORNEY VERIFICATION

STATE OF NEW YORK

ss:

COUNTY OF WESTCHESTER

ERIC SANDERS, ESQ., affirms as follows:

I am an attorney admitted to practice in the State of New York courts. As the attorney for the plaintiff in the action, I am familiar with all the facts and circumstances.

The Verified Complaint is true to the knowledge of the affirmant, except for those matters stated to be alleged upon information and belief, and he believes those matters to be factual.

The affirmant further states that this verification is made by the affirmant and not by the Plaintiff because the affirmant maintains law offices in both New York County and Westchester County, and this verification is executed in Westchester County where affirmant maintains an office, the Plaintiff being currently absent from said county.

The undersigned attorney affirms that the previous statements are true under the penalties of perjury and Rule 2106 CPLR.

Dated: September 29, 2026
Yonkers, N.Y.

Respectfully submitted,

By: s/Eric Sanders
Attorney for Plaintiff ILBEY AYKAC

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

INDEX NO.:

ILBEY AYKAC

Plaintiff,

-against-

THE CITY OF NEW YORK; NEW YORK CITY POLICE
PENSION FUND; JESSICA S. TISCH; KEVIN
HOLLORAN; STEPHANIE L. ZIMBERG; BRYAN
THOMAS BERGE; PHILIP LAURENCE DUKES;
MICHAEL YON; JOHN F. DORSA; NICHOLAS MASI;
ALBERT R. ACIERNO; ARTHUR J. EGNER; RAYMOND
P. SALAMONE; LOUIS A. TURCO; ANTHONY BORELLI;
EDMUND J. SMALL; CHRISTOPHER T. MONAHAN;
KATHRYN KO, M.D.; BRUCE DAVID, D.O.; and
DAMIAN J. MARTINO, M.D.

Defendants

SUMMONS WITH VERIFIED COMPLAINT

Duly submitted by:

By: s/Eric Sanders
Attorney for Plaintiff ILBEY AYKAC

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