

IN THE UNITED STATES DISTRICT COURT  
WASHINGTON D.C.  
CIVIL DIVISION

Martin Dougherty,

vs.

Cable News Network, Defendant.

)  
)  
)  
) **Case No: 17-cv-00769**  
)  
) Jury Demand  
) For Violations of the: D.C. Human Rights Act,  
) the D.C. Family Medical Leave Act, the  
Family Medical Leave Act, the D.C Wage  
Payment Collection Law & Breach of Contract  
**1<sup>st</sup> Amended Complaint**

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INTRODUCTION

The Plaintiff Martin Dougherty (Dougherty) by and through his undersigned counsel Dhali PLLC, with the consent of the Defendant Cable News Network (CNN) file this 1<sup>st</sup> Amended Complaint (FAC) to also allege causes of action under the federal Family Medical Leave Act (FMLA) 29 U.S.C. § 2611 *et seq.*

Dougherty had previously filed eight (8) counts in his initial complaint<sup>1</sup> in an action for (i) age, disability discrimination and retaliation under the D.C. Human Rights Act (DCHRA), (ii) interference and retaliation under the D.C. Family Medical Leave Act (DCFMLA); (iii) for non-payment of wages under the D.C. Wage Payment Collection Law (DCWPCL) and for breach of contract, against the Defendant CNN. Dougherty now files two additional counts for interference and retaliation under the federal FMLA and brings a ten (10) count complaint against CNN.

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<sup>1</sup> CNN filed an Answer to the initial complaint [Dkt No. 6]

1 Dougherty has been a photojournalist with CNN since approximately 1999. As a Senior  
2 Photojournalist his job requires him to carry and use a 35 - 700 pounds of camera equipment to  
3 report on news stories around the country and the world.  
4

5 On December 31, 2015, while working at Elkins Park, Pennsylvania, Dougherty suffers a  
6 work related injury and is taken to the "Einstein Medical Center." He is diagnosed with left knee  
7 patellar dislocation with effusion. He also begins his physical therapy in 2016. CNN is also  
8 informed of this injury in January 2016.  
9

10 On February 11, 2016, Dougherty receives an express delivery from Maureen Dumond,  
11 CNN's Human Resources (HR) manager who informs him that because he had used all of his  
12 FMLA leave his position was being replaced. This was the first time that Dougherty was made  
13 aware of any FMLA leave, and that he had exhausted all of it. On February 16, 2016, Dougherty  
14 makes a claim for disability accommodations under the American Disabilities Act Amendments  
15 Act of 2008 (ADAAA). This request is ignored. He is then terminated on March 7, 2016, when  
16 he receives a voice mail from Dumond, informing him that his position has already been filled.  
17 An email sent on March 17, 2016 confirms his termination. He later learns that he was replaced  
18 by a younger individual in his 30 Mr. Scott Pisezek. Dougherty is 53 years old.  
19  
20  
21  
22

23 Finally, Dougherty also brings an action for unpaid wages while travelling on company  
24 time between assignments for the periods 2014-2015. Per CNN policy, these company  
25 sanctioned trips are to be paid.  
26

27 Consequently, Dougherty now files an action under the DCHRA, the DCFMLA, the DC  
28 Wage Laws and for breach of contract for non-payment of wages.  
29  
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**Part I. Parties**

1. The Plaintiff Martin Dougherty is a 53 year old male and has been an employee of the defendant CNN since approximately 1999. He was employed as a Senior Photojournalist. He reported out of the Washington D.C Office. He was terminated on March 7, 2016, while suffering a disability. Dougherty is an employee under D.C. Code § 2-1401.02 (9) of the DCHRA; under D.C. Code 32-501(1) of the DCFMLA; § 32-1301 of the DCWPCL; and 29 U.S.C § 2611 *et.seq.*, of the FMLA.
2. The Defendant CNN is an international broadcasting and news company with thousands of employees within the United States and worldwide. CNN is an employer under D.C. Code § 2-1401.02(10) of the DCHRA; D.C. Code 32-501(2) of the DCFMLA; § 32-1301 of the DCWPCL; and 29 U.S.C § 2611 *et seq.* of the FMLA.

**Part II. Jurisdiction & Venue**

3. This Court has subject matter jurisdiction over his DCHRA claims under D.C. Code Ann. § 11-921; over his DCFMLA claims under D.C. Code § 32-510 and his wage claims under § 32-1308. It also has jurisdiction over his federal law claims under 29 U.S.C § 2611 *et seq.*, and 28 U.S.C. §§ 1331. This Court also has supplemental jurisdiction over the District of Columbia law claims under 28 U.S.C. § 1367.
4. Venue is also proper in Washington D.C because Dougherty was employed in Washington D.C, and was also removed and terminated from his assignments in Washington D.C.

**Part III. Exhaustion of Administrative Remedies**

5. Dougherty filed his claim of sex, disability discrimination and retaliation with the U.S. Equal Employment Opportunity Commission (EEOC) on March 14, 2016. On June 14,

1 2016, he amended his charge with the EEOC and also alleged a claim for age  
2 discrimination, charge number 570-2016-01026. All of these claims were also cross filed  
3 with the D.C Office of Human Rights (OHR).  
4

- 5 6. There are no exhaustion requirements under the DCHRA, the DCFMLA, the DC Wage  
6 Laws and the federal FMLA.  
7

8 **Part IV. Statement of Facts**

9 7. Dougherty is 53 years old. He was employed as a Senior Photojournalist with CNN. As  
10 part of his job duties he was required to lift 35-700 pounds of camera and broadcast news  
11 equipment to various job locations and assignments around the country.  
12

13 8. On or about December 31, 2015, sometime around 9 or 9:15 am, Dougherty was taken to  
14 the “Einstein Medical Center” after suffering a work related injury while on assignment  
15 in Elkins Park, Pennsylvania. The Emergency Room (ER) doctor diagnosed him with left  
16 knee patellar dislocation with effusion. He is advised to seek further treatment upon his  
17 return to Washington D.C. Dougherty’s Supervisor Oliver Janney meets him at the  
18 Einstein Medical Center and arranges for his transport back to Washington DC area.  
19

20 9. On January 1, 2016, Dougherty calls the “Washington Orthopedics & Sports Medicine”  
21 (WOSM) clinic to make an appointment. They are closed for the holiday.  
22

23 10. On this same day, CNN’s Risk Management department is also notified of a work related  
24 injury.  
25

26 11. On January 5, 2016, Dougherty visits WOSM and is seen by Jonas R. Rudzki, M.D.  
27

28 12. Dr. Rudzki diagnoses him with a reduced patellar dislocation with effusion (a dislocation  
29 of the knee). He is deemed totally incapacitated pending an MRI review. He is placed on  
30 a knee brace and crutches.  
31  
32

1 13. On January 11, 2016, after reviewing his MRI, Dr. Rudzki diagnoses him with a “medical  
2 retainacular tear involving the MPFL and well as sequelae of a lateral patellar dislocation  
3 with a TTTG distance of 9 mm.” He is told to continue with his brace and crutches and  
4 to receive physical therapy. He is told by Dr. Rudzki to return for an assessment in 6-8  
5 weeks.  
6

7  
8 **Protected Activities**

9 14. Also on January 11, 2016, Dougherty shares this information with his Washington D.C.,  
10 managers Dough Schantz and Oliver Janney (aka “OJ”), and that he may be cleared for  
11 return to work by March 7, 2016, after he completes his weekly sessions of physical  
12 therapy (PT).  
13

14 15. The CNN HR Manager Maureen Dumond via email on February 11, 2016, also  
15 acknowledges that Dougherty had spoken about this matter with Schantz and OJ, and that  
16 he may be cleared to return to work by March 7, 2016.  
17

18 16. HR Manager Dumond has the power to hire and fire employees.  
19

20 17. Dumond also has a familiarity and understanding of the Family Medical Leave Act and  
21 the American Disabilities Act.  
22

23 18. On January 22, 2016, Dougherty starts his 6-8 weeks of physical therapy.  
24

25 19. About two weeks later or on February 11, 2016, on the same day that Dumond also sent  
26 him an email on his treatment (¶ 15) he receives an overnight DHL package and letter  
27 from Dumond, dated February 10, 2015, informing Dougherty  
28

29 “As previously noted in the letter you received from The Hartford dated January  
30 8, 2016, your leave is ineligible for coverage under the Family Medical Leave Act  
31 (FMLA) because you have already exhausted leave entitlement ...” And “In order  
32 to meet the pressing business and operational needs, moving forward the  
Company will no longer be able to keep your position unstaffed and will take  
steps to fill the position as soon as possible.”

1 20. This email also informed him that he will remain on “personal leave until December 31,  
2 2016 and also states his personal leave will begin once he is off medical disability leave.”

3  
4 21. This was the first time that Dougherty was even aware that he was on FMLA leave and or  
5 that he had exhausted it. Dougherty does not recall completing or signing any FMLA  
6 leave of absences or application for CNN.  
7

8 22. CNN too does not have any signed FMLA applications from Dougherty for 2015 or  
9 2016.  
10

11 23. Dougherty also did not receive any letter from “The Hartford” dated January 8, 2016.  
12

13 24. Dougherty is also suspicious that the letter is dated February 10, 2015, since on February  
14 10, 2015, Dougherty informed his manager Shantz that he would be having surgery for a  
15 torn rotator cuff. CNN initially refused to pay for this surgery and did so only after  
16 Dougherty filed a complaint with the D.C. Workers Compensation Board to compel CNN  
17 for pay for this surgery. This surgery did eventually occur on March 4, 2015, and he was  
18 out on worker’s compensation leave until October 15, 2015.  
19  
20

21 25. After receiving the letter from CNN and Dumond, Dougherty telephones the CNN Field  
22 Production person, Jeff Kinney.  
23

24 26. Kinney is the manager for Dougherty’s division.  
25

26 27. Dougherty asks Kinney “what is going on and why are CNN replacing me while I am out  
27 on medical rehabilitation?” Dougherty begs to complete his PT and visit his physician for  
28 a re-assessment before CNN terminates him.

29 28. Kinney informs Dougherty that “they [CNN] can’t do that [wait on Dougherty to finish  
30 PT and be re-assessed by Dr. Rudski].”  
31

32 29. Dougherty asks Kinney if he will have a job after he sees a doctor on March 7, 2016.

1 30. Kinney replies by saying, “you are putting me in a very uncomfortable position.”

2 31. Dougherty informs Kinney that he will be speaking with Dumond on February 12, 2016;  
3 Kinney asks him to call him after Dougherty’s conversation with Dumond. He does so,  
4 but never hears back from Kinney.  
5

6 32. Dougherty also calls his DC manager Shantz around 9 pm on this same day February 11,  
7 2016. Dougherty asks Shantz “how is it that CNN are replacing me and not giving me a  
8 chance to complete my rehabilitation?”  
9

10 33. Shantz informs him that Dumond told him (Shantz) that “because Martin does not have a  
11 return to work date, he was out indefinitely.”  
12

13 34. Dougherty replies that he could be cleared to return to work on March 7, 2016. He also  
14 informs Shantz that he was open to coming in to help on the crew assignment desk, but  
15 was told by CNN that he cannot return to work unless he had zero restrictions and was  
16 one hundred percent (100%) healed.  
17

18 35. There is no requirement under the ADA that an employee be 100% healed before an  
19 employee can return to work.  
20

21 36. CNN and Dumond too are aware of this requirement.  
22

23 37. Dougherty had worked on the CNN assignment desk since 1999 and also worked on the  
24 assignment desk on December 24, 2015 and December 25, 2015. Additionally, in  
25 2009/2010, while out on workers compensation leave, Dougherty would regularly come  
26 in to work at the Crew Assignment Desk.  
27

28 38. Dougherty was perplexed why CNN could not accommodate him now.  
29

30 39. Shantz advised Dougherty that he should go back to Dr. Rudzki before March 7, 2016,  
31 and try to return to work.  
32

1 40. Dougherty then emails Dumond to speak with her. A telephone conversation was then  
2 held on January 12, 2016, with Dumond.

3 41. Dougherty informs Dumond that he never told anyone that he had an “indefinite” return  
4 to work date.  
5

6 42. Dr. Rudzki too had confirmed this and in his note dated January 11, 2016, Dr. Rudzki  
7 only says that Dougherty is totally incapacitated for 8 weeks.  
8

9 43. Eight weeks is not an indefinite return date.

10 44. Dougherty had provided this information to Dumond and it is also in his medical records  
11 sent to Paul Miller of Turner Risk Management.  
12

13 45. Dumond advises Dougherty that she “does not want to see those medical records.”  
14

15 46. She asks Dougherty for a definitive return date with “no work restrictions.”

16 47. Dougherty informs Dumond he won’t know that until he sees Dr. Rudzki on March 7,  
17 2016. He also informs her that it is up to Dr. Rudzki if he has any work restrictions. He  
18 asks her to hold his position until March 7, 2016, as an ADA accommodation or until  
19 such time he has seen his doctor.  
20

21 48. Dumond refused to hold his position until March 7, 2016.  
22

23 49. Dumond then informs Dougherty that CNN has already proceeded to recruit Dougherty’s  
24 replacement.  
25

26 50. Dougherty again asks Dumond to hold off on any recruitment since he was about 3 weeks  
27 away from meeting Dr. Rudzki for a reassessment.  
28

29 51. Dumond says, “we have already waited 5 weeks and it is what it is.”  
30

31 52. Dumond also says, if even a verbal job offer is made to someone, that would mean that  
32 Dougherty is out of a job.



1 53. On February 15, 2015, Dougherty has a phone conversation with CNN Field Production  
2 Manager Oliver Janney (“OJ”).

3 54. OJ informs Dougherty that he did not know what HR was doing and that Dumond, “holds  
4 the cards close to her chest.” He said “I am sorry that this is happening to you.”

5 55. OJ like Shantz also asked Dougherty to visit Dr. Rudzki before his scheduled March 7,  
6 2016, appointment.

7 56. On February 17, 2016, Dougherty emails Dumond, subject “Accommodation request  
8 under ADA”

9 57. This February 17, 2016, ADA email to Dumond says,

10 Hi, I am requesting accommodation under the ADA (American Disabilities Act).  
11 Please let me know who else might need to be contacted and any documentation  
12 you might need from me.

13 58. Dumond acknowledges receipt of this ADA email in a voice mail to him dated February  
14 19, 2016. She is however dismissive of the request and says, “you made it before you  
15 went to the doctor!”

16 59. There is no requirement under the ADA that an employee can only make an ADA request  
17 after meeting a physician.

18 60. On February 19, 2016, Dougherty visits Dr. Rudzki and he clears him for light duty for 8  
19 weeks beginning from 2/19/16<sup>2</sup>. Dr. Rudzki also requests the following accommodations  
20 from CNN for Dougherty:  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

31  
32 <sup>2</sup> This ADA accommodations request is an updated request from the one provided to CNN dated 11/18/2015 from Dr. Rudzik. This Nov 2015 ADA request was also never fulfilled by CNN.

1 Please provide Martin Dougherty with access to the following equipment as these devices will reduce the  
2 stress and strain on his shoulder, preserving the integrity of the rotator cuff repair, and avoid recurrent  
3 instability of his Left knee (s/p lateral patellar dislocation), and reducing the risks of additional procedures:

4 Sachtler Monopod Carbon Fiber with Sandwich touch and go system - supports 33lbs  
5 Easyrig Cinema 3 Stabilizing Camera Support  
6 Sachtler 1096 Quick Release Plate.

7 Thank you for accommodating the patient's medical needs.

8 Please contact my office directly with any questions or concerns.

9  
10  
11 61. On this same day or February 19, 2016, Dougherty after visiting Dr. Rudzki, immediately  
12 rushes to the CNN office in Washington D.C., located at 820 1<sup>st</sup> Street. NE., with the  
13 above medical note and accommodations request in hand. He arrives at 4:15pm and hand  
14 delivers the above medical note for ADA accommodations to his manager Shantz.  
15

16 62. Knowing that CNN would make up some further excuse for not receiving the above note,  
17 Dougherty as a fail-safe, further scans the note and also emails it to Dumond.  
18

19 63. Both Shantz and Dumond now are in possession of the ADA accommodations request  
20 from Dr. Rudzik dated 2/19/2016.  
21

22 64. Dumond calls him back and informs him that the ADA accommodations request note  
23 from Dr. Rudzik is not good enough and that she wanted more specifics.  
24

25 65. Under the ADA as part of the interactive process, the HR Manager has the authority to  
26 contact the medical provider directly regarding clarifications for an ADA  
27 accommodations request.  
28

29 66. Dougherty told Dumond that he was at CNN offices in D.C. and personally dropped off  
30 the note with Shantz.  
31  
32

1 67. Dumond exploded with rage. She was incensed that Dougherty was on CNN work  
2 premises while on medical leave communicating with his supervisor on a medical matter.

3  
4 68. Dumond threatened to have his building access card revoked and deactivated.

5 69. Dougherty also found the admonition and retaliation disconcerting since he had also  
6 been on medical leave in 2008 on another worker's compensation matter, had frequently  
7 dropped by the office and never once was he told that his building access card would be  
8 revoked or deactivated. Other CNN employee's on medical leave have also been at the  
9 CNN DC Bureau for training purposes.  
10

11  
12 70. He understood this threat as retaliatory under the disabilities act as it had the effect of  
13 preventing him from further engaging in activities, or reporting or communicating about  
14 activities under the ADA or the FMLA.  
15

16 71. CNN does not have a written policy of prohibiting an employee to visit his work site  
17 while on medical leave or on worker's compensation leave.  
18

19 72. On February 19, 2016, Dougherty for the first time applies for FMLA leave on CNN's  
20 intranet site. He is denied coverage.  
21

22 73. On February 22, 2016, around 12:46 am, Dougherty sends an email to Dumond enquiring  
23 about the ADA accommodations outlined by Dr. Rudzik in his medical note dated  
24 2/19/2016.  
25

26 74. She replies by saying, she would "discuss whether this is something we can accommodate  
27 with your management team should you be cleared to return to work before we fill your  
28 position."  
29

30 75. Dr. Rudski's 2/19/2016 note had already cleared him to return to light duty with restrictions  
31 from this date.  
32

1 76. Dumond did not ask Dougherty to be involved in any discussions with his management  
2 team.

3 77. The 2/19/2016 ADA accommodation request by Dr. Rudzik was for equipment commonly  
4 used within the television and news reporting industry.

5 78. CNN would have suffered no undue hardship in providing these accommodations to  
6 Dougherty so as to allow him to be a qualified individual with a disability.

7 79. Had the accommodations sought by Dr. Rudzik been provided to Dougherty by CNN, he  
8 would have been a qualified individual with a disability.

9 80. On February 22, 2016, Dougherty provided CNN and Dumond with another ADA light  
10 duty request form from Dr. Rudzik and emails the following:

11  
12 Hi all, I just received this RX at around 11:22 pm Monday so am forwarding now. With this I ask that I be  
13 reinstated to employment with accommodations pursuant to my earlier ADA accommodation request.  
14 My Physical Therapy appointments I can make around whatever schedule you need me to work. Thank  
15 you!

16  
17 81. Dumond acknowledges receipt of this ADA form and replies “I will review with your  
18 management team and get back to you.”

19 82. On February 25, 2016, Dumond again sends Dougherty an email saying:

20  
21 It is not clear how long these restrictions are needed so we are reaching out to your doctor for  
22 clarification. If you’d like to speak to your doctor and help move the process along, please do  
23 so.

24  
25 83. On the same day February 25, 2016, Dougherty then emails Shantz and Janney (OJ)  
26 saying:

27  
28 I am available to work on the interactive process and “figure out what kinds of  
29 accommodations can be effective and practical for everyone...and work together to find a  
30 reasonable solution. thanks and hit me up!”

31 84. Shantz replies back saying, “We are still working through things.”  
32

1 85. No discussions on ADA accommodations were held with Dougherty.

2 86. On March 7, 2016, Dougherty receives a voice mail from Dumond informing him that  
3 because his position was already posted before receiving any ADA accommodations  
4 request from him, they were already far along in hiring someone for his position.  
5

6 87. On March 17, 2016, Dougherty receives an email from HR saying, he is no longer an  
7 active employee because his position has already been filled.  
8

9 88. His email was then turned off. His access to the company intranet was terminated and he  
10 was told to turn in his ID card.  
11

12 89. Per CNN's employee handbook when in this case his termination letter says that he is on  
13 "Personal Leave until December 31, 2016" Dougherty is to have access to job search tools  
14 on *MYHR* a CNN job search website, generally available to active employees.  
15

16 90. Dougherty instead was denied access.

17 91. He was then replaced by a younger individual Mr. Scott Pisezk in his 30s.

18 92. Pisezk may quite possibly also never have requested any accommodations under the ADA  
19 or asked for FMLA leave.  
20

21 93. Had CNN provided Dougherty with the accommodations sought by Dr. Rudski or engaged  
22 in the interactive process, Dougherty would have been qualified to perform work on the  
23 assignment desk; crew assignment desk and/or technical operations, and courier.  
24

25 94. A technical operation is where Dougherty would be sitting on a desk and monitoring  
26 incoming and outgoing video feeds and managing photojournalist's in the field. In the  
27 past while coming back from work injuries, Dougherty was afforded the opportunity to  
28 work the crew assignment desk or work at remote assignments such as on the White  
29 House North Lawn or Russell Rotunda live shot position.  
30  
31  
32

1 95. Also in the past, Dougherty had worked on the assignment desk off and on for 17 years  
2 for CNN.

3 96. Accommodating Dougherty by having him assigned to work at the assignment desk, crew  
4 assignment desk, a technical operations or courier would not have been an undue hardship  
5 for CNN.  
6

7 97. Since his termination Dougherty continues to apply for positions within CNN and has  
8 been rejected for all of them.  
9

10 98. Finally, other individuals who have applied for and provided light duty while being on  
11 medical leave or as a form of accommodation under the disability act include: Kim Uhl  
12 (White Female); John Bodnar (White Male), Ken Tuohey (White Male), David Jenkins  
13 (White Male) Tim Garraty (White Male), David Catrett (White Male). John Henry Bena  
14 (White Male) and Reggie Selma (African American Male) have been accommodated due  
15 to personal issues that prevented them from performing the essential functions of their  
16 jobs..  
17  
18

19 99. Plaintiff too requested light duty and accommodations, but was terminated instead.  
20

21 **Plaintiff's Unpaid Wage Claims**  
22

23 100. Dougherty also brings an action for unpaid wages against CNN, while travelling  
24 during assignments.  
25

26 101. Per their HR or Company Manual, all employees are to be compensated during  
27 their travel time, including in this case, travels from the home to the airport, train station  
28 etc. and travels between assignments.  
29

30 102. Dougherty has not been paid while travelling.  
31  
32

103. Dougherty alleges that for his travels for the 2014 and 2015 periods, he and others similarly situated like him is owed the following unpaid wages from the defendant.

Year	Approximate FLSA Wages Lost
2014	15,000 - \$20,000
2015	\$5,000 – \$10,000
	Total: 30,000

**Part V. Causes of Action**  
**Count I. Interference Under the DCFMLA**

104. Plaintiff reincorporates by reference all the allegations above.

105. The D.C Family Medical Leave Act (DCFMLA) provides an eligible employee for a total of sixteen (16) workweeks of medical leave during any twenty four (24) month period when the employee becomes unable to perform the functions of his job. An employee may bring a claim under the DCFMLA when he has suffered damages as a result of the denial. *See D.C. Code § 32-501 et. seq.*

106. In order to prevail on his DCFMLA claim, he must (1) have a serious health condition; (2) be unable to perform the functions of his job; (3) provides reasonable notice to take leave to CNN; (4) CNN wrongfully denied the leave and (5) he suffers a legal injury because of the denial. *See D.C. Code 32-507; Pendarvis v. Xerox, 3 F.Supp. 2d. 53, 55 (D.D.C. 1998).*

107. Dougherty had a serious health condition of lateral patellar dislocation, which prevented him from performing the functions of his job. Daugherty provided his employer with notice to take this leave beginning on January 1, 2016 until the date of his termination on March 2016.

1 108. Defendant denied this leave, and he suffered legal injury when they terminated  
2 him on March 17, 2016.

3 109. Defendant's acts caused Plaintiff to suffer economic losses, physical injury,  
4 mental and emotional distress, embarrassment, humiliation and indignity.

5 110. This intentional, reckless, and/or willful act by the part of Defendant's constitutes  
6 a violation of Plaintiff's statutory rights under the DCFMLA.

7 111. By reason of Defendant's actions, the Plaintiff is entitled to all legal, liquidated  
8 and equitable remedies under the DCFMLA, including his attorney's fees.

9  
10  
11  
12 **Count II. Retaliation Under the DCFMLA.**

13 112. Plaintiff reincorporates by reference all the allegations above.

14 113. Under the DCFMLA it is illegal for the Defendant's to discharge or discriminate  
15 in any manner, against an individual for opposing any practice made unlawful under the  
16 DCFMLA. *See* D.C Code § 32-507.

17 114. In the present instance, the Plaintiff engaged in protected activity when he  
18 requested medical leave for all periods beginning on January 1, 2016, and thereafter.

19 115. The Defendant denied this leave and terminated the Plaintiff by leaving a voice  
20 mail on March 10, 2016, and sending him an email on March 17, 2016.

21 116. Because of the close proximity of the materially adverse actions, it creates an  
22 inference of a causal connection that would dissuade a reasonable employee from filing a  
23 claim.

24 117. Defendant's acts caused Plaintiff to suffer economic losses, physical injury,  
25 mental and emotional distress, embarrassment, humiliation and indignity.  
26  
27  
28  
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1 118. This intentional, reckless, and/or willful act by the part of Defendant's constitutes  
2 a violation of Plaintiff's statutory rights under the DCFMLA.

3  
4 119. By reason of Defendant's actions, the Plaintiff is entitled to all legal, liquidated  
5 and equitable remedies and penalties under the DCFMLA, including his attorney's fees.

6 **Count III. Disability Discrimination under the DCHRA**

7  
8 120. Plaintiff re-incorporates by reference all the allegations above

9 121. At all present times Defendant CNN was an employer subject to the provisions of  
10 the D.C. Human Rights Act § 2-1401 *et seq* (DCHRA), of the District of Columbia Code.

11  
12 122. At all pertinent times, Plaintiff Martin Dougherty was entitled to protections  
13 under the D.C. Human Rights Act.

14  
15 123. The DCHRA prohibits discrimination in employment "for any reason other than  
16 individual merit" including without limitation on the basis of disability and age.

17  
18 124. Defendant and/or its agents or its employees acting on its behalf discriminated  
19 against the Plaintiff on the basis of his disability by treating him differently from and less  
20 preferably than similarly situated employees outside of Plaintiff's protected class, in  
21 violation of the DCHRA.

22  
23 125. Defendant knew or should have known of the types of discrimination that Plaintiff  
24 suffered.

25  
26 126. Defendant's conduct has been intentional, deliberate, willful and in callous  
27 disregard of Plaintiff's rights.

28  
29 127. Defendant's acts of discrimination caused Plaintiff to suffer economic losses,  
30 mental and emotional distress, physical injury, embarrassment, humiliation and indignity.

1 128. This intentional, reckless and/or willful discrimination on the part of Defendant  
2 constitutes a violation of Plaintiff's rights under the DCHRA.

3  
4 129. By reasons of Defendant's discrimination, Plaintiff is entitled to all legal and  
5 equitable remedies under the DCHRA including its attorney's fees.

6 **Count IV. Failure to Accommodate under the DCHRA**

7  
8 130. Plaintiff alleges and incorporates all the above allegations.

9 131. CNN was at all times an employer of the Plaintiff for purposes of the DCHRA.

10  
11 132. The Plaintiff is a disabled individual with physical impairments that substantially  
12 limits one or more major life activities under the American Disabilities Act Amendments  
13 Act of 2008 (ADAAA) and the DCHRA disability laws, in this case: walking, standing,  
14 sitting, concentrating, thinking, communicating, interacting with others, and working.

15  
16 133. At all times of Plaintiff's employment, CNN had knowledge of his disability or  
17 perceived disability. Plaintiff also has a record of such impairment.

18  
19 134. The Plaintiff informed CNN of his disability and request for reasonable  
20 accommodations.

21  
22 135. The Plaintiff alleges that one or more of the agents, managers, or supervisors of  
23 CNN failed to accommodate his disability and/or engage in the interactive process with  
24 the Plaintiff and/or his physician, to determine an appropriate and reasonable  
25 accommodation as required under the ADAAA and the District's disability laws. Had the  
26 Defendant engaged in the interactive process, a reasonable accommodation would have  
27 been identified, allowing him to perform the essential functions of his job.  
28  
29  
30  
31  
32

1 136. The Defendant subsequently not only failed to engage in the interactive process,  
2 but also denied all requests for reasonable accommodations, and subjected the Plaintiff to  
3 adverse employment actions, and then subsequently terminating him in March 2016.  
4

5 137. The Defendant is unable to show that the accommodations requested would have  
6 imposed “an undue hardship on the operation of the business.” 42 U.S.C. § 12112(b)(5).  
7

8 138. As a direct and proximate result of this injury from the Defendant, Plaintiff has  
9 suffered and is suffering considerable injury, including but not limited to loss of  
10 substantial past and future salary and income, benefits and other privileges and  
11 entitlements of employment, loss of professional status and career enhancing and  
12 advancement opportunities, and loss of retirement savings and benefits. The Plaintiff has  
13 also suffered from emotional distress arising from the loss of his job, the damage to his  
14 professional reputation and the embarrassment, humiliation, and indignity arising from  
15 the discriminatory conduct of Defendant and/or agents or employees acting on its behalf,  
16 and the stress and anxiety caused by his wrongful termination and resultant financial  
17 hardship.  
18  
19  
20

21 139. As a consequence of Defendant’s actions CNN is additionally liable for attorney’s  
22 fees and other costs and interest in pursuit of this litigation.  
23

24 **Count V. Retaliation under the DCHRA**

25 140. Plaintiff re-alleges and incorporates by reference the allegations of all paragraphs  
26 above as though fully set forth herein.  
27

28 141. At all pertinent times Defendant was an employer subject to the provisions of the  
29 D.C. Human Rights Act § 2-1401 *et.seq* of the District of Colombia Code.  
30

31 142. At all pertinent times, Plaintiff was entitled to protection under the DCHRA.  
32

1 143. The DCHRA makes it an “unlawful discriminatory practice to coerce, threaten,  
2 retaliate against or interfere with any person in the exercise or enjoyment of, or on  
3 account of having exercised or enjoyed, or on account of having aided and encouraged  
4 any other person in the exercise or enjoyment of any right granted or protected under this  
5 chapter.”  
6

7  
8 144. Plaintiff engaged in protected activities and opposition to practices made unlawful  
9 under the DCHRA while employed by Defendant CNN.

10  
11 145. As a result of his protected activities and opposition to practices made unlawful  
12 under the DCHRA, Plaintiff was subjected to adverse employment actions, including  
13 termination and other adverse employment conditions that may well dissuade an  
14 employee from filing a claim of discrimination.  
15

16 146. A casual connection exists between Plaintiff’s protected activities and the adverse  
17 employment actions taken by Defendant.  
18

19 147. Defendant’s acts of retaliation caused Plaintiffs to suffer economic losses,  
20 physical harm, mental and emotional distress, embarrassment, humiliation and indignity.  
21

22 148. This intentional, reckless, and/or willful retaliation by the part of Defendant  
23 constitutes a violation of Plaintiff’s statutory rights under the DCHRA.

24 149. By reason of Defendant’s retaliation, Plaintiff is entitled to all legal and equitable  
25 remedies under the DCHRA, including his attorney’s fees.  
26

27 **Count VI. Age Discrimination Under the DCHRA**

28 150. Plaintiff reincorporates by reference all the allegations above.  
29

30 151. At all present times Defendant CNN was an employer subject to the provisions of  
31 the D.C. Human Rights Act § 2-1401 *et seq* (DCHRA), of the District of Columbia Code.  
32

1 152. At all pertinent times, Plaintiff Martin Dougherty was entitled to protections  
2 under the D.C. Human Rights Act.

3 153. The DCHRA prohibits discrimination in employment “for any reason other than  
4 individual merit” including without limitation on the basis of age.  
5

6 154. Defendant and/or its agents or its employees acting on its behalf discriminated  
7 against the Plaintiff on the basis of his age by treating him differently from and less  
8 preferably than similarly situated employees outside of Plaintiffs protected class, in  
9 violation of the DCHRA, only to then terminate him and replace him with a younger  
10 employee than the Plaintiff.  
11

12 155. Defendant knew or should have known of the types of discrimination that Plaintiff  
13 suffered.  
14

15 156. Defendant’s conduct has been intentional, deliberate, willful and in callous  
16 disregard of Plaintiff’s rights.  
17

18 157. Defendant’s acts of discrimination caused Plaintiff to suffer economic losses,  
19 mental and emotional distress, physical injury, embarrassment, humiliation and indignity.  
20

21 158. This intentional, reckless and/or willful discrimination on the part of Defendant  
22 constitutes a violation of Plaintiff’s rights under the DCHRA.  
23

24 159. By reasons of Defendant’s discrimination, Plaintiff is entitled to all legal and  
25 equitable remedies under the DCHRA including his attorney’s fees.  
26

27 **Count VII. D.C. Wage Payment and Wage Collection Act**

28 160. Plaintiffs allege and incorporate by reference all of the above allegations.  
29

30 161. Under the D.C. Wage Payment and Wage Collection Act, every employer shall  
31 pay all wages earned to his employees at least twice during each calendar month, on  
32

1 regular paydays designated in advance by the employer; provided, however, that an  
2 interval of not more than 10 working days may elapse between the end of the pay period  
3 covered and the regular payday designated by the employer.  
4

5 162. Upon observation and belief, there was no bona fide dispute over the amount of  
6 wages conceded to be due. Defendants have violated the D.C. Wage Payment and Wage  
7 Collection Law when it withheld all wages for its photojournalists incurred while  
8 travelling.  
9

10 163. Due to Defendants' D.C. Wage Payment and Wage Collection Law violations, the  
11 named Plaintiff is entitled to his compensation and liquidated damages in an equal  
12 amount pursuant to D.C. Code 32-1308(a), plus all other relief, including his attorney's  
13 fees.  
14  
15

16 **Count VIII. Breach of Contract**

17 164. Plaintiff reincorporates by reference all the allegations above

18 165. CNN and employee entered into a contract for wages to pay him during his  
19 travels.  
20

21 166. By breaching this contract of employment for wages, CNN are additionally liable  
22 to the Plaintiff for breach of contract.  
23

24 **Count IX. FMLA Interference. 29 U.S.C. § 2611 et al**

25 167. Plaintiff reincorporates by reference all the allegations above.  
26

27 168. The federal Family Medical Leave Act (FMLA) provides an eligible employee for  
28 a total of twelve (12) workweeks of medical leave during any twelve (12) month period  
29 when the employee becomes unable to perform the functions of his job. An employee  
30  
31  
32

1 may bring a claim under the FMLA when he has suffered damages as a result of the  
2 denial. *See* D.C. Code § 32-501 et. seq.

3  
4 169. In order to prevail in his FMLA claim, Dougherty must show that he was (i)  
5 eligible for FMLA benefits; (ii) Defendant interfered with, restricted or denied Plaintiff's  
6 leave, or exercise of a right under the statute and (iii) Plaintiff was prejudiced and  
7 suffered monetary injury. *See Gordon v. U.S. Capital Police*, 778 F.3d 158 (D.C. Cir.  
8 2015)

9  
10 170. Dougherty had a serious health condition of lateral patellar dislocation, which  
11 prevented him from performing the functions of his job. Daugherty provided his  
12 employer with notice to take this leave beginning on January 1, 2016 until the date of his  
13 termination on March 2016.

14  
15 171. Defendant denied this leave and/or informed him that he had exhausted all his  
16 FMLA leave. He had not. Dougherty then suffered legal injury when they terminated him  
17 on March 17, 2016.

18  
19 172. Defendant's acts caused Plaintiff to suffer economic losses, physical injury,  
20 mental and emotional distress, embarrassment, humiliation and indignity.

21  
22 173. This intentional, reckless, and/or willful act by the part of Defendant's constitutes  
23 a violation of Plaintiff's statutory rights under the FMLA.

24  
25 174. By reason of Defendant's actions, the Plaintiff is entitled to all legal, liquidated  
26 and equitable remedies under the FMLA, including his attorney's fees.

27  
28 **Count X. Retaliation Under the FMLA. 29 USC § 2611 et al**

29  
30 175. Plaintiff reincorporates by reference all the allegations above.

1 176. Under the FMLA it is illegal for the Defendant's to discharge or discriminate in  
2 any manner, against an individual for opposing any practice made unlawful under the  
3 FMLA.  
4

5 177. In the present instance, the Plaintiff engaged in protected activity when he  
6 requested medical leave for all periods beginning on January 1, 2016, and thereafter.  
7

8 178. The Defendant denied this leave and/or informed him that he had used all his  
9 FMLA leave, when he had not. CNN then terminated the Plaintiff by leaving a voice mail  
10 on March 10, 2016, and sending him an email on March 17, 2016.  
11

12 179. Because of the close proximity of the materially adverse actions and protected  
13 activities, it creates an inference of a causal connection that would dissuade a reasonable  
14 employee from filing a claim.  
15

16 180. Defendant's acts caused Plaintiff to suffer economic losses, physical injury,  
17 mental and emotional distress, embarrassment, humiliation and indignity.  
18

19 181. This intentional, reckless, and/or willful act by the part of Defendant's constitutes  
20 a violation of Plaintiff's statutory rights under the FMLA.  
21

22 182. By reason of Defendant's actions, the Plaintiff is entitled to all legal, liquidated  
23 and equitable remedies and penalties under the FMLA, including his attorney's fees.  
24

25  
26 **Part VI. Prayer for Relief**

27 WHEREFORE, the Plaintiff prays that this Honorable Court:

28 A. Declare that the Defendant's committed one or more of the following acts:

29 (i). Knowingly violated the D.C. Wage Payment and Collection Law, with respect to  
30 Plaintiff Martin Dougherty;

31 (ii). Discriminated against him on the basis of age and disability in violation of the D.C  
32 Human Rights Act;



- 1 (iii). Retaliated against him for engaging in protected activities under the DCHRA;  
2 (iv). Interfered and retaliated against him under the D.C. FMLA;  
3 (v). Breached the contract for wages by not paying him during his travels; and  
4 (vi) Interfered and retaliated against him under the federal FMLA.

5 B. That the Court award Plaintiff damages in the amount equal to all of his accumulated  
6 lost wages and benefits, including back pay, front pay and benefits, punitive damages, liquidated  
7 damages, compensatory and emotional damages for the financial, physical and emotional harm  
8 caused by Defendant, including pre-judgment and post judgment interest and any other damages  
9 permitted under the D.C. Wage Laws, the D.C Human Rights Act (DCHRA), the D.C. Family  
10 Medical Leave Act (DCFMLA), the Family Medical Leave Act (FMLA) and for breach of  
11 contract, in an amount to be determined by this Court;  
12

13  
14 C. That the Court also award Plaintiff payment of all fees, costs and expenses inclusive of  
15 attorney's fees and expert fees and any and all other remedies that the Plaintiff maybe entitled to  
16 by all the laws and this Court.  
17

18 **Part VII. Jury Demand**

19 Plaintiff requests a trial by jury on all counts.

20 Respectfully Submitted,

21 Dhali PLLC

22 /s/A.J Dhali, Esq.

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30 Monday June 26, 2017

31 *Attorney for Plaintiff Martin Dougherty*

**Certificate of Service**

A copy of the foregoing 1<sup>st</sup> Amended Complaint was filed via ECF on 6/26/2017 with notice sent to counsel for CNN:

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/s/ A.J Dhali