

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
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KYLE PARTLOW,

Plaintiff,

vs

6:08-CV-1046

THE CITY OF GLOVERSVILLE; and
THE GLOVERSVILLE FIRE DEPARTMENT,

Defendants.

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APPEARANCES:

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Attorneys for Plaintiff
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DAVID N. HURD
United States District Judge

OF COUNSEL:

GREG T. RINCKEY, ESQ.
KILEY D. SCOTT, ESQ.
DOUGLAS J. ROSE

THOMAS M. WITZ, ESQ.

BRYAN J. GOLDBERGER, ESQ.

ORDER

Plaintiff sued the defendants pursuant to the Uniformed Services Employment and
Reemployment Rights Act of 1994 ("USERRA"), 38 U.S.C. § 4301 et seq. Defendants

move for summary judgment pursuant to Fed. R. Civ. P. 56. (Docket No. 28). Plaintiff opposes. (Docket No. 33). Defendants have replied. (Docket No. 35).

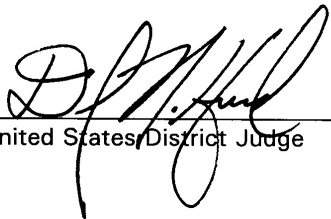
Viewing the facts most favorable to the nonmoving plaintiff as, of course, must be done in a Rule 56 motion, he has clearly set forth direct and circumstantial evidence which creates material questions of fact for a jury. The issues include whether plaintiff was denied benefits of employment, promotion, and if he was subjected to a hostile work environment because of his military status. Questions of fact also exist as to whether the defendants had a policy in place to protect against violations of USERRA, and if so, whether plaintiff failed to utilize said policy.

Therefore, it is

ORDERED, that defendants' motion for summary judgment is DENIED.

IT IS SO ORDERED.

Dated: October 13, 2010
Utica, New York.



United States District Judge