

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

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EEOC, \*  
Plaintiff, \*  
and \*  
MELVIA CLEMMONS, et al. \*  
Plaintiff-Intervenors, \*  
-v- \*  
BELLSOUTH TELECOMMUNICATIONS, \*  
INC., \*  
Defendant. \*

CIVIL ACTION  
NO. 01-0087-~~98~~-S

**FIRST AMENDED COMPLAINT IN INTERVENTION OF MELVIA CLEMMONS**

**Jurisdiction and Venue**

1. Plaintiff Melvia Clemmons brings this action pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e, et seq. as amended by the Civil Rights Act of 1991 and 42 U.S.C. Sec. 1981.
2. Subject matter jurisdiction of this Court is invoked pursuant to 28 U.S.C. Sec. 1331 and 1343, 42 U.S.C. Sec. 2000e, et seq. and 42 U.S.C. Sec. 1981.
3. This action is brought within the State where the unlawful employment practice was committed, making venue proper under 42 U.S.C. Section 2000e-5(f)(3).

**The Parties**

4. Plaintiff Clemmons is an African-American citizen of the United States and of

the State of Alabama. She is a resident of Mobile, Alabama, (Mobile County) which makes her a resident of this District and Division.

5. Defendant BellSouth Telecommunications, Inc. (hereinafter "BellSouth") is an employer within the meaning of Title VII of the 1964 Civil Rights Act and the 1991 amendments thereto.

6. BellSouth is located and doing business within this District and Division.

7. Plaintiff was an employee of BellSouth within the meaning of Title VII of the 1964 Civil Rights Act and the 1991 amendments thereto, up until her retirement February 21, 2001.

#### Facts

8. Prior to her retirement after thirty years of service to BellSouth or its corporate predecessors, Clemmons was employed as a service representative of BellSouth at their Mobile, Alabama office.

9. During Clemmons' employment, BellSouth subjected plaintiff to discriminatory terms and conditions of employment based upon her race, African-American.

10. During Clemmons' employment, she was discriminated against and treated differently because of her race, African-American, than similarly situated white employees.

11. In early 1998, Clemmons applied for a supervisory position for which she was qualified, but BellSouth refused to promote her because of her race and discriminatorily conducted assessment training which adversely affected Ms. Clemmons' ability to be promoted.

12. BellSouth placed white employees in supervisory positions which BellSouth had

denied Clemmons. These white employees were, upon information and belief, less qualified than Clemmons.

13. As a result of BellSouth's discriminatory actions against her, Clemmons filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") on or about December 15, 1998. This filing was within 180 days of the commission of the most recent unlawful employment practice that had occurred at that time.

14. Following the filing of this charge, BellSouth intentionally retaliated against Clemmons in violation of Title VII.

15. Such acts of retaliation by BellSouth against Clemmons included, but were not limited to, failing to use Clemmons as a relief supervisor and failure to promote. Since the filing of her charge, Clemmons has never been asked to relieve a supervisor, even though the relief positions are supposed to be assigned on the basis of seniority. Just weeks after Clemmons filed her charge, a white employee who had been with BellSouth for less than two years was asked to relieve the supervisor while Clemmons was present at work and fully capable of relieving. Further, two other white employees have been placed in permanent supervisory positions after December 15, 1998.

16. In taking the above described actions, defendant BellSouth intentionally retaliated against plaintiff because she filed an EEOC Charge against it. The actions of defendant were taken with malice or reckless indifference to the federally protected rights of plaintiff.

17. As a proximate consequence of these unlawful actions, Clemmons has lost

income and benefits, suffered mental anguish and emotional distress, and suffered other injuries and damages.

18. Clemmons has satisfied all administrative prerequisites to bringing this claim.

**CLAIM I**

**(TITLE VII - Race Discrimination)**

19. Clemmons realleges and incorporates herein by reference Paragraphs 1 through 18 above as if they are recopied and restated herein in full.

20. The defendant's failure or refusal to promote plaintiff/intervenor Clemmons on the basis of race and its conducting of a racially biased assessment training of Clemmons violates Title VII of the Civil Rights Act. Such conduct is actionable under Title VII and furthermore, constitutes a pattern and practice of discrimination under Title VII.

21. As a direct and proximate result of these violations of Clemmons' Title VII rights, Clemmons has suffered damages in the form of lost pay, lost benefits, lost promotional opportunities, emotional pain, suffering, inconvenience, loss of enjoyment of life and humiliation.

22. The unlawful employment practices complained of above were done with malice or with reckless indifference to the federally protected rights of plaintiff.

**COUNT II**

**(Title VII- Retaliation)**

23. Clemmons realleges and incorporates herein by reference Paragraphs 1 through 12 above as if they are recopied and restated herein in full.

24. The defendant's retaliation against Clemmons, as noted above, for complaining

about its unlawful practices violates Title VII of the Civil Rights Act. Such conduct is actionable under Title VII and furthermore, constitutes a pattern and practice of discrimination under Title VII.

25. As a direct and proximate result of these violations of Clemmons' Title VII rights, Clemmons has suffered damages in the form of lost pay, lost benefits, lost promotional opportunities, emotional pain, suffering, inconvenience, loss of enjoyment of life and humiliation.

26. The unlawful employment practices complained of above were done with malice or with reckless indifference to the federally protected rights of plaintiff.

### **COUNT III**

#### **(Section 1981 Race Discrimination)**

27. Clemmons realleges and incorporates herein by reference Paragraphs 1 through 26 above as if they are recopied and restated herein in full.

28. The defendant's failure or refusal to promote plaintiff/intervenor Clemmons on the basis of race and its conducting of a racially biased assessment training of plaintiffs violate Title VII of the Civil Rights Act. Furthermore, the defendant has retaliated against Clemmons, as noted above, for complaining about its unlawful practices. Such conduct is actionable under Title VII and furthermore, constitutes a pattern and practice of discrimination under Title VII.

29. As a direct and proximate result of these violations of Clemmons' Title VII rights, Clemmons has suffered damages in the form of lost pay, lost benefits, lost promotional opportunities, emotional pain, suffering, inconvenience, loss of enjoyment of life and

humiliation.

30. The unlawful employment practices complained of above were done with malice or with reckless indifference to the federally protected rights of plaintiff.

WHEREFORE, Clemmons respectfully requests that this Court grant the following relief:

A. Grant Clemmons a declaratory judgment that the practices complained of herein are violative of the provisions of Title VII of the Civil Rights Act of 1964, and the 1991 amendments thereto and 42. U.S.C. Sec. 1981;

B. Grant Clemmons an order enjoining defendant and all persons acting in concert with defendant from engaging in any discriminatory employment practice on the basis of race or that retaliates against employees for engaging in protected activity;

C. Grant Clemmons an appropriate amount of back pay and other damages and which she was discriminatorily denied, adjusting her retirement benefits accordingly;

D. Order the defendant to make Clemmons whole by providing compensation for past and future pecuniary losses resulting from the above unlawful employment practices, including losses for mental anguish, emotional distress, inconvenience, loss of enjoyment of life and humiliation;

E. Order the defendant to pay Clemmons punitive damages for its malicious and or reckless conduct described above, in an amount to be determined at trial;

F. Grant such further relief as the Court deems necessary and proper, and

G. Award Clemmons her costs and expenses, including an award of reasonable attorney fees.

**PLAINTIFF DEMANDS TRIAL BY STRUCK JURY ON ALL CLAIMS SO TRIABLE**

Respectfully submitted,

GARDNER, MIDDLEBROOKS,  
GIBBONS & KITTRELL, P.C.

Attorneys for the Plaintiff

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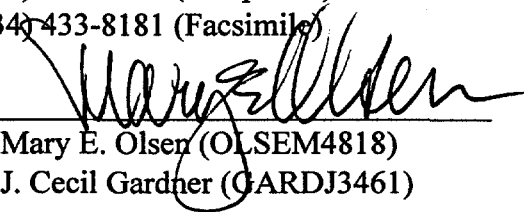
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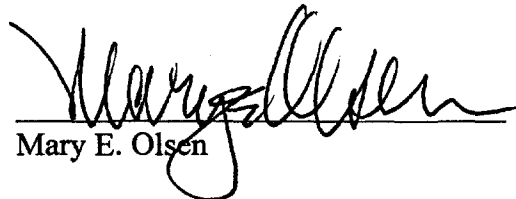
**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was served by U.S. Mail on the following counsel of record this 15 day of Dece, 2001.

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