

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

01-0583

CIV. JORDAN

UNITED STATES EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff,)
)
v.)
)
ADELPHIA CABLE PARTNERS, L.P. d/b/a)
ADELPHIA CABLE COMMUNICATIONS,)
)
Defendant.)
)
_____)

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMANDED
INJUNCTIVE RELIEF SOUGHT

MAGISTRATE
BANDSTRA
BY
FEB 13 AM 2:43
CLARENCE HADDON
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race, and to provide appropriate relief to Glenford James and any other similarly situated individuals who were adversely affected by such practices. As stated with greater particularity in paragraph 7, the Equal Employment Opportunity Commission alleges that Glenford James and other similarly situated individuals were and are forced to endure hostile environment because of their race, black, while employed at Defendant's place of business.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Southern District of Florida, Miami Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Adelphia Cable Partners, L.P. d/b/a Adelphia Cable Communications ("Adelphia" or "Employer"), a Delaware corporation, has continuously been doing business in the State of Florida and the City of Miami, and has continuously had at least 15 employees.

5. At all relevant times, Adelphia has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§2000e(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Glenwood James filed a charge with the Commission alleging violations of Title VII by Defendant Employer Adelphia. This charge was investigated on behalf of Glenwood James and other similarly situated individuals. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least August of 1999, Defendant Employer has engaged in unlawful employment practices at its place of business in Miami, Florida in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), as set forth below.

Glenwood James and other similarly situated individuals were subjected to racial harassment by management on a daily basis because of their race, black. The harassment included verbal abuse and the blatant display of a hanging noose by Defendant's then Technical Manager, William Walker. This unwelcome racial harassment created an intimidating, hostile or offensive work environment which was severe and pervasive, affecting the terms and conditions of their employment. Defendant Employer was placed on notice about this severe and pervasive unwelcomed harassment, but Defendant Employer failed to exercise reasonable care in preventing or correcting the racially harassing behavior. Additionally, Defendant Employer failed to take prompt remedial action when it knew or should have known of the racial harassment of its employees, including the harassment of Glenwood James and any other similarly situated individuals. Defendant is strictly liable for the behavior of William Walker.

8. The effect of the conduct complained of in paragraph 7 above has been to deprive Glenwood James and any other similarly situated individuals of equal employment opportunities and otherwise adversely affect their status as employees because of race.

9. The unlawful employment practices complained of in paragraph 7 above were intentional.

10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Glenwood James and other similarly situated individuals.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Adelphia, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in racial harassment and any other employment practice which discriminates on the basis of race.

B. Order Defendant Adelphia to institute and carry out policies, practices, and programs which provide equal employment opportunities for blacks, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Adelphia to make whole Glenwood James and any other similarly situated individuals by providing appropriate back pay with prejudgment interest, if any, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendant Adelphia to make whole Glenwood James and any other similarly situated individuals by providing compensation for past and future pecuniary losses, if any, resulting from the unlawful employment practices described in paragraph 7 above, including but not limited to, out of pocket losses in amounts to be determined at trial.

E. Order Defendant Adelphia to make whole Glenwood James and any other similarly situated individuals by providing compensation for past and future non-pecuniary losses, if any, resulting from the unlawful practices described in paragraph 7 above, including but not limited to, emotional pain, suffering, inconvenience, humiliation, and loss of enjoyment of life, in amounts to be determined at trial.

F. Order Defendant Adelpia to pay Glenwood James and any other similarly situated individuals punitive damages for its malicious and reckless conduct described in paragraph 7 above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

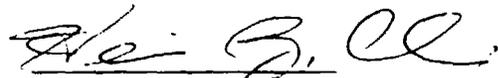
The Commission requests a jury trial on all questions of fact raised by its complaint.

C. GREGORY STEWART
General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

DELNER FRANKLIN-THOMAS
Regional Attorney

MICHAEL J. FARRELL
Supervisory Trial Attorney



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Trial Attorney

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EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

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JS 44
(Rev. 12/96)

CIVIL COVER SHEET 01-0583

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

<p>I. (a) PLAINTIFFS United States Equal Employment Opportunity Commission</p>	<p>DEFENDANTS Adelpia Cable Partners, L.P. d/b/a Adelpia Cable Communications CIV - JORDAN</p>
<p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES) <u>A. DADE OIC U583 / JORDAN / BANSTRA</u></p>	<p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>Dade</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</p>
<p>(c) ATTORNEYS: FIRM NAME, ADDRESS AND TELEPHONE NUMBER Heui Young Choi, Esq. EEOC, One Biscayne Tower, Suite 2700 Two S. Biscayne Blvd., Miami, FL 33131</p>	<p>ATTORNEYS (IF KNOWN) MAGISTRATE BANDSTRA</p>

(d) CIRCLE COUNTY WHERE ACTION AROSE: DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

<p>II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)</p> <p><input checked="" type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (For Diversity Cases Only)</p> <table style="width: 100%;"> <tr> <td style="width: 33%;">Citizen of This State</td> <td style="width: 33%;">PTF DEF <input type="checkbox"/> 1 <input type="checkbox"/> 1</td> <td style="width: 33%;">Incorporated or Principal Place of Business in This State</td> <td style="width: 33%;">PTF DEF <input type="checkbox"/> 4 <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF DEF <input type="checkbox"/> 2 <input type="checkbox"/> 2</td> <td>Incorporated or Principal Place of Business in Another State</td> <td>PTF DEF <input type="checkbox"/> 5 <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF DEF <input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td>Foreign National</td> <td>PTF DEF <input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF DEF <input type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	PTF DEF <input type="checkbox"/> 4 <input type="checkbox"/> 4	Citizen of Another State	PTF DEF <input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated or Principal Place of Business in Another State	PTF DEF <input type="checkbox"/> 5 <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF DEF <input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign National	PTF DEF <input type="checkbox"/> 6 <input type="checkbox"/> 6
Citizen of This State	PTF DEF <input type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	PTF DEF <input type="checkbox"/> 4 <input type="checkbox"/> 4										
Citizen of Another State	PTF DEF <input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated or Principal Place of Business in Another State	PTF DEF <input type="checkbox"/> 5 <input type="checkbox"/> 5										
Citizen or Subject of a Foreign Country	PTF DEF <input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign National	PTF DEF <input type="checkbox"/> 6 <input type="checkbox"/> 6										

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multidistrict Litigation
 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

<p>A CONTRACT</p> <p><input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans Except Veterans <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability</p>	<p>A TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury</p>	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> B 610 Agriculture <input type="checkbox"/> B 620 Other Food & Drug <input type="checkbox"/> B 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> B 630 Liquor Laws <input type="checkbox"/> B 640 P.P. & Truck <input type="checkbox"/> B 650 Airline Regs <input type="checkbox"/> B 660 Occupational Safety Health <input type="checkbox"/> B 690 Other</p>	<p>A BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>A PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark</p>
<p>A REAL PROPERTY</p> <p><input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Eminent Domain <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property</p>	<p>A CIVIL RIGHTS</p> <p><input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights</p>	<p>PRISONER PETITIONS</p> <p><input type="checkbox"/> B 510 Motions to vacate Sentence HABEAS CORPUS: <input type="checkbox"/> B 530 General <input type="checkbox"/> A 535 Death Penalty <input type="checkbox"/> B 540 Manamus & Other <input type="checkbox"/> B 550 Civil Rights <input type="checkbox"/> B 555 Prison Condition</p>	<p>B SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 -A- 1959ff <input type="checkbox"/> 862 Black Lung 923 <input type="checkbox"/> 863 DIWC DIWW 1405(g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI 1405(g)</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> A 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> A 871 IRS - Third Party 26 USC 7809</p>
<p>A OTHER STATUTES</p> <p><input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce, ICC Rates, etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities, Commodities, Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions A OR B</p>			

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)
 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race, and to provide appropriate relief to Glenford James and other similarly situated individuals who were adversely affected by such practices.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____ **CHECK YES only if demanded in complaint. JURY DEMAND:** YES NO

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 2/13/01 SIGNATURE OF ATTORNEY OF RECORD