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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 01-0583-CIV-JORDAN/BANDSTRA

UNITED STATES EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

ADELPHIA CABLE PARTNERS, L.P. d/b/a  
ADLEPHIA CABLE COMMUNICATIONS,

Defendant.

\_\_\_\_\_ /  
GLENFORD S. JAMES,

Intervenor,

vs.

ADELPHIA CABLE PARTNERS, L.P. d/b/a  
ADLEPHIA CABLE COMMUNICATIONS,

Defendant.

**COMPLAINT  
(JURY TRIAL DEMANDED)**

Plaintiff, Glenford S. James (hereinafter "James"), sues Defendant, Adelpia Cable Partners, L.P. d/b/a Adelpia Cable Communications, a Florida corporation (hereinafter, "Adelpia"), and states:

Jurisdiction and Parties

1. This is an action for violations of 42 U.S.C. § 2000e et seq., 42 U.S.C. § 1981, § 760.10, Florida Statutes (Florida Civil Rights Act), negligent retention and intentional infliction of emotional distress.

Rafferty, Gutiérrez, Sánchez-Aballí, Stolzenberg & Gelles, P.A.  
1101 Brickell Avenue, Suite 1400, Miami, Florida 33131 Telephone: (305) 373-0330



[Signature]

2. This Court has jurisdiction pursuant to 42 U.S.C. § 2000e-5(f), 42 U.S.C. § 1988(a), 28 U.S.C. § 1331, and Article III, § 2 of the United States Constitution. This Court has supplemental jurisdiction over James' state law claims pursuant to 28 U.S.C. § 1367(a).
3. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. § 1391 and 42 U.S.C. § 2000e-5(f).
4. James is a 40-year-old black male born on the island of St. Kitts in the Carribean. James resides in Miami-Dade County, Florida.
5. Adelpia Cable Partners L.P. d/b/a Adelpia Cable Communications (hereinafter, "Adelpia"), is a foreign limited partnership, engaged in, among other things, the business of providing cable televisions services within the Southern District of Florida.
6. Adelpia maintains an office at 20800 S.W. 167<sup>th</sup> Avenue, Miami, Florida 33186 (hereinafter, "Adelpia South Dade").
7. At all times relevant hereto, Adelpia had more than 500 employees.
8. At all times relevant hereto, Adelpia was an employer as defined by 42 U.S.C. § 2000e(b) and § 760.02(7), Florida Statutes.
9. In 1989 James was hired by Adelpia to work at Adelpia South Dade as a cable television installer. James was eventually promoted to the position of Technical Supervisor, a management position which James retains to this date. James' duties and responsibilities as a Technical Supervisor have not remained the same.
10. At all times relevant hereto, William "Bill" Walker was James' direct supervisor at Adelpia South Dade. William Walker's position was Technical Operations Manager.
11. William Walker was hired after the departure of Curt Batman from Adelpia South Dade. Upon information and belief, Curt Batman's departure from Adelpia South Dade was caused,

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precipitated, or mandated, at least in part, by the allegations set forth in the Title VII based lawsuit styled *William Young, Jr. v. Southeast Florida Cable, Inc., a Florida corporation d/b/a Adelpia Cable Communications*, Case No: 97-4357-CIV-MIDDLEBROOKS.

12. At all times relevant to this action, Lynn Whisenhunt, General Manager of Adelpia South Dade, was superior to James in the context of James' employment.

13. From the commencement of the interview process leading to the hiring of William Walker though Mr. Walker's departure from Adelpia South Dade, James was subjected to a hostile work environment because of James' race and national origin. The acts giving rise to the racially hostile work environment were continuing in nature. Some, but not all, of the acts are set forth below and are hereinafter collectively referred to as the Racially Hostile Acts.

- a) In July 1999, James was told by his supervisor and others that a "big redneck" had been hired to be James' direct supervisor. The Adelpia South Dade office was particularly sensitive to racially charged issues at this time because, upon information and belief, the prior manager Technical Operations Manager, Curt Batman, was transferred or otherwise relieved of his duties at Adelpia South Dade as a result of the allegations set forth in the case styled *William Young, Jr. v. Southeast Florida Cable, Inc., a Florida corporation d/b/a Adelpia Cable Communications*, Case No: 97-4357-CIV-MIDDLEBROOKS;
- b) William Walker called to James, and referred to James as an "eight-ball", referring to James' black bald head;
- c) At staff meetings and in the presence of other staff members including James, William Walker stated that "Island people only want to get paid without working." James, having been born in St. Kitts and raised in St. Croix, was the

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only person who was from the islands at those meetings. Additionally, many of the residents of areas commonly referred to as the "islands," including the Caribbean Islands, are black. James is black;

- d) In September 1999, William Walker, referring to James' lunch order, directed a co-worker to order for James "monkey meat or whatever they eat";
  - e) William Walker, James' manager, told James that they had to start "treating the contractors like slaves and beat them if we have to";
  - f) William Walker twice displayed a rope noose in his office and over the door of his office. The noose was tied in the fashion of a hangman's noose commonly associated with the lynching of blacks. A photocopy of a picture of the noose is attached hereto as Exhibit "A";
  - g) After James was called a "fucking nigger" over the dispatch radio, James was not made part of the investigation of the incident and James was told to not worry about it;
  - h) James was improperly and unfairly written up for allegedly violation of Adelpia's policies and/procedures;
  - i) Adelpia failed to timely respond, failed to properly respond, or failed to respond at all, to James' complaints about discriminatory conduct;
  - j) Adelpia failed to discipline and take proper corrective action against employees engaging in discriminatory conduct;
  - k) Adelpia failed to enforce its corporate policies regarding racial discrimination;
- and

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- l) James was humiliated, degraded and embarrassed in the presence of other employees.
14. The Racially Hostile Acts lead to other acts reasonably related to the allegations of the Charge of Discrimination and which reasonably could be expected to grow out of the original Charge of Discrimination.
15. Adelpia was placed on notice of the Racially Hostile Acts which resulted in a hostile and offensive work environment but Adelpia failed to prevent or correct the racially harassing behavior. Additionally, Adelpia failed to take prompt remedial action when it knew or should have known of the Racially Hostile Acts.
16. The Racially Hostile Acts were part of a pattern and continuing practice of discrimination.
17. At all times hereto, James, a black male, was a member of a protected class.
18. On May 22, 2000 James filed a Charge of Discrimination with the Florida Commission on Human Relations and the United States Equal Employment Opportunity Commission (hereinafter "EEOC").
19. On February 13, 2001 the United States Equal Opportunity Commission filed suit against Adelpia seeking relief on behalf of "Glenford James and any other similarly situated individuals."
20. All conditions precedent to bring this suit have been performed, occurred or waived.
21. James has engaged the undersigned firm to prosecute this action on his behalf and has agreed to pay a reasonable fee for the firm's services.

**COUNT I**  
**42 U.S.C. SECTION 2000e et seq.**  
**UNLAWFUL EMPLOYMENT PRACTICES**  
**HOSTILE WORK ENVIRONMENT**

22. James incorporates herein the allegations of paragraphs 1 through 21 as if fully set forth herein.

23. This is a claim for unlawful employment practices proscribed by 42 U.S.C. §§ 2000e-2 committed by Adelphia against James.

24. James was subjected to a hostile and offensive work environment which was frequent, severe, humiliating and pervasive, and which unreasonably interfered with James' ability to do his job.

25. The Racially Hostile Acts gave rise to a working environment so heavily polluted with discrimination as to destroy James' emotional and psychological stability as an employee.

26. At all times relevant hereto, Adelphia knew or should have known of the conduct referenced in paragraph 13 a-l above, and failed to take prompt remedial action to prevent such action.

27. At all times relevant hereto, Adelphia, though its agents, acted with discriminatory intent directed towards James because he is black and because he is from St. Kitts.

WHEREFORE, Glenford S. James respectfully requests that this Court:

- a) Declare and adjudge that James' civil rights were violated as prohibited by 42 U.S.C. § 2000e-2;
- b) Enjoin Adelphia, as provided in 42 U.S.C. § 2000e-5(g), from engaging in the unlawful employment practices which violated James' civil rights and order Adelphia to institute policies designed to prevent the violation of the civil rights of other African-American employees;
- c) Order Adelphia to pay James', attorney's fees and costs pursuant to 42 U.S.C. § 2000e-5(k);

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- d) In the event that James does not recover similar damages under Count II below, order Adelphia, as provided in 42 U.S.C § 1981(a)-(b), to pay to James all compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and all other non-pecuniary losses awardable under § 1981(a)-(b);
- e) In the event that James does not recover similar damages under Count II below, order Adelphia, as provided in 42 U.S.C § 1981(a)-(b), to pay to James punitive damages; and
- f) Order such other and further relief as is just and proper.

**COUNT II**  
**42 U.S.C. § 1981**  
**EQUAL RIGHTS UNDER THE LAW**

28. James incorporates herein the allegations of paragraphs 1 through 21 as if fully set forth herein.

29. This is a claim for violations of 42 U.S.C. § 1981(a) committed by Adelphia against James. Specifically, Adelphia denied James the full and equal benefit of the laws of the United States with respect to his compensation, terms, conditions and privileges of employment.

30. The acts which constituted the denial of the full and equal benefit of the laws of the United States resulted in or amounted to a hostile environment

31. At all times material during the term of James' employment, Adelphia committed acts in violation of 42 U.S.C. § 1981(a), including but not limited to those acts set forth in paragraph 13 a-l above.

32. James was subjected to a hostile and offensive work environment which was frequent, severe, humiliating and pervasive, and which unreasonably interfered with James' ability to do his job.

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33. The Racially Hostile Acts gave rise to a working environment so heavily polluted with discrimination as to destroy James' emotional and psychological stability as an employee.

34. At all times relevant hereto, Adelphia knew or should have known of the conduct referenced in paragraph 13 a-l above, and failed to take prompt remedial action to prevent such action.

35. At all times relevant hereto, Adelphia acted with discriminatory intent directed towards James because he is black and because he is from St. Kitts

WHEREFORE, Glenford S. James respectfully requests that this Court:

- a) Declare and adjudge that Adelphia failed to afford James the full and equal benefit of the laws as required by 42 U.S.C. § 1981(a);
- b) Order Adelphia to pay James', attorney's fees and costs pursuant to 42 U.S.C. § 1988(b);
- c) Order Adelphia to pay James' expert fees 42 U.S.C. § 1988(c);
- d) Order Adelphia, as provided in 42 U.S.C § 1981(a)-(b), to pay to James all compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and all other non-pecuniary losses awardable under 42 U.S.C. § 1981(a)-(b);
- e) Order Adelphia, as provided in 42 U.S.C § 1981(a)-(b), to pay to James punitive damages; and
- f) Order such other and further relief as is just and proper.



**COUNT III**  
**§ 760.10, FLORIDA STATUTES**  
**VIOLATION OF THE FLORIDA CIVIL RIGHTS ACT**

36. James incorporates herein the allegations of paragraphs 1 through 21 as if fully set forth herein.

37. This is a claim for unlawful employment practices proscribed by § 760.10(1)(a) committed by Adelphia against James.

38. James was subjected to a hostile and offensive work environment which was frequent, severe, humiliating and pervasive, and which unreasonably interfered with James' ability to do his job.

39. The Racially Hostile Acts gave rise to a working environment so heavily polluted with discrimination as to destroy James' emotional and psychological stability as an employee.

40. At all times relevant hereto, Adelphia knew or should have known of the conduct referenced in paragraph 13 a-1 above, and failed to take prompt remedial action to prevent such action.

41. At all times relevant hereto, Adelphia acted with discriminatory intent directed towards James because he is black and because he is from St. Kitts.

WHEREFORE, Glenford S. James respectfully requests that this Court:

- a) Declare and adjudge that James' civil rights were violated as prohibited by § 760.10, Florida Statutes;
- b) Enjoin Adelphia, as provided in § 760.11(5), Florida Statutes from engaging in the unlawful employment practices which violated James' civil rights and order Adelphia to institute policies designed to prevent the violation of the civil rights of other African-American employees;

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- c) Order Adelpia to pay James' reasonable attorney's fees and costs pursuant to § 760.11(5), Florida Statutes;
- d) Order Adelpia to pay to James all compensatory damages, including but not limited to, damages for mental anguish, loss of dignity, and any other intangible injuries, all pursuant to § 760.11(5), Florida Statutes;
- e) Order Adelpia to pay to James punitive damages pursuant to § 760.11(5), Florida Statutes; and
- f) Order such other and further relief as is just and proper.

**COUNT IV  
NEGLIGENT RETENTION**

42. James incorporates herein the allegations of paragraphs 1 through 21 as if fully set forth herein

43. Adelpia, in its capacity as an employer, owed a duty to James, as employee, to establish and maintain a work environment free from racial discrimination and racial hostility.

44. Adelpia became aware during the term of William Walker's employment that William Walker was unfit to act as a supervisor/manager and that William Walker was acting in a racially discriminatory manner by creating a racially hostile work environment.

45. Adelpia breached its duty to James by failing to take prompt remedial and corrective action, which action should have been swift and drastic, in light of William Walker's conduct.

46. Adelpia's failure to take prompt remedial and corrective action against William Walker harmed James and was the proximate cause of James' psychological and physical injuries.

WHEREFORE, James respectfully requests that this Court enter judgment in his favor and award him damages for humiliation, embarrassment, mental anguish, loss of dignity, and all other relief just and proper.

**COUNT V  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

47. James reincorporates herein the allegations of paragraphs 1 through 21 as if fully set forth herein.

48. The conduct of William Walker, as set forth in paragraph 13 a-1 above, was extreme, outrageous and atrocious, exceeded all possible bounds of decency, and is utterly intolerable in a civilized community.

49. In a civilized society it is outrageous for a supervisor in the work place to advise a black employee to order for lunch "monkey meat or what ever they eat," to twice display a noose commonly associated with the lynching of blacks, and to tell a black employee to treat "contractors like slaves and beat the if we have to."

50. The conduct of William Walker was intentionally or recklessly directed towards Mr. James.

51. The conduct of William Walker caused Mr. James to become severely emotionally distressed and physically infirm, necessitating hospitalization.

52. Adelpia knew of Mr. Walker's conduct, failed to anything about it, and is strictly liable for Mr. Walker's conduct.

WHEREFORE, Glenford S. James respectfully requests that this Court enter judgment in his favor and award damages for pain and suffering, mental anguish, loss of ability to enjoy life, loss of earning capacity, and all compensatory damages properly awardable.

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**DEMAND FOR JURY TRIAL**

Plaintiff demands trial by jury on all issues so triable.

Rafferty, Gutiérrez, Sánchez-Aballi,  
Stolzenberg & Gelles, P.A.

By: 

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Attorneys for Plaintiff, Glenford S. James.

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been sent via U.S. Mail and facsimile this 6<sup>th</sup> day of June 2001 to: Robert T. Wright, Jr. Esq., Verner, Liipfert, et al., 3100 First Union Financial Center, 200 S. Biscayne Blvd., Miami, Fl 33131; Tel: (305) 371-8801; Fax: (305) 371-2457.

  
Jared Gelles, Esq.