

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

UNITED STATES EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,

Plaintiff,

Case No.: 6:02-cv-1112-ORL-28-DAB

TED MAINES,

Intervenor-Plaintiff,

v.

FEDERAL EXPRESS CORPORATION,  
a foreign corporation licensed to do  
business in the State of Florida

Defendant.

**FILED**  
10/30/02 2:42pm  
CLERK, U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO, FLORIDA

**INTERVENOR TED MAINES' VERIFIED COMPLAINT**

Intervenor-Plaintiff, TED MAINES (hereinafter, "MR. MAINES"), by and through his undersigned counsel, hereby sues Defendant, FEDERAL EXPRESS CORPORATION, a foreign corporation licensed to do business in the State of Florida (hereinafter, "FEDERAL EXPRESS"), for retaliation pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq., as amended by the Civil Rights Act of 1991, 42 U.S.C. 1981a (collectively, "Title VII"), and the Florida Civil Rights Act of 1992, Florida Statutes § 760.01, et seq. (the "FCRA"), and for violation of Florida's Private Sector Whistleblower Act, §§448.101, et. seq., Florida Statutes (2001) and in support thereof alleges the following:

**INTRODUCTION**

1. This action is brought to remedy unlawful retaliation in employment wherein

MR. MAINES was unlawfully disciplined and constructively discharged by Defendant, FEDERAL EXPRESS, in retaliation for opposing what he reasonably believed to be discriminatory employment practices made unlawful under Title VII and the Florida Civil Rights Act. The legal basis for this action is Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq., as amended by the Civil Rights Act of 1991, 42 U.S.C. 1981a (collectively, "Title VII"), and the Florida Civil Rights Act of 1992, Florida Statutes § 760.01, et seq.(the "FCRA"). Intervenor-Plaintiff, MR. MAINES, seeks equitable relief and damages. This action is also brought, in part, to remedy unlawful retaliation taken against MR. MAINES for his objection to and/or refusal to participate in what he believed in good faith to have constituted discriminatory and illegal employment practices on the part of Defendant, FEDERAL EXPRESS, in violation of Florida's Private Sector Whistleblower Act, §§448.101, et. seq., Florida Statutes (2001).

#### **JURISDICTION, VENUE AND PARTIES**

2. This action arises, in part, under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000, et seq., as amended by the Civil Rights Act of 1991 ("Title VII"). This Court has original jurisdiction to grant relief pursuant to 28 U.S.C. §§ 1331, 1332(a)(1) and 1343 (3) and (4). This Court is vested with jurisdiction to order an injunction, front pay, back pay or any other equitable relief as may be proper, and compensatory and punitive damages, attorneys' fees and costs pursuant to 42 U.S.C. §§ 1981a and 2000e-5(g). This action also arises, in part, under the Florida Civil Rights Act of 1992, Florida Statutes § 760.01, et seq.(the "FCRA"). This action also arises, in part, under Florida's Private Sector Whistleblower Act, §448.101, et. seq., Florida Statutes (2001). This Court has jurisdiction

over all state law claims pursuant to 28 U.S.C. §1331 and §1367. The state claims herein are for damages in excess of \$75,000.00 and are therefore also within the jurisdiction of this Court.

3. Plaintiff, U.S. Equal Employment Opportunity Commission (“EEOC”), made a finding of discrimination and retaliation against FEDERAL EXPRESS, and filed suit in its own right on behalf of MR. MAINES, giving him the right to intervene as a plaintiff. Accordingly, MR. MAINES brings his claims herein as an Intervening Plaintiff.

4. Venue is proper in the Orlando Division of the Middle District of Florida pursuant to 28 U.S.C. § 1391(a) and (c) because the unlawful employment practices were committed within this judicial district.

5. Intervenor-Plaintiff, MR. MAINES, is an individual who at all times material resided in Orange County, Florida, during the time of his employment with FEDERAL EXPRESS. At all times material herein, MR. MAINES, was employed by FEDERAL EXPRESS as the Senior Manager of FEDERAL EXPRESS’ MCO Revenue Customer Care Center, located in Orlando, Florida.

6. At all relevant times concerning this action, Defendant FEDERAL EXPRESS has continuously been a Delaware corporation doing business in the State of Florida and the City of Orlando, and has continuously had at least 15 employees.

7. At all times relevant to this action, Defendant FEDERAL EXPRESS had 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-5(b), (g) and (h), and Fla. Stat. § 760.02(7).

**COMPLIANCE WITH PROCEDURAL REQUIREMENTS**

8. MR. MAINES timely filed a charge of retaliation with the Equal Employment Opportunity Commission ("EEOC") and Florida Commission of Human Relations ("FCHR") alleging that he was unlawfully disciplined and constructively discharged by Defendant FEDERAL EXPRESS in retaliation for opposing what he reasonably believed to be discriminatory employment practices made unlawful under Title VII and the FCRA.

9. MR. MAINES has exhausted his administrative remedies required under 42 U.S.C. 2000e, and has otherwise fulfilled all applicable administrative prerequisites to bringing this action. Moreover, on May 31, 2002, the EEOC's District Director for the agency's Miami District Office issued a "Letter of Determination" wherein the EEOC found that there was reasonable cause to believe that violations of Title VII had occurred. A true and correct copy of the EEOC's "Letter of Determination" is attached hereto to this Verified Intervenor-Complaint as **EXHIBIT "A."** Additionally, for purposes of Count III of this Amended Complaint, this action is filed within two (2) years of Intervenor-Plaintiff's discovery of the retaliatory personnel actions taken by Defendant FEDERAL EXPRESS as more fully described herein. Upon information and belief, Defendant has not yet filed an Answer to the EEOC's underlying Complaint in this action.

**GENERAL ALLEGATIONS APPLICABLE TO ALL COUNTS**

10. MR. MAINES served with distinction with Defendant FEDERAL EXPRESS for approximately 21 years, from November of 1979, until his career was abruptly terminated at or around April 9, 2001, when he was constructively discharged in retaliation for his

opposition and objection to what he reasonably and in good faith believed to be discriminatory employment practices made unlawful by Title VII and the FCRA. For the past 2 years prior to his constructive discharge, MR. MAINES served in the capacity of Senior Manager of Defendant FEDERAL EXPRESS' MCO Revenue Customer Care Center, located in Orlando, Florida.

11. Throughout MR. MAINES' tenure of service with Defendant FEDERAL EXPRESS, his employment history had been favorably distinguished by numerous accolades, awards, and exemplary performance reviews. For example, MR. MAINES' overall rating on his most recent Individual Performance & Contribution Discussion Form (annual performance evaluation), dated April 10, 2000, was a 3.8 on a 4.0 scale. Additionally, as recently as January 16, 2001, MR. MAINES' outstanding performance as Senior Manger was recognized by Defendant FEDERAL EXPRESS in that he received an "F-Pool" salary increase of 5%. Significantly, this salary increase was approved by Ms. Diane Mattman, Defendant's Vice President of Worldwide Revenue Operations. Additionally, during Ms. Mattman's only visit to the Orlando MCO facility during MR. MAINES' tenure, she favorably commented on MR. MAINES' performance, and further stated that "there will be a Managing Director position" for MR. MAINES in the near future. Upon information and belief, Ms. Mattman was accompanied by FEDERAL EXPRESS' Chief Financial Officer during this meeting wherein Ms. Mattman promised MR. MAINES that he would soon be promoted as a result of his hard work and commitment to excellence.

12. Prior to his constructive discharge, MR. MAINES' hard work and commitment to excellence were consistently recognized and acknowledged by Defendant

FEDERAL EXPRESS. For example, MR. MAINES was awarded FEDERAL EXPRESS' Domestic Ground Operations' (Sunshine District) "Senior Manager of the Year" in 1986, 1989, 1990, 1993 and 1999. Additionally, MR. MAINES received FEDERAL EXPRESS' "Star/Superstar" designation for the years 1988, 1990, 1992, 1993, 1994, 1995, 1997, 1998 and 2000. Moreover, for the past nine (9) years prior to the termination of his career with Defendant FEDERAL EXPRESS, MR. MAINES received a Leadership Index Score of 100% on FEDERAL EXPRESS' Survey/Feedback/Action ("SFA") internal employee relations survey.

13. Unfortunately, MR. MAINES' exemplary performance record for the past two decades afforded him absolutely no protection against the retaliatory actions of Ms. Diane Mattman, and Mr. Carmon ("Lex") Lannom, MR. MAINES' Managing Director and immediate supervisor.

14. At or around December 20, 2000, a personnel requisition was approved by FEDERAL EXPRESS' Sr. Vice President, Tracy Schmidt, and by Ms. Mattman for two Orlando-based CAS Mangers. After conducting a candidate interview and selection process that was *fully consistent* with FEDERAL EXPRESS' Personnel Policy and Procedures, and which was approved by MR. MAINES' (*then*) Managing Director, Ms. Karen Christian, MR. MAINES then presented the interview and selection process materials to FEDERAL EXPRESS' Personnel Representative, Mr. Eddie Jenkins, for evaluation and final approval of the top 2 candidates.

15. Only *after* Ms. Christian and Mr. Jenkins approved of the selection process and specifically approved the selection of the top 2 candidates (which was fully consistent

with FEDERAL EXPRESS' policies and procedures) did MR. MAINES extend job offer letters on February 1, 2001 to the two top candidates. The successful applicants were Ms. Guadalupe Miller (an Hispanic Female) and Ms. Annette Reece (an African-American female).

16. Immediately after these two women accepted their offer letters, MR. MAINES was informed by his (*then*) Managing Director, Ms. Karen Christian, that Defendant FEDERAL EXPRESS' Vice President of Worldwide Revenue Operations, Ms. Diane Mattman, was angry about the hiring selections and that Ms. Mattman had wanted a Caucasian candidate, Ms. Lauren Ruston, to have been given a CAS Manager position. Upon information and belief, MS. MATTMAN initially tried to de-legitimize the interview and selection process that resulted in the offer letters being delivered to Ms. Guadalupe Miller and Ms. Annette Reece by falsely claiming that she had only authorized that one CAS Manager position be filled. Additionally, Ms. Mattman ordered that the offer letter extended to Ms. Guadalupe Miller and Ms. Annette Reece be withdrawn immediately.

17. MR. MAINES complained to his (*then*) direct supervisor, Ms. Christian, that he believed that Ms. Mattman's actions in nullifying the interview and selection process were discriminatory given the fact that Ms. Guadalupe Miller was a minority (an Hispanic), while Ms. Ruston was not.

18. Moreover, MR. MAINES' further questioned the legitimate business basis for Ms. Mattman's directives given the fact that Ms. Miller was fluent in Spanish (a skill not possessed by *any* of the other managers at the Orlando MCO center, either then nor, upon information and belief, as of October 7, 2002) and thus her language skills would have

enabled FEDERAL EXPRESS to have a customer service escalation process as well as a valuable quality auditing process in place with respect to the large volume of Spanish speaking calls that the Orlando, MCO facility regularly received. This seemed to be *particularly beneficial* for advancing FEDERAL EXPRESS' legitimate business interests given the fact that its Orlando, MCO facility acts as the exclusive CAS venue for Spanish speaking calls.

19. Throughout the process that followed, MR. MAINES' fundamental concern was that Ms. Mattman's actions constituted discriminatory employment practices that were unlawful under Title VII and the FCRA, and that they would likely expose Defendant FEDERAL EXPRESS to a credible risk of employment-related litigation and/or EEO complaints from Ms. Miller and/or Ms. Reece.

20. Ultimately, on February 7, 2001, and in accordance with FEDERAL EXPRESS' policies and procedures, MR. MAINES voiced his complaints of discrimination and of the likelihood of FEDERAL EXPRESS' potential corresponding legal exposure to Mr. Greg Richards, an in-house attorney for FEDERAL EXPRESS. During this meeting, Attorney Richards twice offered his assurances that MR. MAINES "would be protected from any acts of retaliation" as a result of his good faith reporting of and objection to what MR. MAINES reasonably believed to be discriminatory employment practices made unlawful under Title VII and the FCRA. Attorney Richards also indicated that he would contact Ms. Mattman to discuss this situation.

21. On February 8, 2001, Ms. Mattman advised MR. MAINES that she was "nullifying" the entire selection process for the two CAS Managers. She also ordered MR.

MAINES to send her all of the interview materials via overnight delivery. MR. MAINES faithfully complied with this directive. Significantly, Ms. Mattman never bothered to wait to receive and review these pertinent interview materials *prior to* sending out "nullification letters" to all of the fifteen (15) applicants, as well as rescinding the offer letters that had been extended to Ms. Miller and Ms. Reece.

22. Moreover, Ms. Ruston, the Caucasian candidate who, upon information and belief, had attended the first interview process with her husband and a local realtor in tow (thus behaving as though her interview and the selection process itself were mere formalities and merely a prelude to a predetermined conclusion), was ultimately given a CAS Manager position at Defendant FEDERAL EXPRESS' Orlando, MCO facility. Upon information and belief, Ms. Guadalupe Miller was subsequently ordered by Defendant FEDERAL EXPRESS to train Ms. Ruston in several meaningful areas in an effort to teach Ms. Ruston how to perform in her role as CAS Manager.

23. Also on February 8, 2001, MR. MAINES received a telephone call from Eddie Jenkins and Karen Christian. During this telephone call, Mr. Jenkins and Ms. Christian warned MR. MAINES that Ms. Mattman was furious that she had received a telephone call from Defendant FEDERAL EXPRESS' Legal Department as a result of MR. MAINES' complaint of discrimination to Attorney Richards. Mr. Jenkins further warned MR. MAINES that "*Diane can do anything she wants,*" referring to Ms. Mattman.

24. Later that same evening on February 8, 2001, Mr. Jenkins called MR. MAINES again at home to convey his concerns that MR. MAINES would likely be subjected to retaliation as a result of his complaint of discrimination against Ms. Mattman to Defendant

FEDERAL EXPRESS' Legal Department. During this conversation, Mr. Jenkins recounted other situations wherein "a good manager had been placed on a *V.P. 's hit list*," because the manager had "stood up to" the V.P. Apparently, this particular manager received an "unacceptable performance evaluation" as a result. In concluding this telephone call, Mr. Jenkins once again cautioned that: "*Diane can do whatever she wants.*"

25. On February 12, 2001, Ms. Guadalupe Miller advised MR. MAINES that she was in the process of filing an internal EEO Complaint due to the "nullification" of her offer letter by Ms. Mattman. Effective at or around February 15, 2001, Mr. Carmon "Lex" Lannom *replaced* Ms. Christian as Managing Director and became MR. MAINES' direct supervisor.

26. Upon information and belief, Ms. Christian had suffered a substantial demotion at the hands of Ms. Mattman, resulting in the insertion of Mr. Lannom as MR. MAINES' direct supervisor. Immediately thereafter, Mr. Lannom began to criticize various aspects of MR. MAINES' performance, business judgment and leadership abilities. These criticisms were false, unwarranted and were obviously meted out with the approval and encouragement of Ms. Mattman (Defendant FEDERAL EXPRESS' Vice President of Worldwide Revenue Operations) in retaliation for MR. MAINES' complaint of and good-faith objection to what he reasonably believed to be discriminatory employment practices made unlawful under Title VII and the FCRA.

27. On the evening of February 16, 2001, MR. MAINES received a telephone call from Lex Lannom, wherein Mr. Lannom advised that as a result of the CAS Manager hiring decisions, MR. MAINES would be receiving a "*strongly worded warning letter.*" Mr.

Lannom then threatened that, after receiving this warning letter, "*the next mistake you make will lead to termination.*" Mr. Lannom also stated that this disciplinary action taken against MR. MAINES was due to the fact that FEDERAL EXPRESS had received "at least one EEO complaint filed as a result of " MR. MAINES' hiring decisions.

28. Alternatively, during this same conversation, Mr. Lannom stated that if MR. MAINES would accept a demotion of five (5) pay grade levels to the position of Sr. Invoicing Specialist (wherein MR. MAINES would be reporting to his subordinate, Ms. Joni Smith), then he "*wouldn't be disciplined at all.*" Mr. Lannom then ordered that MR. MAINES could have the weekend to make a decision as to whether he would accept the proposed demotion (without any 'further' discipline), *or* elect to receive the warning letter and the eventual termination of his employment as per Mr. Lannom's retaliatory threat.

29. On February 20, 2001, MR. MAINES informed Mr. Lannom via E-mail that neither 'alternative' posed by Mr. Lannom on February 16, 2001, was acceptable to him as he had done nothing improper. In response, Mr. Lannom issued a disciplinary "Warning Letter," dated February 21, 2001, wherein he cited MR. MAINES' (*who had previously enjoyed exemplary employment record for over two decades*) for "lack of judgment and leadership failure." Mr. Lannom furthermore made a concerted effort to allege that MR. MAINES had improperly conducted the interview and selection process for the CAS Managers, which then resulted in the selection of Ms. Miller and Ms. Reece. Mr. Lannom also stated that, based on FedEx's "initial investigation," MR. MAINES' actions violated FedEx's Acceptable Conduct policy. Significantly Mr. Lannom's disciplinary "*Warning Letter*" (which was copied to Ms. Mattman and to Mr. Jenkins) contained at least two threats

of termination.

30. Mr. Lannom and/or Ms. Mattman continued a vicious and retaliatory campaign against MR. MAINES that included, but was not limited to, having Mr. Lannom falsely criticize and disparage MR. MAINES' work performance, having MR. MAINES' telephone calls and E-Mail systems monitored, and having Mr. Lannom engage in a campaign wherein he actively attempted to solicit negative information from MR. MAINES' subordinates. Upon information and belief, Mr. Lannom's efforts in this particular regard even included him offering "*immunity*" to subordinates who would agree to furnish negative information regarding MR. MAINES' performance as a manager.

31. On February 26, 2001, MR. MAINES contacted Defendant FEDERAL EXPRESS' in-house attorney, Mr. Greg Richards, to alert him to the disciplinary "*Warning letter*" issued by Mr. Lannom. MR. MAINES expressed his concern that this letter was clearly retaliatory, and was a direct result of the fact that he had previously voiced concerns and objections regarding what he in good-faith believed were Ms. Mattman's discriminatory employment actions made unlawful under Title VII and the FCRA. Thereafter, Mr. Lannom embarked on a deliberate and concerted effort to further disparage MR. MAINES' performance in an open and obvious effort to get MR. MAINES terminated, as per his threat previously made on February 16, 2001. These illegal retaliatory acts were sanctioned by Ms. Mattman who knew or should have known that they were occurring under her direction.

32. Due to this campaign of retaliation, coupled with Mr. Lannom's clearly articulated threat to terminate MR. MAINES if he would not accept a significant demotion, the terms and conditions of MR. MAINES' employment with the Defendant FEDERAL

EXPRESS became so intolerable that he was forced to resign on April 9, 2001.

33. The effect of the conduct complained of in Paragraphs 10 through 32 herein has been to deprive MR. MAINES of equal employment opportunities and to otherwise adversely affect his status as an employee in retaliation for his opposition to unlawful employment practices.

34. The unlawful retaliatory acts complained of in Paragraphs 10 through 32 herein were intentional and done with malice or with reckless indifference to MR. MAINES' rights protected under Title VII and the FCRA, as well as under Florida's Private Sector Whistleblower Protection statute, §448.101, *et seq.*, Florida Statutes (2001).

35. As a result of Defendant FEDERAL EXPRESS' wrongful acts alleged herein, MR. MAINES has suffered economic and emotional damages.

36. All conditions precedent to filing this action have been performed, have occurred or have been waived.

37. MR. MAINES has engaged the services of legal counsel and is obligated to pay legal counsel their fees and costs incurred in the prosecution of this action.

**COUNT I**  
**VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964,**  
**AS AMENDED - RETALIATION**

38. MR. MAINES respectfully repeats and realleges the allegations contained in paragraphs 1 through 37 herein.

39. Defendant FEDERAL EXPRESS violated Title VII of the Civil Rights Act of 1964, as amended, by retaliating against MR. MAINES for complaining about and

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objecting to what he reasonably believed to be unlawful discrimination in employment as more fully described in the General Allegations section of this Verified Intervenor Complaint.

40. The adverse employment actions suffered by MR. MAINES in retaliation for his good-faith complaint of and objections to discriminatory employment practices have been more specifically outlined in the General Allegations Section of this Verified Intervenor Complaint, in Paragraphs 23 through 32, and culminated in his constructive discharge on April 9, 2001.

41. The adverse employment actions suffered by MR. MAINES were causally related to and in retaliation for MR. MAINES' having engaged in the protected activity of complaining about and objecting to what he reasonably and in good-faith believed to be discriminatory employment practices made unlawful by Title VII, as has been described in detail within the General Allegations Section of this Verified Intervenor Complaint.

42. The actions of Defendant FEDERAL EXPRESS and/or its agents, employees, managers, supervisors and/or shareholders were willful, wanton, intentional and performed with malice or with reckless indifference to MR. MAINES' federally protected rights, entitling MR. MAINES to compensatory and punitive damages pursuant to 42 U.S.C. §§ 1981a and 2000e-5(g) to punish FEDERAL EXPRESS for its actions and to deter it, and others, from taking such actions in the future.

43. The actions of Defendant FEDERAL EXPRESS make reinstatement ineffective as a make-whole remedy, entitling MR. MAINES to front pay in lieu of reinstatement.

44. As a direct, proximate and foreseeable result of the actions of Defendant

April 9, 2001.

48. The adverse employment actions suffered by MR. MAINES were causally related to and in retaliation for MR. MAINES' having engaged in the protected activity of complaining about and objecting to what he reasonably and in good-faith believed to be discriminatory employment practices made unlawful by the Florida Civil Rights Act, as has been described in detail within the General Allegations Section of this Verified Intervenor Complaint.

49. The actions of Defendant FEDERAL EXPRESS and/or its agents, employees, managers, supervisors and/or shareholders were willful, wanton, intentional and performed with malice or with reckless indifference to MR. MAINES' protected rights under the Florida Civil Rights Act, entitling MR. MAINES to compensatory and punitive damages pursuant to Florida Statutes Chapter 760.11(5) to punish Defendant FEDERAL EXPRESS for its actions and to deter it, and others, from taking such actions in the future.

50. The actions of Defendant FEDERAL EXPRESS make reinstatement ineffective as a make-whole remedy, entitling MR. MAINES to front pay in lieu of reinstatement.

51. As a direct, proximate and foreseeable result of Defendant FEDERAL EXPRESS' actions, MR. MAINES has suffered past and future pecuniary losses, emotional pain, suffering, inconvenience and mental anguish, loss of enjoyment of life, loss of dignity, emotional distress, humiliation and other nonpecuniary losses and intangible injuries.

**DEMAND FOR RELIEF**

**WHEREFORE**, Intervenor-Plaintiff, TED MAINES, respectfully demands judgment

against DEFENDANT FEDERAL EXPRESS CORPORATION for back pay, front pay in lieu of reinstatement, compensatory damages, prejudgment interest, punitive damages, attorneys' fees, costs of this action and any such other relief as this Court deems just and proper.

**COUNT III**  
**VIOLATION OF THE FLORIDA PRIVATE SECTOR**  
**WHISTLEBLOWER PROTECTION ACT, FLORIDA STATUTES**  
**§448.101, et seq.**

52. MR. MAINES respectfully repeats and realleges the allegations contained in paragraphs 1 through 37, herein.

53. Florida Statutes §448.102(3) provides a cause of action for any employee who has been the object of a retaliatory personnel action for objecting to or refusing to participate in any activity, policy, or practice of the employer which is in violation of a law, rule, or regulation.

54. At all times material to this action, MR. MAINES was an employee within the meaning of Florida Statutes §448.101(2).

55. At all times material, Defendant FEDERAL EXPRESS was/is an employer within the meaning of Florida Statutes §448.101(3) and regularly employs more than 10 persons.

56. Defendant FEDERAL EXPRESS violated Florida Statutes § 448.102(3) by taking retaliatory personnel actions against MR. MAINES due to his good faith objections to, and/or his refusal to participate in, FEDERAL EXPRESS' violation of federal and state laws prohibiting workplace discrimination based upon race and/or national origin, as well as prohibiting retaliation against an employee who engages in the statutorily-protected activity of reporting same, as has been more thoroughly described in the General Allegations section of this Verified Intervenor

Complaint, in Paragraphs 23 through 32, herein.

57. Defendant FEDERAL EXPRESS retaliated against MR. MAINES in violation of Florida's Private Sector Whistleblower Statute, as has been more thoroughly described in the General Allegations section to this Verified Intervenor Complaint herein, culminating in MR. MAINES' constructive discharge on April 9, 2001. Defendant FEDERAL EXPRESS' retaliatory actions were the result of MR. MAINES' having in good faith objected to and/or refused to participate in FEDERAL EXPRESS' illegal and discriminatory employment practices in violation of Title VII and the FCRA, as has been more fully described herein.

58. Defendant FEDERAL EXPRESS and its agents, employees, supervisors, managers, partners, officers and/or directors actively and knowingly participated in the retaliatory personnel actions against MR. MAINES, culminating in MR. MAINES' constructive discharge on April 9, 2001, having actual knowledge and/or constructive knowledge of the wrongfulness of their conduct and the high probability that injury or damage to MR. MAINES would result, and/or acted with such reckless disregard or absence of reasonable care as to constitute a conscious disregard or indifference to the rights of MR. MAINES, and/or acted with such gross negligence that they contributed to MR. MAINES' damages, injuries and losses.

59. As a consequence of these actions, MR. MAINES has suffered damages including loss of income, lost wages and benefits, damage to reputation, standing in his profession and community, emotional distress damages, and other damages which have yet to be determined.

**DEMAND FOR RELIEF**

**WHEREFORE**, Intervenor-Plaintiff, TED MAINES, respectfully demands judgment against DEFENDANT FEDERAL EXPRESS CORPORATION for compensation for lost wages,

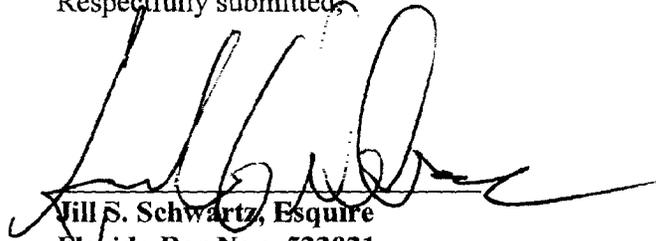
benefits and any other applicable remuneration, prejudgment interest, and all monetary awards, attorneys' fees, court costs and expenses incurred in this action, all other compensatory and punitive damages allowable at law, and any other such relief as this Court deems just and proper. To the extent that Intervenor-Plaintiff is required under applicable law to present a proffer to the Court prior to making a plea for relief under this Count III that includes a claim for punitive damages against Defendant, Intervenor-Plaintiff expressly reserves the right to present same at such a time as deemed reasonable and appropriate by the Court.

**DEMAND FOR JURY TRIAL**

Intervenor-Plaintiff, TED MAINES, respectfully requests a trial by jury for each Count of this Verified Intervenor Complaint on all issues so triable.

DATED this 10<sup>th</sup> day of October, 2002.

Respectfully submitted,



**Jill S. Schwartz, Esquire**

**Florida Bar No.: 523021**

**Andrew G. Wedmore, Esquire**

**Florida Bar No.: 0141143**

**JILL S. SCHWARTZ & ASSOCIATES, P.A.**

**180 Park Avenue, North, Suite 200**

**Winter Park, Florida 32789**

**Telephone: (407) 647-8911**

**Facsimile: (407) 647-8911**

**Attorneys for Intervenor-Plaintiff, TED MAINES**

**VERIFICATION**

Personally appeared before the undersigned, TED MAINES, who, being first duly sworn, deposes and says that the allegations of this Verified Intervenor Complaint for Damages and Demand for Jury Trial consisting of paragraphs numbered 1 through 59 inclusive, are true and correct to the best of his knowledge, information and belief.



\_\_\_\_\_  
TED MAINES, Intervenor-Plaintiff

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of OCTOBER, 2002, by TED MAINES, who is personally known to me or who did produce Florida Driver's License No. \_\_\_\_\_ as identification.



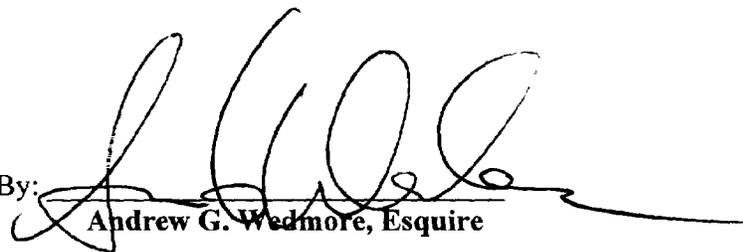
\_\_\_\_\_  
NOTARY PUBLIC STATE OF FLORIDA



**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Verified Intervenor Complaint (and exhibits) as been furnished via U.S. Mail to: **Pamela D. Pitts, Esquire, Managing Director Legal Department, Federal Express Corporation, 3620 Hacks Cross Road, 3<sup>rd</sup> Floor, Building 8, Memphis, Tennessee, 38125** (attorney for Defendant), and **Delner Franklin-Thomas, Esquire, Michael J. Farrell, Esquire, and Heui Young Choi, Esquire, U.S. Equal Employment Opportunity Commission, Miami District Office, One Biscayne Tower, Suite 2700, Two South Biscayne Blvd., Miami, Florida 33131-1805**, on this 10<sup>th</sup> day of October, 2002.

By:



Andrew G. Wedmore, Esquire



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Miami District Office**

One Biscayne Tower  
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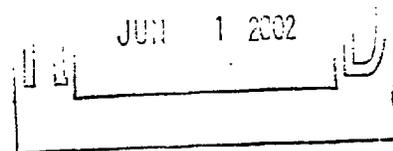
EEOC Charge No. 150A12037

Ted Maines  
811 E. Pine Street  
Orlando, FL 32801

Charging Party

Federal Express Corporation  
1901 Summit Tower Boulevard  
Orlando, FL 32810

Respondent



**LETTER OF DETERMINATION**

I issue the following determination on the merits of this charge.

Respondent is an employer within the meaning of Title VII of the Civil Rights Act (Title VII) of 1964, as amended, and timeliness, deferral and all other requirements for coverage have been met.

Charging Party alleged that he was discriminated against in violation of Title VII in that he was threatened with demotion or discipline in retaliation for protesting employment practices he believed were illegal thereby causing his constructive discharge.

I have determined that the evidence obtained during the investigation establishes that there is reasonable cause to believe that violations of the statute have occurred.

Upon finding that there is reason to believe that violations have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. The confidentiality provisions of Sections 706 and 709 of Title VII and the Commission Regulations apply to information obtained during conciliation.

— EXHIBIT "A" to Intervenor's —  
VERIFIED COMPLAINT

Letter of Determination  
EEOC Charge No. 150A12037  
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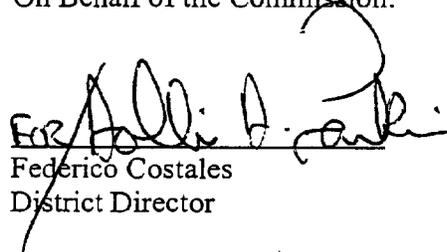
Please complete the enclosed Invitation to Conciliate and return it to the Commission at the above address within ten (10) days of receipt of the Letter of Determination. You may fax your response directly to (305)530-7660 to the attention of Susan A. Mann, Senior Investigator. Failure to respond within ten (10) days of receipt of the Letter of Determination will indicate that you are not interested in conciliating this matter, and the Commission will determine that efforts to conciliate this charge as required by Title VII have been unsuccessful.

If the Respondent declines to discuss settlement or when, for any other reason, a settlement acceptable to the office Director is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission.

On Behalf of the Commission:

MAY 31 2002

Date

  
Federico Costales  
District Director

Enclosure: Invitation to Conciliate

cc: Charging Party Representative

Andrew G. Wedmore, Esq.  
Jill S. Schwartz & Associates, P.A.  
180 Park Avenue North, Suite 200  
Winter Park, FL 32789-7401

Respondent Representative

Bobbie Temple, Advisor  
Employee Relations Department  
Federal Express Corporation  
3660 Hacks Cross Road  
Building F, Third Floor  
Memphis, TN 38125