

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

2000-12-21 9:13

UNITED STATES EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
Plaintiff,)
vs.)
VAL WARD CADILLAC, INCORPORATED)
Defendant,)
CHRIS WEATHERSPOON,)
Intervenor.)
_____)

Case No. 2:00-cv-410-FtM-29D

**INTERVENOR, CHRIS WEATHERSPOON'S AMENDED COMPLAINT
AND DEMAND FOR JURY TRIAL**

CHRIS WEATHERSPOON, (hereinafter "WEATHERSPOON"), sues Defendant, VAL WARD CADILLAC, INCORPORATED, (hereinafter "VAL WARD"), for employment discrimination pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et. seq., as amended, and the Florida Civil Rights Act of 1992, Chapter 760 Florida Statutes (1992 Supp.) and in support thereof states as follows:

NATURE OF ACTION

This is an action against VAL WARD, for unlawful race discrimination. WEATHERSPOON, a black male, was subjected to a racially hostile work environment in that supervisors and co-workers would tell inappropriate jokes, many of which focused on the "hanging" or "roping," "chaining" and "dragging" of African Americans and would refer to black African Americans as "niggers." When WEATHERSPOON reported the

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race discrimination to a manager at VAL WARD, he was terminated in retaliation for complaining about the racial harassment he was being subjected to.

The legal basis for this action is Title VII of the Federal Civil Rights Act of 1964, 42 U.S.C. 2000e et. seq., as amended (“Title VII”) and the Florida Civil Rights Act of 1992, Chapter 760 Florida Statutes (1992 Supp.). WEATHERSPOON seeks equitable relief and damages.

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 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 §102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981 A. The Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367 to consider the Intervenor’s State law claims.

(2) The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Middle District of Florida, Fort Myers Division.

(3) WEATHERSPOON is a citizen of the State of Florida and resides in Lee County, Florida. At the time of the unlawful employment practices alleged herein, WEATHERSPOON was a resident and citizen of Lee County, Florida.

(4) At all relevant times, Defendant, Val Ward Cadillac, Incorporated has

continuously been doing business in the State of Florida and the City of Fort Myers, and has continuously had at least 15 employees.

(5) At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h).

CONDITIONS PRECEDENT

(6) WEATHERSPOON filed a timely charge of discrimination with the EEOC relating to VAL WARD's discriminatory acts alleged herein.

(7) WEATHERSPOON has exhausted his administrative remedies required by 42 U.S.C. 2000e, and otherwise fulfilled all prerequisites to bringing this action.

(8) WEATHERSPOON filed a timely charge of discrimination with the Florida Commission of Human Relations (FCHR) relating to VAL WARD's discriminatory acts alleged herein.

(9) More than one-hundred and eighty (180) days have elapsed from the filing of said charge with the FCHR and said Commission has failed to conciliate or determine whether there is reasonable cause with respect to said charge.

STATEMENT OF FACTS

(10) WEATHERSPOON started his employment with VAL WARD on June 14, 1996 and his last position was groundskeeper.

(11) WEATHERSPOON was subjected to a racially hostile work environment in

that Heiko Raymo and Tom Trevillo who both held supervisory power over Intervenor as well as co-workers, would/did make comments to Intervenor such as:

- a. "Nigger"
- b. "German people are better than Americans because Americans don't want to work for what they get; black people are the worst."
- c. "Black people are funny and strange."
- d. "Blacks are poor and don't want anything out of life."
- e. "All black people should be tortured like that." (Statement made in reference to an incident reported in the newspaper about an African American male who had been chained to a vehicle and dragged until dead)
- f. "I'd never hire Niggers to work on the cars or with the customers."
- g. "Look at those dumb Niggers."

(12) Intervenor was subjected to inappropriate jokes, many of which focused on the "hanging" or the "roping, chaining and dragging" of African Americans.

(13) Intervenor, CHRIS WEATHERSPOON, reported the race discrimination to manager, Tom Trevillo, on or about December 11, 1999.

(14) Intervenor, CHRIS WEATHERSPOON, was terminated on or about December 14, 1999 for what was purely a pretextual reason.

COUNT I
Race Discrimination Pursuant to Title VII

(15) WEATHERSPOON realleges and incorporates Paragraphs 1 through 14 above as if specifically alleged herein.

(16) This is a claim for race discrimination against VAL WARD. Since at least June of 1996, VAL WARD engaged in unlawful employment practices at its Fort Myers, Florida facility, in violation of Section 703(a), Section 704(a) of Title VII, 42 U.S.C. §2000e-2(a),

and §2000e-3(a) and the Florida Civil Rights Act of 1992, Chapter 760 Florida Statutes (1992 Supp.) which included the following:

a. WEATHERSPOON, who at all relevant times was employed by Defendant in the Maintenance Department, was regularly subjected to jokes of racial nature and racial, derogatorily name-calling because of his race (black), by his supervisor, manager and other employees of Defendant. The harassing conduct included an egregious situation where WEATHERSPOON was told that all blacks should be roped and chained and dragged behind a truck until dead. The unwelcome racial harassment was sufficiently severe and pervasive to affect the terms and conditions of his employment and created an intimidating, hostile and offensive work environment. Mr. Weatherspoon complained to management that such conduct was unwelcome. Despite Mr. Weatherspoon's complaints the Defendant allowed the racial harassment to continue.

b. On or about December 14, 1998, WEATHERSPOON was terminated from his position as a groundskeeper because he complained that he was being discriminated against based on his race.

(17) The effect of the practices complained of in Paragraph 11 above has been to deprive WEATHERSPOON of equal employment opportunities and otherwise adversely affect his status as an employee because of his race.

(18) The unlawful employment practices complained of in Paragraph 11 above were intentional.

(19) The unlawful employment practices complained of in Paragraph 11 above were done with malice or with reckless indifference to the federally protected rights of WEATHERSPOON.

(20) As a direct, natural, proximate and foreseeable result of the aforesaid stated action of Defendant, Intervenor, WEATHERSPOON, seeks reinstatement and has suffered loss of back pay, front pay, loss of past and future benefits, emotional damages including but not limited to pain and suffering, mental anguish, inconvenience, loss of dignity, loss of enjoyment of life and other pecuniary losses.

WHEREFORE, WEATHERSPOON demands judgment for damages, including punitive damages, cost and reasonable attorneys' fees and further demands trial by jury of all issues so triable.

COUNT II
Race Discrimination Pursuant to Florida Statutes

(21) WEATHERSPOON realleges paragraphs 1 through 14 as if specifically incorporated herein.

(22) WEATHERSPOON is a member of a protected class and due to the actions of the Defendant was subjected to working in an intimidating, hostile and racially offensive work environment.

(23) The aforesaid discrimination by Defendant was based on race.

(24) The aforesaid actions of Defendant alleged and incorporated herein from above

were numerous, frequent, severe and pervasive and altered conditions of WEATHERSPOON'S employment culminating in his unlawful discharge and together created and abusive working environment.

(25) As a direct, natural, proximate and foreseeable result of the aforesaid stated action of Defendant, Intervenor, WEATHERSPOON, has suffered loss of back pay, front pay, loss of past and future benefits, emotional damages including but not limited to pain and suffering, mental anguish, inconvenience, loss of dignity, loss of enjoyment of life and other pecuniary losses.

WHEREFORE, WEATHERSPOON demands judgment for damages, including punitive damages, cost and reasonable attorneys' fees and further demands trial by jury of all issues so triable.

COUNT III
Retaliation Pursuant to Chapter 760 Florida Statutes

(26) WEATHERSPOON, realleges paragraphs 1 through 14 as if specifically incorporated herein.

(27) Defendant, VAL WARD, through its employees, agents, and supervisors, began a course of adverse employment actions against WEATHERSPOON, which culminated in WEATHERSPOON's termination because of his race and in retaliation for Intervenor having reported and opposed a practice made unlawful by Chapter 760 of the Florida Statutes.

(28) As a direct, natural, proximate and foreseeable result of the aforesaid action of Defendant, Intervenor, WEATHERSPOON has suffered loss of back pay, front pay, loss of past and future benefits, emotional damages including but not limited to pain and suffering, mental anguish, inconvenience, loss of dignity, loss of enjoyment of life and other pecuniary losses.

WHEREFORE, WEATHERSPOON demands judgment for damages, including punitive damages, cost and reasonable attorneys' fees and further demands trial by jury of all issues so triable.

COUNT IV
Retaliation Pursuant to Title VI

(29) WEATHERSPOON, realleges paragraphs 1 through 14 as if specifically incorporated herein.

(30) Defendant, VAL WARD, through its employees, agents, and supervisors, began a course of adverse employment actions against WEATHERSPOON, which culminated in WEATHERSPOON's termination, because of his race and in retaliation for Intervenor having reported and opposed a practice made unlawful by Title VII.

(31) As a direct, natural, proximate and foreseeable result of the aforesaid stated action of Defendant, Intervenor, WEATHERSPOON has suffered loss of back pay, front pay, loss of past and future benefits, emotional damages including but not limited to pain and suffering, mental anguish, inconvenience, loss of dignity, loss of enjoyment of life and

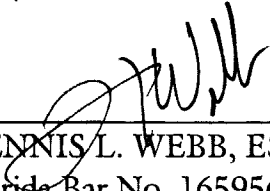
other pecuniary losses.

WHEREFORE, WEATHERSPOON demands judgment for damages, including punitive damages, cost and reasonable attorneys' fees and further demands trial by jury of all issues so triable.

JURY TRIAL DEMAND

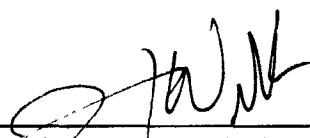
WEATHERSPOON demands a trial by jury for all counts on all triable issues.

By: _____


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Certificate of Service

I HEREBY CERTIFY that a true and correct copy hereof has been mailed by regular US Mail to Michael J. Farrell, Esquire and Heui Young Choi, Esquire, Attorneys for the EEOC, US Equal Employment Opportunity Commission, Two South Biscayne Boulevard, One Biscayne Tower, Suite 2700, Miami, Florida 33131, and Lori Anne Brown, Esquire, Attorney for VAL WARD, 80 SW 8th, Miami, Florida 33130, on this 21st day of December, 2000.

By: 
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