

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

EQUAL EMPLOYMENT OPPORTUNITY))	
COMMISSION,))	
Plaintiff,))	
v.))	CIVIL ACTION NO.
CONSOLIDATED FREIGHTWAYS))	<u>COMPLAINT</u>
CORPORATION OF DELAWARE,))	
Defendant.))	<u>JURY TRIAL DEMAND</u>

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 Gregory Stillman and other African-American individuals who were adversely affected by such practices. The Equal Employment Opportunity Commission ("the Commission") alleges that Defendant Consolidated Freightways Corporation of Delaware ("Consolidated") subjected Gregory Stillman, an African-American, and other African-Americans to a work environment made hostile by racial intimidation, assaults, threats, and harassment from co-workers. The Commission further alleges that Consolidated knew about but did nothing to stop the racial harassment, and that it disciplined Stillman for complaining about the harassment.

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 Western District of Missouri.

PARTIES

3. Plaintiff, 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, Consolidated has continuously been a Delaware corporation doing business in the State of Missouri and the City of Kansas City and has continuously had at least 15 employees.

5. At all relevant times, Consolidated 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, Gregory Stillman filed a charge with the Commission alleging that Defendant had violated Title VII. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least January 1, 1997, Consolidated has engaged in unlawful employment practices at its Kansas City, Missouri site, in violation of Sections 703 and 704 of Title VII, 42 U.S.C. § 2000e-2 and 3.

(a) While employing Stillman and other African-American individuals to work in its loading dock in Kansas City, Missouri, Consolidated subjected them to racial harassment, assaults, threats and intimidation from co-workers. Consolidated did not effectively stop the harassment when Stillman and the others made Consolidated aware of the harassment.

(b) Consolidated retaliated against Stillman by disciplining him because he reported the racial harassment and hostile environment.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Stillman and other African-American individuals of equal employment opportunities and otherwise adversely affect their status as employees, because of their 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 Stillman and other similarly situated individuals.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

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

B. Order Consolidated to institute and carry out policies, practices, and programs that provide equal employment opportunities for African-Americans and that eradicate the effects of its past and present unlawful employment practices.

C. Order Consolidated to make whole Stillman and other African-American individuals by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement of Stillman and all similarly situated individuals.

D. Order Consolidated to make whole Stillman and other African-American individuals by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, in amounts to be determined at trial.

E. Order Consolidated to make whole Stillman and other African-American individuals by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, mental anguish and humiliation, in amounts to be determined at trial.

F. Order Consolidated to pay Stillman and other African-American 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.

Respectfully submitted,

C. GREGORY STEWART
General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

/s/ Robert G. Johnson
ROBERT G. JOHNSON
Regional Attorney

/s/ Barbara A. Seely
BARBARA A. SEELY
Supervisory Trial Attorney

/s/ Jan Shelly
JAN SHELLY
Senior Trial Attorney

/s/ Anne Gusewelle
ANNE GUSEWELLE
Trial Attorney

/s/ Andrea Baran
ANDREA BARAN
Local Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
St. Louis District Office
Robert A. Young Federal Bldg.
1222 Spruce, Room 8.100
St. Louis, MO 63103
(314) 539-7918