

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

**EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )**

**Plaintiff )**

**and )**

**RODNEY BOSTON, )**

**Plaintiff-Intervenor )**

**v. )**

**Case No. 4-02-00519-DW**

**CONSOLIDATED FREIGHTWAYS )  
CORPORATION OF DELAWARE )**

**Request for Jury Trial**

**SERVE REGISTERED AGENT: )**

**Prentice Hall Court System, Inc. )**

**222 E. Dunklin Street )**

**Jefferson City, Missouri 65101, )**

**Defendant. )**

**PLAINTIFF-INTERVENOR'S COMPLAINT**

COMES NOW, Plaintiff, Rodney Boston, by and through his attorneys, DeSimone Pearson, LC, and complains of Defendant, Consolidated Freightways Corporation of Delaware (“Consolidated Freightways” or Defendant) as follows:

**PARTIES AND JURISDICTION**

1. Plaintiff brings this action to remedy violations of Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights of 1991, to remedy violations of 42 U.S. C. § 1981 and 42 U.S.C. § 1981A providing for the equal rights of all persons in every state and territory within the jurisdiction of the

United States, and to remedy violations of state statutory law based upon thependant jurisdiction of this Court.

2. Jurisdiction of the state law claims in Count II is founded upon the pendant or supplemental jurisdiction of this Court pursuant to United Mine Workers v. Gibbs, 38 U.S. 715 (1966) and 28 U.S.C. § 1367.

3. Plaintiff is an African-American male and a resident of Lee’s Summit, Missouri. Venue of this action lies in the Western District of Missouri pursuant to 42 U.S.C. 2000e-5(f) and 28 U.S.C. 1391

4. Defendant, Consolidated Freightways, is a corporation organized and existing under the laws of the state of Delaware and qualified to do business in the state of Missouri.

5. Consolidated Freightways is a “person” within the meaning of Section 701 of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e.

6. Plaintiff has complied with the administrative prerequisites by timely filing a charge of employment discrimination on the basis of race with the Missouri Commission on Human Rights (the “Missouri Commission”) and the Equal Employment Opportunity Commission (“EEOC”).

### **Background Facts**

7. During the course of Plaintiff’s employment with Consolidated Freightways, Defendant has engaged in or allowed racial discrimination and harassment against Plaintiff.

8. Plaintiff and other African American employees have been subjected to humiliation, embarrassment and derision in the workplace based on their race.

9. During the course of employment, Plaintiff was subjected to discrimination in the terms and conditions of employment on the basis of race.

10. Consolidated Freightways never took any effective action to address the racially discriminatory conduct by members of Consolidated Freightways management and Consolidated Freightways employees.

11. On information and belief, Consolidated engaged in other racially discriminatory practices toward other employees of Consolidated Freightways.

12. Consolidated Freightways and its officers, directors and other managerial agents either knew or should have known of the racial discriminatory conduct and practices, reputation and history of racial discrimination, and either knew or should have known of the racial discrimination against Plaintiff. Despite such knowledge, Consolidated Freightways took no effective action to stop such conduct and/or protect Plaintiff.

13. Consolidated Freightways's knowledge of the history of racial discrimination, racism and public acts of racial bigotry and intolerance, and Consolidated Freightways's failure to seriously address such practices and conduct, was tantamount to authorizing its employees to commit such actions against Plaintiff.

14. Defendant allowed a pervasively hostile and abusive working environment which a reasonable person would not tolerate.

15. Defendant's unlawful acts were intentional.

16. Defendant's unlawful acts were done with malice or with reckless indifference to the federally protected rights of Plaintiff.

17. As a result of Consolidated Freightways's racial discrimination and employment practices against Plaintiff, Plaintiff has suffered and will continue to suffer diminished wages, emotional and physical distress, pain and suffering, humiliation, embarrassment, and loss of enjoyment of life.

**COUNT I**  
**TITLE VII**  
**RACIAL DISCRIMINATION/RACIALLY HOSTILE WORK ENVIRONMENT**

18. Plaintiff repeats and realleges paragraphs 1 through 15 as if fully set forth herein.

19. The racial discrimination by Consolidated Freightways against Plaintiff was committed by Defendant against Plaintiff because of Plaintiff's race, and, as such, was an intentional and direct violation of Plaintiff's federally protected rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a)-2000e(d), as amended by the Civil Rights Act of 1991 ("Title VII").

20. Plaintiff's work environment was one of pervasive racial harassment. Consolidated Freightways's failure to take any steps to stop such behavior, when it knew or should have known of such behavior, amounted to condonation, ratification, approval and perpetuation of racial discrimination and a racially hostile environment, and constitutes a violation of Plaintiff's rights under Title VII.

21. Defendant's discrimination against Plaintiff in the terms and conditions of employment including, without limitation, work assignments and compensation, constitutes a violation of Plaintiff's federally protected rights under Title VII.

22. The actions and omissions of Consolidated Freightways, were taken intentionally and with reckless indifference and disregard for Plaintiff's rights under Title VII and caused Plaintiff to suffer severe humiliation, embarrassment, degradation and emotional distress.

23. As a result of the acts and omissions of Consolidated Freightways, Plaintiff has suffered and will continue to suffer pecuniary losses, emotional pain, suffering, embarrassment, emotional and physical distress, loss of enjoyment of life, loss of career prospects and future earnings capacity and other pecuniary and non-pecuniary losses.

WHEREFORE, Plaintiff prays that this Court enter judgement in his favor and against Defendant as follows:

- (a) A finding that Defendant intentionally discriminated against Plaintiff with malice or reckless indifference to Plaintiff's federally protected rights under Title VII;
- (b) That Plaintiff be made whole with all concomitant job titles, compensation and fringe benefits;
- (c) That Plaintiff be awarded all wages, benefits and compensation lost due to Defendant's discriminatory conduct;
- (d) That Plaintiff be awarded his actual compensatory damages resulting from Defendant's discriminatory conduct;
- (e) That Plaintiff be awarded punitive damages from the Defendant;
- (f) That Plaintiff be awarded reasonable attorneys' fees and court costs;
- (g) That Plaintiff be awarded prejudgment interest; and
- (h) That Plaintiff be awarded such other relief as the Court may deem just and proper.

**COUNT II**  
**MISSOURI HUMAN RIGHTS ACT**  
**RACIAL DISCRIMINATION/RACIALLY HOSTILE WORK ENVIRONMENT**

24. Plaintiff repeats and realleges paragraphs 1 through 70 as if fully set forth herein.

25. The racial discrimination by Defendant against Plaintiff was committed against Plaintiff because of Plaintiff's race, and, as such, was an intentional and direct violation of Plaintiff's state protected rights under the Missouri Human Rights Act, R.S.Mo. § 213.055 (the "Missouri Act").

26. Plaintiff's work environment was one of pervasive racial harassment. Consolidated Freightways's failure to take any steps to stop such behavior, when it knew or should have known of such

behavior, amounted to condonation, ratification, approval and perpetuation of racial discrimination and a racially hostile environment, and constitutes a violation of Plaintiff's rights under the Missouri Act.

27. The actions and omissions of Defendant were taken intentionally and with reckless indifference and disregard for Plaintiff's rights under Missouri Act and caused Plaintiff to suffer severe humiliation, embarrassment, degradation and emotional distress. As a result of the intentional acts and omissions of Defendant, Plaintiff has suffered and will continue to suffer pecuniary losses, emotional pain, suffering, embarrassment, emotional and physical distress, loss of enjoyment of life, and other pecuniary and non-pecuniary losses.

WHEREFORE, Plaintiff prays that this Court enter judgement in his favor and against Defendant as follows:

- (a) A finding that Defendant intentionally discriminated against Plaintiff with malice or reckless indifference to Plaintiff's state protected rights under Missouri Act;
- (b) That Plaintiff be made whole with all concomitant job titles, compensation and fringe benefits;
- (c) That Plaintiff be awarded all wages, benefits and compensation lost due to Defendant's discriminatory conduct;
- (d) That Plaintiff be awarded his actual compensatory damages resulting from Defendant's discriminatory conduct;
- (e) That Plaintiff be awarded punitive damages from the Defendant;
- (f) That Plaintiff be awarded reasonable attorneys' fees and court costs;
- (g) That Plaintiff be awarded prejudgment interest; and
- (h) That Plaintiff be awarded such other relief as the Court may deem just and proper.

**COUNT III**  
**SECTION 1981**

28. Plaintiff repeats and realleges paragraphs 1 through 25 as if fully set forth herein.

29. The actions and conduct of the Defendant complained of above were deliberate and willful and intended to deprive Plaintiff of his rights and immunities as guaranteed by the Constitution and Statutes of the United States of America.

30. Such deliberate, willful and intentional acts were taken against Plaintiff solely because of his race and color.

31. Plaintiff was so deprived of his rights and immunities as guaranteed by the Constitution and Statutes of the United States of America as a result of the actions and conduct of the Defendant.

32. As a result of the actions and conduct of Defendant, Plaintiff has suffered and will continue to suffer pecuniary losses, emotional pain, suffering, embarrassment, emotional and physical distress, loss of enjoyment of life, loss of career prospects and future earnings capacity, and other pecuniary and non-pecuniary losses.

WHEREFORE, Plaintiff prays that this Court enter judgement in his favor and against Defendant as follows:

(a) A finding that Defendant intentionally discriminated against Plaintiff with malice or reckless indifference to Plaintiff's federally protected rights;

(b) That Plaintiff be awarded all wages, benefits and compensation lost due to Defendant's discriminatory conduct;

(c) That Plaintiff be awarded his actual compensatory damages resulting from Defendant's discriminatory conduct;

- (d) That Plaintiff be awarded punitive damages from Defendant;
- (e) That Plaintiff be awarded reasonable attorneys' fees and court costs;
- (f) That Plaintiff be awarded prejudgment interest; and
- (g) That Plaintiff be awarded such other relief as the Court may deem just and proper.

**DESIGNATION OF PLACE OF TRIAL**

33. Plaintiff hereby requests that this trial of this matter be held in Kansas City, Missouri.

**JURY TRIAL DEMAND**

34. **PLAINTIFF DEMANDS TRIAL BY JURY ON ALL COUNTS OF HIS COMPLAINT.**

Respectfully submitted,

DeSIMONE PEARSON, LC

By /s/ Brad I. Pearson  
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ATTORNEYS FOR PLAINTIFF INTERVENOR

Dated: August 26, 2002

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 26th day of August, 2002, a copy of the forgoing was electronically filed and mailed to:

Jan Shelly, Senior Trial Attorney  
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