

JUL 7 2000

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
Civil Action No 3:00 CV 186-McK

U. S. DISTRICT COURT  
W. DIST. OF N. C.

**EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,**

**Plaintiff,**

**and**

**John A. Warren**

**COMPLAINT IN INTERVENTION**

**Plaintiff-Intervenor,**

**(Jury Trial Demanded)**

**v.**

**Crowder Construction Company,**

**Defendant.**

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Plaintiff-Intervenor John A Warren alleges:

**NATURE OF THE ACTION**

This is an action under Title VII of the Civil Rights Act of 1964 (as amended), to correct unlawful employment practices on the basis of race and to provide appropriate relief to Plaintiff-Intervenor John A. Warren and to Defendant's other current and former Black employees as a class, who were adversely affected by such practices. Plaintiff-Intervenor John A. Warren and other similarly situated Black employees of Defendant were subjected to racial harassment and a racially hostile work environment due to their race, Black, by Crowder Construction Company.

**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 ("Title VII"), as amended, 42 U.S.C. § 2000e-5(f)(1) and (3).

- 1a. To the extent that claims are alleged or asserted under the law of North Carolina, the court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367(a).
2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the western District of North Carolina, Charlotte Division.

### **PARTIES**

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is authorized to bring this action by § 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).
- 3a. Plaintiff-Intervenor is an adult Black Male citizen and resident of Mecklenburg County, North Carolina. Plaintiff-Intervenor is entitled to intervene as a matter of right, pursuant to § 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1).
4. At all relevant times, Defendant, Crowder Construction Company, has continuously been a North Carolina corporation doing business in the State of North Carolina and the City of Charlotte, 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, as defined by §§ 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, Plaintiff-Intervenor filed a timely charge of discrimination with the Commission, alleging violations of Title VII by Defendant

**Employer.**

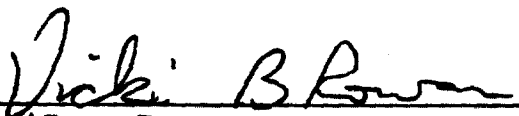
- 6a.** On information and belief, more than thirty days prior to the institution of this lawsuit, John C. Warren filed a separate timely charge of discrimination with the Commission, alleging violations of Title VII by Defendant Employer.
- 6b.** All conditions precedent to the institution of this action have been fulfilled.
- 7.** From on or about September 1998 to the end of December 1998, and on information and belief until the present, Defendant Employer engaged in unlawful employment practices at its Charlotte, North Carolina facility, in violation of § 703(a)(1) of Title VII, 42 U.S.C. 2000e-2(a)(1). The unlawful practices included subjecting Plaintiff-Intervenor John C. Warren, John C. Warren, and Blacks as a class to a racially hostile work environment through the repeated use of racially derogatory language and racial epithets. The specific incidents which occurred included: hearing Black co-workers referred to as "nigger" "boy" daily; and seeing a supervisor approach a black co-worker with a noose while stating "this is what we used to do to you," or words to that effect.
- 7a.** Plaintiff-Intervenor was employed by Defendant from September through December 1998.
- 7b.** Plaintiff-Intervenor and other Black employees reported the racially discriminatory and racially hostile work environment to management but no action was taken to correct the practices complained of. Defendant had actual and constructive knowledge of the acts complained of.
- 8.** The effect of the practices complained of in paragraph 7 above have been to deprive Plaintiff-Intervenor John C. Warren, John C. Warren, and Defendant's current and former Black employees, as a class, of equal employment opportunities and otherwise adversely affect their status as employees because of their race.

9. **The unlawful employment actions complained of above were intentional.**
10. **The unlawful employment actions complained of above were done with malice or with reckless indifference to the federally protected rights of Plaintiff-Intervenor John A. Warren, John C. Warren, and Defendant's current and former Black employees, as a class.**
11. **Due to the actions of the Defendant and the failure to correct the conduct complained of, Plaintiff-Intervenor was forced to resign from the employ of the Defendant. A resignation under such circumstances constitutes a constructive termination of employment.**
12. **As a proximate result of the Defendant's actions, Plaintiff-Intervenor has been damaged, in incurring lost wages, embarrassment, humiliation, and emotional distress.**
13. **Plaintiff-Intervenor is entitled to recover punitive damages from the Defendant.**

**WHEREFORE, Plaintiff-Intervenor respectfully prays that this Court:**

- A. **Grant a permanent injunction enjoining the Defendant, its officers, agent and all persons in active concert or participation with it, from subjecting individuals to racial harassment and engaging in any other employment practice which discriminate on the basis of race;**
- B. **Order Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for Blacks and which eradicate the effects of its past and present unlawful employment practices;**
- C. **Order Defendant to make whole Plaintiff-Intervenor and other class members by providing appropriate relief necessary to eradicate the effects of its unlawful employment practices;**
- D. **Order Defendant to make whole Plaintiff-Intervenor and other class members by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, including but not limited to back pay, prejudgment interest, front pay, and other affirmative relief;**

- E. Order Defendant to make whole Plaintiff-Intervenor and other class members by providing Plaintiff-Intervenor and other class members compensation for all past and future non-pecuniary losses resulting from the unlawful employment practices described above, including but not limited to emotional pain, suffering, loss of enjoyment of life, and humiliation, in amounts to be determined at trial;
- F. Order Defendant to pay to Plaintiff-Intervenor and other class members punitive damages for its malicious and reckless conduct in amounts to be determined by the jury;
- G. Tax the costs of this action, including reasonable attorney fees and expenses, against the Defendant; and
- H. Grant such further relief as the Court deems necessary and proper.

  
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Attorney for Plaintiff-Intervenor

**PLAINTIFF-INTERVENOR DEMANDS TRIAL  
BY JURY OF ALL ISSUES OF FACT**

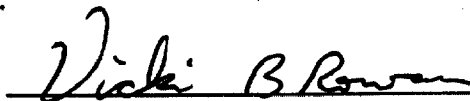
**CERTIFICATE OF SERVICE**

I hereby certify that I have served the foregoing document on all parties separately represented by mailing a copy by first-class mail to their attorneys at the following addresses:

Ms. Erania Ebron  
Equal Employment Opportunity Commission  
129 W. Trade Street, suite 400  
Charlotte, NC 28202

Mr. Phillip Van Hoy  
Van Hoy Reutlinger & Taylor  
737 East Boulevard  
Charlotte NC 28203

Dated: June 2<sup>3</sup>, 2000.



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