

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
Civil Action No 3:04 CV 467

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

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

and

David Wise

Plaintiff-Intervenor,

COMPLAINT IN INTERVENTION

(Jury Trial Demanded)

v.

Firestone Fibers & Textiles Company, a  
division of BFS Diversified Products;  
BFS Diversified Products, LLC; and  
Bridgestone Americas Holdings, inc.,  
Defendants.

FILED  
CHARLOTTE, N.C.  
2004 DEC 17 PM 3:31  
U.S. DISTRICT COURT  
W. DIST. OF N.C.

Plaintiff-Intervenor David Wise ("Wise") alleges:

**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 religion, and to provide appropriate relief to Plaintiff-Intervenor David Wise, who was adversely affected by such practices. Plaintiff-Intervenor David Wise specifically alleges that the defendants set forth above failed to accommodate Mr. Wise's religious beliefs and discharged him because of his religion, Christian (Living Church of God).

**JURISDICTION AND VENUE**

1. Under Title VII, Wise is a "party aggrieved" by the practices of the Defendants and there has the right to intervene pursuant to 29 U.S.C. 2000e-5(f).

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- 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.

### **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 male citizen and resident of York County, South 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 Firestone Fibers & Textiles Company, has been a division of BFS Diversified Products, LLC, a Delaware limited liability corporation doing business in the State of North Carolina and the Cities of Kings Mountain and Gastonia, and has continuously had at least 15 employees.
5. At all relevant times, BFS Diversified Products, LLC, a subsidiary of Defendant Bridgestone Americas Holdings, Inc., has been a Delaware limited liability company doing business in the State of North Carolina and the Cities of Kings Mountain and Gastonia and has continuously had at least 15 employees.
6. At all relevant times, Defendant Bridgestone Americas Holdings, Inc., has been a Nevada

Corporation doing business in the State of North Carolina and the Cities of Kings Mountain and Gastonia and has continuously had at least 15 employees.

7. At all relevant times, Defendant Firestone Fibers & Textiles Company has continuously been an employer engaged in an industry affecting commerce, as defined by Title VII, 42 U.S.C. § 2000e(b), (g) and (h).
8. At all relevant times, Defendant BFS Diversified Products, LLC has continuously been an employer engaged in an industry affecting commerce, as defined by Title VII, 42 U.S.C. § 2000e(b), (g) and (h).
9. At all relevant times, Defendant Bridgestone Americas Holdings, Inc. has continuously been an employer engaged in an industry affecting commerce, as defined by Title VII, 42 U.S.C. § 2000e(b), (g) and (h).

#### **STATEMENT OF CLAIMS**

10. More than thirty days prior to the institution of this lawsuit, David Wise filed a timely charge of discrimination with the Commission, alleging violations of Title VII by Defendants.
11. From on or about February 15, 2002 until around September 23, 2002, Defendants engaged in unlawful employment practices at their facilities located in the cities of Kings Mountain and Gastonia, North Carolina, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1) by failing to provide Mr. Wise a reasonable accommodation of his religious beliefs and discharging him because of his religious beliefs and practices. Specifically, Mr. Wise who is a member of the Living Church of God, hold a sincere religious belief that he should not work on his Sabbath from sundown Friday to sundown Saturday or on other

specified religious observances. Around February 15, 2002, Mr. Wise informed Defendants of this sincerely held religious belief, and requested as a reasonable accommodation that he be excused from work during his Sabbath. Despite Mr. Wise's request, Defendant failed to provide a reasonable religious accommodation that would resolve the conflict between Mr. Wise's religious beliefs and his work schedule in such a way that Mr. Wise could continue to work for Defendants. As a result Defendants discharged Mr. Wise around September 23, 2002 because of his religious beliefs and practices, specifically because he took off for his Sabbath and religious observances.

12. The effect of the practices complained of in paragraph 11 above has been to deprive Plaintiff-Intervenor Wise of equal employment opportunities and otherwise adversely affect his status as an employee because of his religion, Christian (Living Church of God).
13. The unlawful employment actions complained of in paragraph 11 above were intentional.
14. The unlawful employment actions complained of in paragraph 11 above were done with malice or with reckless indifference to the federally protected rights of Plaintiff-Intervenor Wise.
15. Due to the actions of the Defendants, Plaintiff-Intervenor lost wages and benefits and underwent emotional distress, humiliation, embarrassment and emotional distress.
16. Plaintiff-Intervenor Wise is entitled to recover punitive damages from the Defendants.

WHEREFORE, Plaintiff-Intervenor respectfully prays that this Court:

- A. Grant a permanent injunction enjoining the Defendants, their officers, successors, assigns and all persons in active concert or participation with them, from discriminating against current or future employees based on their religious beliefs;

B. Order Defendants to institute and carry out policies, practices and programs which provide equal employment opportunities for employees who require religious accommodations for their sincerely held religious beliefs, and which eradicate the effects of its past and present unlawful employment practices;

C. Order Defendants, jointly and severally, to make whole Plaintiff-Intervenor by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices described in paragraph 11 above, including but not limited to reinstatement or front pay;

D. Order Defendants, jointly and severally, to make whole Plaintiff-Intervenor by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, including but not limited to medical expenses and job search expenses, in amounts to be determined at trial;

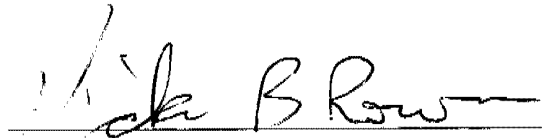
E. Order Defendants to make whole Plaintiff-Intervenor providing Plaintiff-Intervenor compensation for all past and future non-pecuniary losses resulting from the unlawful employment practices described in paragraph 11 above, including but not limited to emotional pain, suffering, inconvenience, loss of civil rights, loss of enjoyment of life, and humiliation, in amounts to be determined at trial;

F. Order Defendants, jointly and severally, to pay to Plaintiff-Intervenor punitive damages for their malicious and reckless conduct as described in paragraph 11 above in amounts to be determined at trial by the jury;

G. Tax the costs of this action, including reasonable attorney fees and expenses, against the Defendants; and

H. Grant such further relief as the Court deems necessary and proper.

This the 12 day of November 2004.



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Attorney for Plaintiff-Intervenor Wise

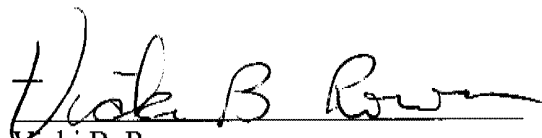
**PLAINTIFF-INTERVENOR DEMANDS TRIAL  
BY JURY OF ALL ISSUES OF FACT**

**CERTIFICATE OF SERVICE**

I hereby certify that on November 12, 2004, 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. Kara Haden  
Equal Employment Opportunity Commission  
129 W. Trade Street, Suite 400  
Charlotte, NC 28202

H. Bernard Tisdale III  
Ogletree, Deakins, Nash, Smoak & Stewart, PC  
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Greenville, SC 29602



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