

HARRIET HEUER MILLER, ESQ. (4508)
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Jersey City, New Jersey 07306
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Attorney for Plaintiff Roniss G. Mason

IN THE UNITED STATES DISTRICT COURT
OF THE DISTRICT OF NEW JERSEY

)	Civ. No 2:06-cv-1453 (JAP)(MCA)
RONISS G. MASON,)	
Plaintiff;)	
)	
v.)	COMPLAINT and
)	JURY DEMAND
UNITED PARCEL SERVICE, INC.,)	
Defendant.)	
)	

NATURE OF ACTION

Plaintiff Roniss Mason brings this action against United Parcel Service, Inc., (UPS or defendant) seeking declaratory and injunctive relief and damages resulting from unlawful religious discrimination in hiring.

JURISDICTION

1. This action is brought under, and jurisdiction is vested in this court pursuant to 28 U.S.C.A. section 1331 through 42 U.S.C.A. section 2000e (Title VII) and pursuant to 28 U.S.C.A. section 1367 as to the pendent state law claim of unlawful discrimination, N.J.S.A. 10:5-1. The amount in controversy, exclusive of costs, interest and attorneys fees, exceeds \$75,000.00.

VENUE

2. Venue is proper because the unlawful employment practices were and are being committed within the jurisdiction of the United States District Court for the District of New Jersey, and the venue of this action is properly placed in this district pursuant to 28 U.S.C.A. section 1391.

PARTIES

3. Plaintiff Roniss C. Mason resides at 845 Bergen Avenue, in the City of Jersey City, County of Hudson, State of New Jersey.

4. Defendant UPS is, and at all times mentioned in this complaint, was a business organized and existing under the laws of the State of New Jersey, and was operating and maintaining a business for the delivery of packages at 493 County Avenue, in the Town of

Secaucus, County of Hudson, State of New Jersey and at numerous other locations in the United States and abroad.

5. At all relevant times UPS has been an employer engaged in an industry affecting commerce within the meaning of Title VII, 42 U.S.C.A. sections 2000e, and has more than 15 employees employed at its Secaucus facility.

6. At all relevant times UPS has been an employer within the definition of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-5.

ADMINISTRATIVE PROCEDURES

7. Plaintiff has exhausted his administrative procedures under 42 U.S.C.A. 2000e, in that the United States Equal Employment Opportunity Commission (EEOC) filed this action against UPS on or about March 27, 2006, after issuing a Determination on June 13, 2005 that UPS discriminated against plaintiff and against other individuals of plaintiff's religion and of certain other religions as a class (Exhibit A). Plaintiff had filed with the EEOC a Charge of Religious Discrimination against defendant on or about February 14, 2005 (Exhibit B).

STATEMENT OF CLAIMS

FIRST COUNT (Title VII and NJLAD)

8. On or about November 18, 2004 plaintiff applied for the job of seasonal driver's helper at the UPS facility located at 493 County Avenue, Secaucus, New Jersey.

9. Plaintiff was at all times fully qualified for the position of seasonal driver's helper.

10. Plaintiff completed the written application and was interviewed for the job.

11. During the November 18, 2004 hiring process, Plaintiff was advised by UPS that he was required to shave his beard to qualify for the position of seasonal driver's helper.

12. Plaintiff explained to UPS that he could trim his beard, but he could not remove it because of his religion.

13. Plaintiff is a Rastafarian, and as a Rastafarian he sincerely believes that he must wear a beard to observe his religion.

14. During the hiring process on November 18, 2004, UPS advised plaintiff that he could not complete the application for the seasonal driver's helper position because he refused to shave his beard, as UPS had guideline requirements which prohibited beards and goatees for certain positions including that of seasonal driver's helper.

15. UPS further advised plaintiff that he could apply for an “inside” position because an “inside” position would not involve contact with the public.

16. The “inside” position paid less than that the seasonal driver’s helper’s position.

17. Defendant UPS refused to enter the interactive process of reasonably accommodating plaintiff’s religious observance.

18. Defendant UPS refused to hire plaintiff and/or to consider plaintiff for hiring because he was unable for religious reasons to shave off his beard.

19. These refusal constituted unlawful discrimination based on plaintiff’s religion.

20. As a consequence of Defendant’s wrongful acts, Plaintiff has been deprived of income, benefits, pension, and suffered anxiety, detriment to their health,, humiliation, pain and suffering and other damages.

Wherefore, plaintiff requests judgment as follows:

A. This court issue a declaratory judgment that defendant's acts, policies, practices and procedures complained of herein violated plaintiffs' rights as secured by the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. (NJLAD), and Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. section 2000e, as amended; and

B. This court enjoin defendant's acts, policies, practices and procedures complained of herein; and

C. This court award plaintiff actual and compensatory damages including lost wages, front pay, fringe benefits, social security, seniority rights and other remuneration; and

D. This court award plaintiff punitive damages because of defendant’s intentional acts in defiance of the NJLAD and Title VII which acts, if allowed to persist, would effectively thwart the public policy of the United States and the State of New Jersey; and

E. This court award plaintiff costs of suit, interest and attorneys' fees; and

F. This court award such other relief as this court determines appropriate.

DATED: May 18, 2006

s/Harriet Heuer Miller
HARRIET HEUER MILLER

JURY DEMAND

The Plaintiff hereby demands trial by a jury on all of the triable issues of this complaint, pursuant to Fed. R. Civ. P. 38.

DATED: May 18, 2006

s/Harriet Heuer Miller
HARRIET HEUER MILLER



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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Newark Area Office

1 Newark Center 21st Floor
Newark, NJ 07102-4212
(973) 645-6243
TTY (973) 645-3384
FAX (973) 645-3324

Roniss G. Mason
843 Bergen Ave., #136
Jersey City, NJ 07306

Charging Party,

CHARGE NO: 171-2005-00226

United Parcel Service, Inc.
493 County Avenue
Secaucus, NJ 07094

Respondent.

DETERMINATION

Under the authority vested in me by the Commission, I issue the following determination as to the merits of the above cited charge.

All requirements for coverage have been met. Charging Party alleged that Respondent discriminated against him in violation of Title VII of the Civil Rights Act of 1964, as amended (Title VII), when it denied him hire because of his religion (Rastafarian).

Examination of the evidence indicates that Charging Party's religion is Rastafarian. Charging Party is required to maintain a beard as part of his religious beliefs.

On November 18, 2004, Charging Party, in response to a newspaper advertisement, applied for the position of Seasonal Driver Helper. Charging Party was then interviewed by Respondent's Human Resources Supervisor. The job requirements were explained, and Charging Party was informed that helpers must be clean shaven. The evidence indicates that Charging Party informed the manager that he could trim his beard, but could not remove it due to his religious beliefs. The manager then informed Charging Party that if he was going to keep his beard he could not be a helper but could apply for an inside position for which the appearance standards did not apply. Thus, the interview concluded and Charging Party was denied accommodation and was denied hire.

.....
EXHIBIT A

The evidence indicates that Respondent has a written policy mandating appearance standards for drivers and helpers. Included in the policy is the following clause- "A beard, goatee or hair below the lower lip is not acceptable." This is a nationwide policy. Respondent's reason for the standard is not one of business necessity, but simply that it wants helpers to have what it deems to be a professional look.

The evidence indicates that Respondent discriminated against Charging Party because of his religion in violation of Title VII, and due to its appearance policy discriminates against individuals of Charging Party's religion and certain other religions as a class.

Based on this analysis, I have determined that the evidence obtained during the investigation establishes a violation of the statute.

Upon finding that there is reason to believe that violations have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. The confidentiality provisions of the statute and Commission Regulations apply to information obtained during conciliation.

In this regard, conciliation of this matter has now begun. Please be advised that any reasonable offer to resolve this matter will be considered. The Commission can seek an amount inclusive of full back pay with interest, lost benefits, and actual monetary costs incurred by Charging Party, as well as an amount of compensatory and punitive damages as allowed by the statute.

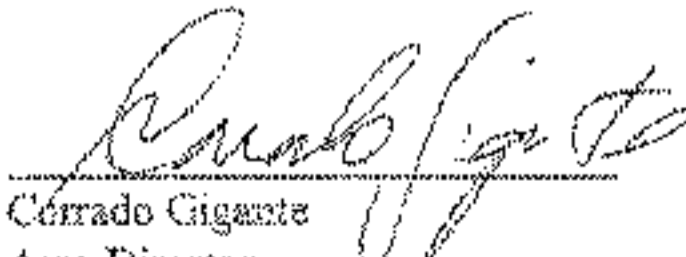
A Commission representative will prepare a conciliation proposal containing an actual dollar amount to include accruing wage losses and attendant benefits, with interest to date, any appropriate front pay, and, if appropriate, attorney fees and costs which have accrued to date. The Commission is postured to consider any reasonable offer. Respondent is requested to accept, reject, or submit a counteroffer to the conciliation proposal which will be forthcoming on behalf of Charging Party.

If the Respondent declines to discuss settlement or when, for any other reason, a settlement acceptable to the office Director is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission.

A Commission representative will contact each party in the near future to begin conciliation.

On Behalf of the Commission,

June 13, 2005
Date


Corrado Gigante
Area Director

CHARGE OF DISCRIMINATION

This form is required by the Federal Act of 1964. The Employer must file this form with the EEOC and the State or Local Agency.

Charge Presented To:

Agency Charge No.:

FEPA
 EEOC

171-2003-09226

New Jersey Division Of Civil Rights

and EEOC

Name (Indicate Mr., Ms., etc.):

Mr. Roniss G. Mason

Home Phone No. (include Area Code)

(301) 948-9844

Date of Birth

01-24-1978

Street Address

345 Bergen Avenue, #106 Jersey City, NJ 07305

Name of the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency that I believe discriminated against me or others. If more than one, list under PARTICULARS below.

Name

UPS

No. Employees, Members

500 or More

Phone No. (include Area Code)

(201) 339-2215

Street Address

493 County Avenue, Secaucus, NJ 07094

Name

No. Employees, Members

Phone No. (include Area Code)

Street Address

DISCRIMINATION BASED ON (check appropriate box(es))

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY OTHER (Specify below)

DATE(S) OF DISCRIMINATION (FOR PLACE)

Start

End

11-18-2004

11-18-2004

CONSTRUCTION

THE PARTICULARS ARE TO BE FURNISHED IN SEPARATE WRITTEN STATEMENT.

On November 18, 2004, I went to this employer's facilities to complete an application for Seasonal Driver Helper.

As I was completing my application, a female stepped in the room and said "Any person applying for Driver or Driver Helper must remove facial hair".

Once I completed the application, I was interviewed by Mr Steven (LNU). During the interview, Mr Steven stated that in order to qualify for the position, I must shave my beard. I told Mr. Steven that I could trim it, but I could not shave it because of my religion. Mr Steven also made a comment that instead I could work in the back. He ended the interview stating that in a week or two he would contact me if needed.

I believe that I was discriminated because of my religion (Rastafarian) by not being hired, in violation of Title VII of The Civil Rights Act of 1964, as amended.

I warrant this charge filed with both the EEOC and the State or Local Agency is true. I will cooperate fully with the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge or complaints with their offices.

I warrant or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the above is true and correct.

SIGNATURE OF COMPLAINANT

Roniss G. Mason

SUBSCRIBED AND SWORN TO before me on this day of Feb 2005

Feb 14, 2005

Date

Roniss G. Mason

Designated Party Signature

2-14-05

EXHIBIT B