

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION )

Plaintiff, )

v. )

COGNIS CORPORATION )

Defendant. )  
\_\_\_\_\_ )

CIVIL ACTION NO. C-1-03-677

Judge: Spiegel, J.

Magistrate: J. Hogan

COMPLAINT

JURY TRIAL DEMAND

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 retaliation and to provide appropriate relief to Eric Payne who was adversely affected by such practices. The Commission alleges that Defendant retaliated against Eric Payne for having alleged that Defendant had discriminated against him.

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 Southern District of Ohio, Western Division.

### PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (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, Defendant, Cognis Corporation (the "Employer"), has continuously been a Delaware corporation licensed to do business in the State of Ohio and the City of Cincinnati, 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 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, Eric Payne filed a charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. On or about August 15, 2002 and likely as early as January, 2002 Defendant Employer engaged in unlawful employment practices at its facilities in Cincinnati, Ohio in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a) by giving unfavorable

references, regarding Eric Payne, to prospective employers in retaliation for Payne having previously alleged that the Defendant had discriminated against him, in violation of Title VII.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Eric Payne of equal employment opportunities and otherwise adversely affect his status as an employee because of unlawful retaliation.

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 Eric Payne.

#### PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from retaliating against Eric Payne and any other person who might in the future engage in protected activity.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for persons who exercise their statutory rights, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Eric Payne 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 frontpay.

D. Order Defendant Employer to make whole Eric Payne by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, including past and future out-of-pocket losses in amounts to be determined at trial.

E. Order Defendant Employer to make whole Eric Payne by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including nonpecuniary losses such as emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation in amounts to be determined at trial.

F. Order Defendant Employer to pay Eric Payne 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.

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JURY TRIAL DEMAND

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The Commission requests a jury trial on all questions of fact raised by its complaint.

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