

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

v.

**SPITZER MANAGEMENT, INC, d/b/a
SPITZER MOTOR CITY, INC.,**

Defendant.

CIVIL ACTION NO.

**COMPLAINT AND
JURY TRIAL DEMAND**

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, (42 U.S.C. §2000e, et seq), (“Title VII”) and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of national origin and to provide appropriate relief to Dean O. Okafor, David J. Marek and similarly situated individuals who were adversely affected by such practices. As articulated with greater particularity in Paragraph 7 below, the Commission alleges that the Defendant, Spitzer Management, Inc. d/b/a Spitzer Motor City, Inc. (“Defendant”) discriminated on the basis of national origin against Mr. Okafor and Mr. Marek and similarly situated employees by subjecting them to harassment and a hostile work environment. Defendant also discriminated on

the basis of national origin by constructively discharging Mr. Marek and other similarly situated employees. As a result of these discriminatory practices Mr. Okafor, Mr. Marek and other similarly situated employees have suffered damages including backpay losses and compensatory damages.

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 pursuant to 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 Northern District of Ohio, Eastern 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 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 Employer, Spitzer Management, Inc. d/b/a Spitzer Motor City, Inc., have continuously been an Ohio corporation doing business in the State of Ohio, County of Cuyahoga and City of Cleveland, 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 Section 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, Dean O. Okafor and David J. Marek each 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. Since at least December of 2005, Defendant Employer has engaged in unlawful employment practices at its facility located at 13001 Brookpark Road, Cleveland, Ohio in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §2000e-2 (a)(1). The alleged unlawful practices include, but are not limited to:

a) Harassing and subjecting Mr. Okafor, a Sales Consultant, to a hostile work environment because of his national origin, Nigerian/African ethnicity by referring to him as “Nairobi Man” by making fun of his accent; by stating he “only eats what he kills,” and by directing demeaning comments at Mr. Okafor which were announced over the facility intercom making those comments audible to customers and employee;

b) Harassing and subjecting Mr. Marek, an Auto Detailer, to a hostile work environment because of his national origin, Korean by referring to him as “Wax On Wax Of”;

c) Subjecting other employees at the 13001 Brookpark Road facility to national origin-based harassment and a hostile work environment;

d) By constructively discharging on the basis of national origin, Mr. Marek and other employees at the 13001 Brookpark Road facility;

e) The harassment and hostile work environment alleged herein above were carried out by and/or were the direct result of the actions by Management Officials at Defendant’s 13001 Brookpark Road facility;

f) Defendant took no action based on this discriminatory conduct even though it received complaints about the harassment and hostile work environment.

8. The effect of the practices complained of in Paragraph 7 above has been to deprive Dean O. Okafor, David J. Marek and similarly situated employees of equal employment opportunities and otherwise adversely affect their status as employees due to impermissible consideration of their respective national origins, in violation of Title VII.

9. The unlawful practices complained of above were intentional.

10. The unlawful employment practices complained of above were undertaken with malice and/or reckless indifference to the federally protected rights of Dean O. Okafor, David J. Marek and a class of aggrieved individuals.

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 discriminating against individuals by the implementation of practices and policies which discriminate on the basis of national origin.

B. Order Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for all employees without regard to their national origin and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to institute and carry out a complaint procedure which encourages employees to come forward with complaints regarding violations of Title VII and/or of its policies against discrimination, harassment and a hostile work environment.

D. Order Defendant Employer to institute and carry out a training program which shall promote supervisor accountability imposing on all managers and supervisory personnel a duty to actively monitor their work areas to ensure compliance with Title VII and/or Defendant's policies on non-discrimination and requiring all managers and supervisors to report any incidents and/or complaints of harassment or ethnic intimidation of which they become aware to the person or department at Defendant charged with handling such complaints.

E. Order Defendant Employer to make whole Dean O. Okafor, David J. Marek and any aggrieved individuals by providing appropriate monetary relief including backpay and front 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.

F. Order Defendant Employer to make whole Dean O. Okafor, David J. Marek and any aggrieved individuals, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in Paragraph 7 above, including but not limited to out of pocket losses.

G. Order Defendant Employer to make whole Dean O. Okafor, David J. Marek and any aggrieved individuals by providing compensation for non-pecuniary losses resulting from the unlawful practices complained of in Paragraph 7 above, including emotional pain, suffering, loss of enjoyment of life and humiliation, in amounts to be proven at trial.

H. Order Defendant Employer to pay Dean O. Okafor, David J. Marek and any aggrieved individuals punitive damages for its malicious and reckless conduct described in Paragraph 7, above, in amounts to be determined at trial.

I. Grant such further relief as the Court deems necessary and proper in the public interest.

J. Award the Commission its costs in this action.

JURY TRIAL DEMAND

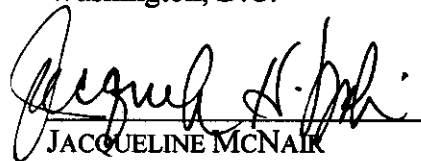
The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

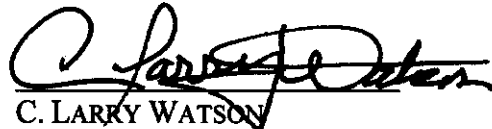
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