

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

<b>EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,</b>	)	<b>CIVIL ACTION NO:</b>
	)	<b>1:06CV02337</b>
	)	
<b>Plaintiff,</b>	)	<b>JUDGE ANN ALDRICH</b>
	)	
<b>v.</b>	)	
	)	
<b>SPITZER MANAGEMENT, INC. and SPITZER MOTOR CITY, INC.</b>	)	<b>AMENDED COMPLAINT</b>
	)	<b>AND JURY DEMAND</b>
	)	
<b>Defendants.</b>	)	

**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 8 below, the Commission alleges that the Spitzer Management, Inc. and Spitzer Motor City, Inc. ("Defendants") discriminated against Mr. Okafor and Mr. Marek and similarly situated employees by subjecting them to harassment and a hostile work environment on the basis of their national origin and ethnicity. Defendant also discriminated against Mr. Marek and other similarly situated employees by constructively discharging them on the basis of national origin and ethnicity. 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 Spitzer Management, Inc. has continuously been an Ohio corporation doing business in the State of Ohio, County of Lorain and City of Elyria, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Spitzer Motor City, Inc., has 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.

6. At all relevant times Defendant Employers, described in paragraphs 4 and 5 above, have continuously been 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

7. 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 Spitzer Motor City, Inc. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least December of 2005, Defendant Employers have engaged in unlawful employment practices at the 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 employees;
- (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 Off";
- (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/ethnicity, Mr. Marek and other employees at the 13001 Brookpark Road facility;
- (e) The harassment, hostile work environment and Title VII violations alleged herein above were carried out by and/or were the direct result of actions by management officials at Defendant's 13001 Brookpark Road facility;
- (f) Defendant Employers failed to take appropriate corrective action even though they received complaints about the harassment and hostile work environment.

9. The effect of the practices complained of in Paragraph 8(a)-(f) 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.

10. The unlawful practices complained of above were intentional.

11. 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 each Defendant, 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/ethnicity.

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

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

D. Order Defendant Employers 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 Defendants' 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 charged with handling such complaints.

E. Order Defendant Employers 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 Employers 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 Employers 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 Employers 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,

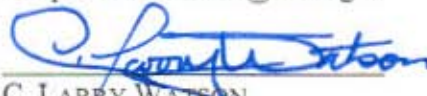
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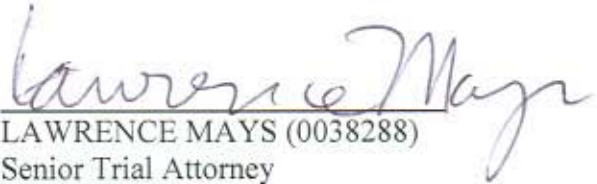
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A handwritten signature in cursive script that reads "Lawrence Mays". The signature is written in dark ink and is positioned above the typed contact information.

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