

RECEIVED

OCT 3 - 2003

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____
DEPUTY CLERK

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED
NOV 04 2003
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____
DEPUTY CLERK

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

JANICE L. CAMPBELL

Plaintiff-Intervener

V.

INVEST AMERICA MANAGEMENT, INC.

Defendant.

§
§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. A-03-CA-0457

PLAINTIFF-INTERVENER JANICE L. CAMPBELL'S ORIGINAL COMPLAINT

Comes now Plaintiff-Intervener, Janice L. Campbell, by and through counsel, and in support of her claims against the Defendant Invest America Management, Inc., respectfully states:

NATURE OF ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of race, and to provide appropriate relief to Janice L. Campbell who was adversely affected by such practices. The Equal Employment Opportunity Commission ("EEOC" or "the Commission") and Janice L. Campbell allege Campbell was subjected to unlawful discrimination when she was terminated from her job with Defendant, Invest America Management, Inc. (hereinafter "Invest America") based on her race, Black.

This action is also brought against Defendant Invest America to redress pendant state law claims by Plaintiff-Intervener that arose from the unlawful discrimination and termination. Specifically, Plaintiff-Intervener alleges that she was terminated in retaliation for refusing to perform an illegal act.

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 Sections 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 and are now being committed within the jurisdiction of the United States District Court for the Western District of Texas, Austin Division.

PARTIES

3. Plaintiff, Equal Employment Opportunity 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 706(f)(1) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

4. Plaintiff-Intervener, Janice L. Campbell (hereinafter "Campbell") is a former employee of Defendant Invest America, and is currently a resident of San Antonio, Bexar County, Texas.

5. At all relevant times, Defendant, Invest America, is a corporation registered to do business in the State of Texas, and has continuously been doing business in the State of Texas in the cities of Austin and San Antonio, Texas and has continuously had at least fifteen employees, and may be served with process by serving its registered agent Paul Jacobsen, 2728 Welborn #222, Dallas, Texas, 75219. At all relevant times, the Defendant, Invest America, 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, Janice L. Campbell filed a charge with the Commission alleging violations of Title VII by Defendant, Invest America. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least on or about November 6, 2002, the Defendant, Invest America, has engaged in unlawful employment practices at its location in San Antonio, Texas, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §§ 2000e(k) and 2000e-2(a). The unlawful practices were discharging Janice L. Campbell based on her race, Black.

8. The effect of the practices complained of in paragraph seven above has been to deprive Janice L. Campbell of equal employment opportunities and to otherwise adversely affect her status as an employee, because of her race, Black.

9. The unlawful employment practices complained of in paragraph seven were and are intentional.

10. The unlawful employment practices complained of in paragraph seven above were and are being done with malice or reckless indifference to the federally protected rights of Janice L. Campbell .

PENDANT STATE LAW CLAIMS

11. On November 6, 2002, Paul Jacobsen, owner of Invest America, directed Plaintiff-Intervener to give him the names of San Antonio Housing Authority officials that were responsible for making decisions on where to send "Section 8" housing residents. Ms. Campbell gave him the names of the officials and then Jacobsen directed her to bribe those same officials at the San Antonio Housing Authority in order to have those officials send Invest America Section 8 housing residents.

Ms. Campbell refused and Jacobsen said, “Nigger, that is not good enough, you’re not doing your job, get up and leave.” Jacobsen fired Ms. Campbell for refusing to bribe the San Antonio Housing Authority officials in order get the Section 8 housing business.

12. Texas Penal Code Section 36.02 prohibits the bribing of public officials. The San Antonio Housing Authority is a public entity under Sections 392.011 and 392.006 of the Texas Local Government Code, and as a result, its officials are covered under Section 36.02 of the Texas Penal Code. Therefore, an attempt to bribe such officials would be considered a criminal or illegal act.

13. One of the exceptions to the employment-at-will doctrine is termination in retaliation for refusing to commit an illegal act. *Sabine Pilot Services, Inc. v. Hauck*, 687 S.W.2d 733, 735 (Tex. 1985). This is one of the narrowly carved exceptions by the Texas Supreme Court and is the only exception, other than contractual exceptions, not covered by Texas statutes. *Id.* The actions by Paul Jacobsen fall within the *Sabine Pilot* exceptions to the Texas employment-at-will doctrine. As a result, Plaintiff-Intervener is entitled to damages which may exceed the caps provided for by Title VII.

PRAYER FOR RELIEF

Wherefore, the Plaintiff-Intervener respectfully requests that this Court:

A. Order the Defendant, Invest America, to make whole Janice L. Campbell, 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, including but not limited to the re-instatement of Janice L. Campbell in her former position as assistant manager;

B. Order the Defendant, Invest America, to make whole Janice L. Campbell, by providing

compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph eight above, including, but not limited to, medical expenses and job search expenses, in amounts to be determined at trial;

C. Order the Defendant, Invest America, to make whole Janice L. Campbell, by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph eight above, including, but not limited to, emotional pain, suffering, loss of enjoyment of life, and humiliation, in amounts to be determined at trial;

D. Order the Defendant, Invest America, to pay Janice L. Campbell punitive damages for its malicious and reckless conduct described in paragraph seven through thirteen above, in amounts to be determined at trial;

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

F. Award the Plaintiff her costs in this action.

JURY TRIAL DEMAND

Plaintiff requests a jury trial on all questions of fact raised by her Complaint.

Respectfully submitted,


LAW OFFICE OF R. CHRIS PITTARD

909 N.E. Loop 410, Suite 300

San Antonio, Texas 78209

Tel: (210) 841-5628

Fax: (210) 821-5781



R. CHRIS PITTARD

Texas State Bar No. 00794465

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Procedure, a true and correct copy of the foregoing Plaintiff-Intervener's Original Complaint has been sent by regular mail, to the following attorney of record for the Equal Employment Opportunity Commission, Linda Gutierrez, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas, 78229 and by certified mail, return receipt requested to Defendant's registered agent for service of process Paul C. Jacobsen, 2728 Welborn #222, Dallas, Texas, 75219, on the 2nd day of October, 2003.



R. CHRIS PITTARD