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RICHARD W. WIERING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JCS

Courtney Davis  
Plaintiff,

vs.

Eastman Kodak Co.  
Defendant(s).

C 03 5000

CASE NO. \_\_\_\_\_

EMPLOYMENT DISCRIMINATION  
COMPLAINT

1. Plaintiff resides at:

Address 39978 Lindsay McDermott Lane

City, State & Zip Code Fremont, CA 94538

Phone (510) 226-1695

2. Defendant is located at:

Address 343 State Street

City, State & Zip Code Rochester, NY 14650

3. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is conferred on this Court by 42 U.S.C. Section 2000e-5. Equitable and other relief is sought under 42 U.S.C. Section 2000e-5(g).

4. The acts complained of in this suit concern:

a. ☐ Failure to employ me.

b. ☐ Termination of my employment.

c. ☐ Failure to promote me.

d. ☒ Other acts as specified below.

*Failure to pay me an equivalent or comparable salary to white employees*

5. Defendant's conduct is discriminatory with respect to the following:

a. ☒ My race or color.

b. ☐ My religion.

c. ☐ My sex.

d. ☐ My national origin.

e. ☐ Other as specified below.

6. The basic facts surrounding my claim of discrimination are:

*I was sexually harassed by a male employee, singled out on the basis of color by a security guard and denied the right to be paid a salary comparable to that of white employees. The incidents and the defendant's indifference to my complaints for relief posed a violation to my civil rights and a threat to my physical safety and well-being.*

7. The alleged discrimination occurred on or about 3/2001 - 9/2002.

(DATE)

8. I filed charges with the Federal Equal Employment Opportunity Commission (or the California

1 Department of Fair Employment and Housing) regarding defendant's alleged discriminatory conduct on  
2 or about October 2002.

3 (DATE)

4 9. The Equal Employment Opportunity Commission issued a Notice-of-Right-to-Sue letter (copy  
5 attached), which was received by me on or about August 18, 2003.

6 (DATE)

7 10. Plaintiff hereby demands a jury for all claims for which a jury is permitted:

8 Yes X No \_\_\_\_\_

9 11. WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including  
10 injunctive orders, damages, costs, and attorney fees.

11  
12 DATED: 11/11/03

Courtney Davis

SIGNATURE OF PLAINTIFF

13  
14  
15 (PLEASE NOTE: NOTARIZATION  
16 IS NOT REQUIRED.)

Courtney Davis

PLAINTIFF'S NAME

(Printed or Typed)



Elizabeth Cadle  
Director

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Buffalo Local Office**

6 Fountain Plaza, Suite 350  
Buffalo, NY 14202  
(716) 551-4441  
TTY (716) 551-5923  
FAX (716) 551-4387

Ms. Courtney Davis  
7013 Gables Lane  
Atlanta, GA 30350

Re: Charge No. 165-2003-00120

Dear Ms. Davis:

The EEOC has concluded its inquiry into your allegations of discrimination. Under the Equal Employment Opportunity Commission's (EEOC) charge prioritization procedures, we focus our resources only on those charges that are most likely to result in findings of violations of the laws we enforce. In accordance with these procedures, the EEOC has evaluated this charge based on the information you provided. The evidence fails to indicate that a violation of the law occurred and it is not likely that additional investigation will result in our finding of a violation.

The record shows you began employment with the Respondent in 8/02 as a participant in the Human Resources Development Program. You provided information that you accepted the position with a lower starting salary, with the understanding that it was a fast-track two-year position. In the two-year period it was your understanding that you would be rotated through all aspects of the HR function, and upon completion of the Development Program you would be awarded a Director-level position with Director-level pay.

You alleged numerous issues. I will identify and address each issue below. Please be aware that the EEOC has a 300-day jurisdictional timely limit, meaning we may only investigate allegations of discrimination which have occurred within 300 days from the date a Charge is filed. Your Charge was filed on 11/19/02, therefore your timely date is 1/23/02. Any allegation that occurred prior to 1/23/02 is untimely.

*You stated that the Human Resource Development Program was neither well-planned nor executed. You alleged there was no fast-track position as promised, and that in 10/01, the Development Program was cut due to budgetary reasons, and you were offered a position in the Global Diversity Office as a Communications Coordinator for approximately \$47,000.00 per year.*

This issue is untimely. Nonetheless, you provided information that you were one of six employees, including four white individuals and one Hispanic individual participating in the Human Resource Development Program. When the Program was cut in 10/01, all six employees were affected. According to the information you provided, you actually received somewhat preferential treatment because you were offered a job straight out

while some of the other employees had to apply and interview for vacant positions. All participants in the Program complained that it was poorly planned and executed. All participants in the Program had a similar experience in the Program and felt they were underpaid. Comparative information fails to support disparate treatment based on race. Although I understand that you believe Kodak did not do what it promised to do, race was not the motivating factor.

*You alleged you were subjected to different terms and conditions of employment based on your race. More specifically, on one occasion prior to 7/01, you were searched by a Security Guard upon leaving work as part of an investigation into a missing lap top computer. White employees were not similarly stopped and searched.*

This issue is untimely. Nonetheless, you provided information that you complained about the incident when it happened. You indicated the security guard was a contract employee. You indicated the guard was reprimanded, removed from his post, and sent to diversity training. No additional incidents were alleged. Respondent took appropriate remedial action.

*You alleged you were subjected to an incident of sexual harassment, you complained about the incident, and the Respondent failed to take appropriate remedial action.*

You alleged a single incident of sexual harassment in or around July 2001, in which a male co-worker walked into your office and made inappropriate comments to you. This issue is untimely. Nonetheless, a single, isolate incident does not rise to the level of a hostile work environment as defined by the statutes. You immediately complained. Respondent's obligation under the law is to stop the harassment. There were no additional incidents of sexual harassment. Although I understand that you do not agree that the Respondent's actions were severe enough, in as much as the harassment immediately stopped, its actions were effective.

*You alleged you were grossly underpaid for your work. You alleged you were repeatedly given increased responsibilities without commensurate increases in pay. You alleged that as the only black employee on the Employee Communications Team, you did the most work and earned the least money.*

The record shows you received two raises during your tenure with Respondent. You alleged you were underpaid for your work based on a market value analysis you conducted which demonstrated how much you felt you should be paid. All the individuals who were hired in the Human Resource Development Program were similarly underpaid. You are comparing yourself to other members of the Employee Communications Team. The Team consisted of nine members. You were the least senior, lowest-ranked individual on the Team. The other members of the Team had much higher classifications and no less than 15 years experience. Although I have no doubts about the quality and quantity of your work, the individuals you are comparing yourself to are not similarly situated. The overall evidence indicated that the pay disparity was not based on race, but on the Respondent's perspective that you should be flattered that the

“higher-ups” felt so positively about your ability and you should view this as an opportunity to demonstrate your capabilities. Respondent’s perspective was “show me what you can do and pay your dues,” while your perspective was “pay me what I’m worth.”

*You alleged that in or around 4/02, you received unfair negative comments from your supervisor on your annual review in retaliation for complaining about discrimination.*

Your supervisor was Bob Fritz. On two occasions, you went over Fritz’s head with complaints about discrimination; one was a complaint prior to 7/01 involving the search by the security guard, and the second was a complaint in 7/01 involving sexual harassment.

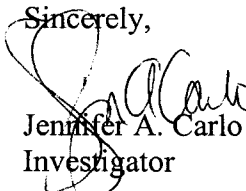
You alleged Fritz retaliated against you by making unfair comments on your performance evaluation to the effect of, “You got defensive when people asked questions...responded to questions of your work in a defensive way,” and “You should not assume that your work was the only work people had to do, you seem impatient by a lack of response by the group.” You complained about Fritz’s evaluation and indicated you felt the comments were retaliatory for going over his head. The comments were removed from your evaluation. Moreover, by the time you received the evaluation, you were no longer working for Fritz. Respondent took appropriate action. Although I understand your position that “you can’t unring a bell,” there is no further tangible relief the EEOC can seek on your behalf.

*You alleged you were hired as a minority candidate whose services were exploited for the sake of appearances. Ultimately, you stated that you could no longer tolerate the hostile and discriminatory work environment and you had no other option but to resign.*

You have not identified any conditions that were so intolerable that a reasonable person would have no alternative but to resign. The crux of your complaint is the Respondent did not deliver what it promised when you accepted the position. However, four white females and one Hispanic female were all treated in a similar manner. We are unable to establish a constructive discharge, because the conduct complained of is not in violation of the statute.

Your Determination/Notice of Right to Sue is enclosed. This determination is final. If you wish to pursue this charge, you may file in Federal District Court within 90 days of the receipt of the enclosed Notice of Right to Sue.

Sincerely,

  
Jennifer A. Carlo  
Investigator

Date: **AUG 12 2003**

Enc: Dismissal and Notice of Right to Sue

U. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**DISMISSAL AND NOTICE OF RIGHTS**

To: **Courtney Davis**  
**7013 Gables Lane**  
**Atlanta, GA 30350**

From: **Buffalo Local Office**  
**6 Fountain Plaza**  
**Suite 350**  
**Buffalo, NY 14202**



On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR § 1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

**165-2003-00120****Jennifer Carlo, Investigator****(716) 551-4441****THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans with Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

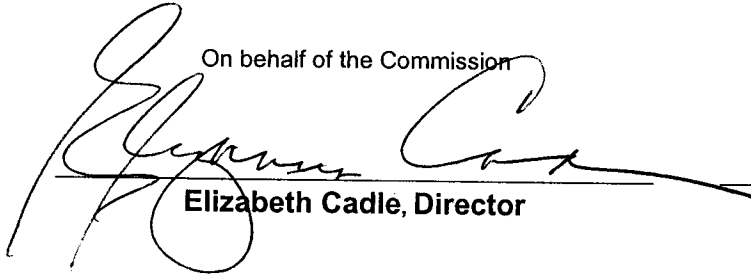
**- NOTICE OF SUIT RIGHTS -**

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this Notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

**Elizabeth Cadle, Director****AUG 12 2003**

Enclosure(s)

(Date Mailed)

cc:

**Janice Moses**  
**EASTMAN KODAK COMPANY**  
**343 State Street**  
**Rochester, NY 14650**



**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),  
or the Age Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/00 to 12/1/00, you should file suit **before 7/1/02** -- not 12/1/02 -- in order to recover unpaid wages due for July 2000. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

**ATTORNEY REPRESENTATION -- Title VII and the ADA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:**

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

***IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.***



1. The defendant took no action against the employee who committed the sexual offense despite admitting his misconduct. I requested to be moved to a different work site. When I was subsequently informed that the employee was neither terminated nor reprimanded, I began to suffer from anxiety and fear. Although I had moved to another office, it did not prevent contact with my attacker. When I continued to complain about the attack and lack of consequences despite a "zero tolerance policy", the Chief Diversity Officer told me to take her husband's advice which was to "let it go". I was subsequently shamed into being quiet.
2. I did receive two minor pay increases that were calculated in a wage grade well below market value of the work I was performing. I had already moved into another position with far greater duties. Therefore the pay increase did not reflect my current position, responsibilities, or significant output. There is no reason to feel "flattered" by "higher ups" for being exploited. I had already more than demonstrated my ability. I was working for a business, not pledging a social club. Regardless of tenure or perceived "dues", I performed a given function the same as or in some instances better than white employees. I was/am entitled to receive equal compensation and my supervisor agreed.
3. The negative comments on my performance evaluation were only removed after I demanded their removal and they had already been viewed by numerous parties in management and human resources. Future evaluations are not just based on what's in writing from previous supervisors but also by information received word of mouth. The comments were initially believed to be true by members of management unfamiliar with my work as Mr. Fritz used his authority as a Human Resources Director to discredit me. It was his word as a director against mine. Rather than to believe me, the negative comments which were made by Mr. Fritz were further revealed to my co-workers when they were questioned about my true work performance.
4. EEOC stated that I did not identify "any conditions that were so intolerable that a reasonable person would have no alternative but to resign". This statement is just as troubling as the misconduct of the defendant. Even the defendant itself cites, "We must be mindful now more than ever of the first value, Respect for the Dignity of the Individual. Clearly, we cannot operate and be productive unless each of us is able to treat and care for others who differ from ourselves with appropriate respect." While employed by the defendant, my dignity was neither respected nor was I treated and cared for with appropriate respect. I was the victim of sexual harassment, racial discrimination and retaliation. Clearly, it is the EEOC's position to tolerate the defendant's misconduct and simply define it down as just the cost of doing business. Perhaps the EEOC has grown numb to such offenses that it now views certain "civilized" crimes as permissive and victims should tolerate repeated indignities in silence, let it go. Because of the defendant's corporate rhetoric, the EEOC evidently despite its purpose does not view the crime of racial discrimination as extreme or no longer has the ability or tools necessary to recognize misconduct. The EEOC is wrong to believe that any behavior in violation of moral or civil law no matter how minor or extreme should be tolerated by any person, reasonable or not. What I conclude from the EEOC is that it has been influenced by the corporate attitude that this kind of misconduct is widely practiced and generally accepted so therefore I should accept it too. As a reasonable person, I should not have to forfeit my civil rights, lower my moral standards or tolerate harassment and discrimination.

**Dolin, Thomas & Sullivan**  
**135 Corporate Woods**  
**Rochester, NY 14623**  
**(585) 272-0540**

- I received no response to the telephone message I left.

**Wellesley NorCal Alumnae Association**

- I broadcast an email to members of the association requesting any referrals to attorneys practicing employment law. I received just one.

**Fitzgerald, Abbott & Beardsley**  
**1221 Broadway, 21<sup>st</sup> Floor**  
**Oakland, CA 94612**  
**(510)451-3300**

- I was contacted by Sarah E. Robertson who responded to my email broadcast to the alumnae association. She said she represents employers, but would get back to me. She didn't.

**Smart Yellow Pages**

- I checked the yellow pages for "Employment Law Attorneys" and found no listings.