

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

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EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

v.)

BCI COCA-COLA BOTTLING COMPANY)
OF LOS ANGELES,)
d/b/a PHOENIX COCA-COLA BOTTLING)
COMPANY and COCA-COLA BOTTLING)
COMPANY OF ALBUQUERQUE,)

Defendant.)

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CIV-

COMPLAINT

JURY TRIAL DEMANDED

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 race, and to provide appropriate relief to Charging Party Stephen Peters who was adversely affected by such practices. As alleged with greater particularity in paragraph seven below, BCI Coca-Cola Bottling Company of Los Angeles, which does business under the names of Phoenix Coca-Cola Bottling Company and Coca-Cola Bottling Company of Albuquerque ("Defendant"), subjected Stephen B. Peters to disparate treatment in the terms, conditions, and privileges of employment because of his race, African American. The Commission also alleges that Defendant discharged Mr. Peters because of his race, African American.

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 District of New Mexico.

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, BCI Coca-Cola Bottling Company of Los Angeles, a Delaware corporation, which does business under the trade names of Phoenix Coca-Cola Bottling Company and Coca-Cola Bottling Company of Albuquerque, has continuously been and is now doing business in the State of New Mexico and the City of Albuquerque, and has at all relevant times had at least fifteen employees.

5. At all relevant times, Defendant has continuously been and is now 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, Stephen B. Peters filed a charge with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least October 1999, Defendant engaged in unlawful employment practices at its Albuquerque, New Mexico facility, in violation of Section 703(a) of Title VII, 42

U.S.C. § 2000e-2(a). These practices include:

- a. disparate treatment of Stephen B. Peters in the terms, conditions, and privileges of his employment, including, threatening Mr. Peters with harsh discipline for not working a scheduled day off, failing to apply progressive discipline policies to Mr. Peters, and applying different attendance standards to Mr. Peters because of his race, African American; and
- b. discharging Stephen B. Peters because of his race, African American.

8. The effect of the practices complained of in paragraph seven above has been to deprive Stephen B. Peters of equal employment opportunities and otherwise adversely affect his status as an employee because of his race, African American.

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

10. The unlawful employment practices complained of in paragraph seven above were done with malice or with reckless indifference to the federally protected rights of Stephen B. Peters.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of race.

B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for African Americans, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to make whole Stephen B. Peters, 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 front-pay in lieu of reinstatement.

D. Order Defendant to make whole Stephen B. Peters, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph seven above, including, but not limited to, compensation for the financial losses to Mr. Peters related to early withdrawal from his 401K Plan, in amounts to be determined at trial.

E. Order Defendant to make whole Stephen B. Peters by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph seven above, including, but not limited to, emotional pain, suffering, inconvenience, mental anguish, humiliation, loss of enjoyment of life, and other non-pecuniary losses, in amounts to be determined at trial.

F. Order Defendant to pay Stephen B. Peters punitive damages for its malicious and reckless conduct described in paragraph seven 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.

JURY TRIAL DEMAND

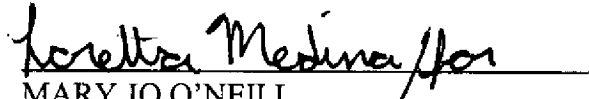
The Commission requests a jury trial on all questions of fact raised by its Complaint.

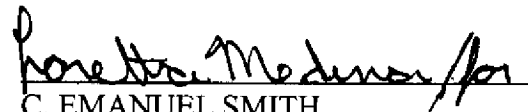
DATED this 30th day of December, 2002.

Respectfully submitted,


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