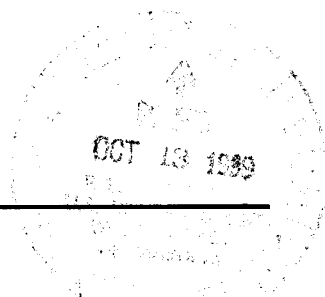


IN THE UNITED STATES DISTRICT COURT IN
THE WESTERN DISTRICT OF MISSOURI

DANIELLE WOOTEN)
)
Plaintiff,)
)
vs.)
)
)
)
DILLARD'S, INC.)
)
Defendant.)
)

Case No. _____



99-0990-CV-W-3-ECP
JURY TRIAL DEMANDED

COMPLAINT

COMES NOW Plaintiff and for her cause of action against Defendant states and alleges the following:

NATURE OF THE CLAIM

1. This case is brought by Plaintiff Danielle Wooten against Defendant Dillard's Department Stores, Inc. ("Dillard's"). Plaintiff seeks declaratory and injunctive relief and monetary damages to redress the deprivation of rights accorded to Plaintiff under the Civil rights Act of 1871, as amended, in 1991, 42 U.S.C. s 1981 ("s 1981"). The Plaintiff is African-American and a former employee of Dillard's who was the victim of racially discriminatory employment policies and practices. The Plaintiff has been damaged as a result of Defendant's purposefully discriminatory pattern and practice of employment with respect to African-American employees.

2. Plaintiff has had the terms and/or conditions of her employment affected in one or more of the following ways

- a. Pursuant to an established pattern and practice of Defendant, Plaintiff and other African-American employees were compensated less than similarly situated or less qualified Caucasian employees;
- b. Pursuant to an established pattern and practice, Plaintiff and other African-American employees were denied promotional opportunities extended to similarly situated or less qualified Caucasian employees;
- c. Pursuant to an established pattern and practice of discrimination in employment by Defendant, Plaintiff and other African-American employees were subjected to job requirements which were materially different from those imposed on similarly situated or less qualified Caucasian employees.
- d. Pursuant to an established pattern and practice of discrimination against African-American employees and customers, Dillard's has subjected Plaintiff and other African-Americans to a racially hostile environment that includes, but is not limited to, being subjected to forced searches of their body and belongings.
- e. Pursuant to an established pattern and practice of discrimination in employment by Defendant, Plaintiff and

other African-American employees -were retaliated against for asserting their civil rights. Such retaliatory acts were severe and included termination.

3. Defendant has had actual and/or constructive notice of the aforementioned, but has taken no constructive steps to eliminate said discriminatory policies, procedures, and practices.

JURISDICTION AND VENUE

4. The jurisdiction of this Court is invoked by Plaintiff pursuant to 28 U.S.C.s 1343(3) and 1343 (4), which confer original jurisdiction upon this Court in a civil action to recover damages or to secure suitable relief (i) under any Act of Congress providing for the protection of civil rights; (ii) under the Declaratory Judgment Statute, 22 U.S.C. s 2201; and (iii) under 42 U.S.C. s 1981.

5. The discriminatory practice alleged herein occurred in the state of Missouri, Jackson County, Kansas City, including practices within the previous five years.

6. Venue is proper in this Court pursuant to 28 U.S.C. s 1391 (b), inasmuch as Defendant has offices, conducts business and can be found in the Western District of Missouri, and the cause of actions arose and occurred in substantial part in the Western District of Missouri.

7. Plaintiff Danielle Wooten is a resident of the State of Kansas at 3523 Kimball, Kansas City, Kansas, 66104. Defendant employed Ms. Wooten from October of 1997, until August of 1999. Plaintiff has sought and was denied promotions with Defendant, she has been paid less than similarly situated or less qualified Caucasians, and she has been subjected to different terms and conditions of employment than similarly situated Caucasian employees. When Plaintiff complained of this discrimination, she was retaliated against and terminated.

8. Defendant Dillard's is a for-profit Delaware corporation, which conducts business in the State of Missouri.

FACTUAL ALLEGATIONS

9. Plaintiff Danielie Wooten is an African-American who has been subjected to racial discrimination in pay and promotion, to a hostile work environment and to other discriminatory terms and conditions of her employment with Dillard's including termination.

10. Defendant has engaged in a pattern and practice of racial discrimination which subjected Plaintiff and other African-American employees to unlawful terms and conditions of employment that are different from similarly situated or less qualified Caucasian employees, including but not limited to, practices related to hiring, pay, promotional opportunities, pay raises, standards for evaluation, company goals for employees,

discipline, and termination, and a hostile work environment all in violation of the acts of Congress providing for the protection of Civil Rights.

11. Defendant hired Plaintiff in October of 1997 as a Sales Associate.

12. Dillard's routinely hired and promoted Caucasian candidates who were less qualified and who had less experience than Plaintiff and other African-American employees of Dillard's.

13. Dillard's management personnel has had actual knowledge of discrimination directed against African-American employees and customers, including but not limited to the discriminatory acts and attitudes discussed herein.

14. From approximately 1987 through January of 1998, Richard Eagan was the District Manager for Dillard's Oak Park store, Bannister Mail store and nine other Dillard's Stores in the Kansas City Region.

15. As District Manager, Mr. Eagan was Dillard's executive responsible for all Equal Employment Opportunity policies, practices, and issues for the eleven stores he supervised.

16. As District Manager, Mr. Eagan was the final decision-maker on all management level hiring, promotion and termination decisions at the 11 stores he supervised.

17. upon information and belief, Mr. Eagan did not promote or hire an African-American to a management position until 1997.

18. Mr. Eagan regularly used the word "nigger" in his capacity as Dillard's District Manager.

19. Mr. Eagan used the word "nigger" in the presence of Dillard's management personnel.

20. Mr. Eagan used the word "nigger" in reference to Dillard's African-American employees.

21. Mr. Eagan used the word "nigger" in reference to Dillard's African-American customers.

22. Mr. Eagan used the term "jigaboo" in his capacity as Dillard's District Manager.

23. Mr. Eagan used the term "jigaboo" in the presence of Dillard's management personnel.

24. Mr. Eagan used the term "jigaboo" in reference to Dillard's African-American employees.

25. Mr. Eagan used the term "jigaboo" in reference to Dillard's African-American customers.

26. Dillard's Chairman for the Mid-West Region, Ken Moore, was aware of Richard Eagan's racist comments from as early as 1995.

27. Dillard's Chairman for the Mid-West Region, Ken Moore, did not reprimand Richard Eagan for using racist terminology.

28. Dillard's Chairman for the Mid-West Region, Ken Moore, did not terminate Richard Eagan for using racist terminology.

29. Dillard's Chairman for the Mid-West Region, Ken Moore, did not suspend Richard Eagan for using racist terminology.

30. Dillard's Chairman for the Mid-West Region, Ken Moore, did not in any way punish Richard Eagan for using racist terminology.

31. Mr. Eagan espoused racist opinions about African-Americans in the presence of Dillard's management personnel.

32. Dillard's executive, Ted Gastman, believes Richard Eagan's use of racist terminology indicates Mr. Eagan was biased in his hiring, promotion and termination decisions.

33. Dillard's security practices are created and dictated by Dillard's corporate office.

34. No written record exists of any reprimand, discipline, or demotion to Mr. Eagan as a result of the reported racial slurs used by Mr. Eagan in the presence of Dillard's management personnel.

35. Dillard's security practices include the specific labeling of African-American customers with race codes.

36. Dillard's security practices include referencing "suspicious blacks" as "Code 3s."

37. Dillard's security practices utilize racial profiles.

38. Richard Eagan was responsible for implementing Dillard's security practices at the 11 Dillard's stores he had supervisory authority over from approximately 1987 through 1998.

39. During the time period in which Richard Eagan served as District Manager over the Dillard's stores in the Kansas City, St. Joseph, Springfield, Columbia, and Jefferson City areas, no African-American ever served as Store Manager at those locations.

40. During the time period in which Richard Eagan served as District Manager over the Dillard's stores in the Kansas City, St. Joseph, Springfield, Columbia and Jefferson City areas, there were over 200 supervisory positions filled at those locations.

41. Dillard's management personnel has had actual knowledge of discrimination directed against African-American employees and customers, including but not limited to the discriminatory acts and attitudes discussed herein.

42. Defendant's pattern and practice of racial discrimination have damaged Plaintiff and other African-American employees.

DISCRIMINATION IN COMPENSATION

43. Plaintiff hereby incorporates paragraphs 1 through 42 of the Complaint, by reference, as if fully set forth herein.

44. Defendant Dillard's maintains a pattern and practice of compensating African-American employees less than Caucasian employees who hold the same or similar job positions, or who hold job positions that entail similar or comparable responsibilities and duties.

45. As part of this discriminatory pattern and practice, Dillard's:

- a. designates lower salaries, raises and other forms of compensation for African-American employees than for similarly situated or less qualified Caucasian employees;
- b. falls to maintain a salary or pay scale which is based on objective, job-related criteria;
- c. Routinely violates its own policies and practices with respect to compensation.

46. Plaintiff has been damaged by Defendant's pattern and practice of compensating African-American employees less than similarly situated or less qualified Caucasian employees.

47. Dillard's conduct with regard to compensation constitutes intentional discrimination, with malice, against African-American employees such as Ms. Wooten.

48, Defendant Dillard's conduct with regard to compensation constitutes disparate treatment of African-American employees such as Plaintiff and Defendant's conduct with regard

to compensation has a disparate impact on African-American employees, including Ms . Wooten.

49. Defendant's Dillard's conduct described herein constitutes a hostile environment particularly Defendant's management's use of racial epithets and a security policy that targets African-American shoppers and employees for unwarranted and unconstitutional stops and searches.

DISCRIMINATION IN PROMOTIONS

50. Plaintiff hereby incorporates paragraphs 1 through 49 of the Complaint, by reference, as if fully set forth herein.

51. As part of Dillard's practice of denying African-American employees the opportunity for promotion, Dillard's has promotion practices, which are based on subjective rather than objective, job related criteria, and which are not uniformly applied to African-American and Caucasian employees.

52. There are inadequate written policies, procedures, and guidelines at Dillard's with respect to promotion of its employees. The system employed by Dillard's involves subjective determinations which thereby render the system arbitrary, and such subjective decision making is used as pretext for denying qualified African-American employees promotions to which they are qualified and entitled.

53. As part of Defendant's practice of denying African-American employees the opportunity for promotion, Dillard's discriminates against African-American employees by:

- a. filing job openings through word-of-mouth recruitment which is subjective and unfairly restricts the promotion of qualified African-Americans;
- b. generally failing to publicly post job openings for supervisory and managerial positions; and,
- c. failing to promote African-Americans to higher level managerial or supervisory jobs. Upon information and belief, Dillard's employs no African-American store managers at any store throughout the United States.

54. Plaintiff and other African-American employees have been refused promotional opportunities and damaged by Defendant's pattern and practice of discrimination in promotion.

55. Defendant's conduct with regard to promotions constitutes intentional discrimination, with malice, against Plaintiff and other African-Americans.

56. Defendant Diliard's conduct with regard to promotions constitutes disparate treatment of African-American employees such as Plaintiff and Defendant's conduct with regard to promotions has a disparate impact on Plaintiff and other African-Americans,

57. Dillard's policies and practices which discriminatorily deny promotional opportunities have resulted in current and former Dillard's employees being denied promotional opportunities, including but not limited to Plaintiff and many others.

TERMS **AND** CONDITIONS/HOSTILE WORK ENVIRONMENT

58. Plaintiff hereby incorporates paragraphs 1 through 57 of the Complaint, by reference, as if fully set forth herein.

59. Defendant's Dillard's conduct described herein constitutes a hostile environment particularly Defendant's management's use of racial epithets and a security policy that targets African-American shoppers and employees for unwarranted and unconstitutional stops and searches.

60. Dillard's maintains a pervasive and vile atmosphere perpetuating discriminatory treatment of African-American employees and customers. Plaintiff and other African-American employees have been subjected to a hostile work environment which is illustrated by the above discriminatory actions involving Plaintiff and other African-American employees.

61. Defendant Dillard's conduct in creating and maintaining a hostile work environment constitutes intentional discrimination, with malice, against Plaintiff.

62. Dillard's conduct in creating and maintaining a hostile work environment constitutes disparate treatment of

African-American employees such as Plaintiff, and Defendant's conduct has a disparate impact on African-American employees, including Ms. Wooten.

63. Defendant's conduct with regard to maintaining a hostile work environment constitutes intentional discrimination, with malice, against Plaintiff and other African-Americans.

64. Defendant's conduct with regard to maintaining a hostile work environment has damaged Plaintiff and other African-Americans.

RETALIATION

65. Plaintiff hereby incorporates paragraphs 1 through 64 of the Complaint, by reference, as if fully set forth herein.

66. Dillard's maintains a pattern of retaliation designed to intimidate African-American employees and deter them from objecting to Defendant's discriminatory policies and practices. Dillard's retaliates against African-Americans who assert their civil rights by diminishing their work responsibilities, limiting access to work related information, by denying promotions, and/or by demoting or terminating the employee.

67. Defendant maintains a pattern of retaliation to intimidate its African-American employees and deter them from asserting legal claims based on Dillard's policies and Constitutionally guaranteed rights, including those relating to

pay, promotion, delegation of assignments and duties, performance reviews and discipline, including termination.

68. Plaintiff and other African-Americans have been damaged by Defendant's pattern and practice of retaliation against African-American employees.

69. Defendant Dillard's retaliatory conduct constitutes intentional discrimination, with malice, against African-American employees such as Ms. Wooten.

CONSTRUCTIVE DISCHARGE

70. Plaintiff hereby incorporates paragraphs 1 through 69 of the Complaint, by reference, as if fully set forth herein.

71. Dillard's utilizes a discriminatory practice of evaluating individuals whom Dillard's desires to remove from employment wherein Dillard's and its agents provide overly critical and unfair evaluations resulting in disparate and harsh disciplinary actions for things for which similarly situated and/or less qualified Caucasians are not disciplined.

72. Dillard's maintains a common pattern and practice of terminating and/or constructively discharging African-American employees by creating a hostile and offensive working environment so intolerable that a reasonable person under similar circumstances would not withstand such an environment.

73. Plaintiff and other African-American employees have been damaged by Defendant's pattern and practice of

discrimination in terms and conditions, including Dillard's creation and perpetuation of a racially hostile working environment.

74. Dillard's conduct with regard to constructive discharge constitutes intentional discrimination, with malice, against Plaintiff.

75. Defendant's conduct constitutes disparate treatment of African-American employees, including Plaintiff, and Defendant's conduct has a disparate impact on African-American employees, including Plaintiff.

76. Paragraphs 1 through 75 describe a pattern and practice of racial discrimination utilized by Defendant Dillard's that constitutes a violation of Plaintiff's Civil Rights and has damaged Ms. Wooten.

77. Dillard's conduct constitutes intentional discrimination, with malice, against Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

1. Enter a judgment pursuant to jury verdict(s) that the acts and practices of Defendant complained of herein are violations of the laws of the United States and of Missouri and grant appropriate equitable relief.

2. Pursuant to jury verdict(s) award Plaintiff lost wages, including all lost fringe benefits and back pay, including, without limitation, compensation differential and any lost benefits that would have otherwise been accorded Plaintiff absent the illegal discrimination complained of herein.
3. Award Plaintiff, pursuant to jury verdict(s), compensatory and punitive damages,
4. Award Plaintiff the costs of this action, including the fees and costs of experts, together with reasonable attorneys' fees.
5. Grant an order restraining Dillard's from any retaliation against Plaintiff or other African-American employees for participation in any form in this litigation.
6. Grant Plaintiff such other and further relief as this Court finds necessary and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all issues of fact and damages in this action.

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