

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

**V.**

GILLEY CONSTRUCTION CO., INC.

Defendant

CIVIL ACTION NO.

## COMPLAINT

## JURY TRIAL DEMAND

### 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 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a, to correct unlawful employment practices on the basis of race, and to provide appropriate relief to four African American employees who the Commission claims Defendant Employer subjected to unlawful discrimination because of their race.

## 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 and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The unlawful employment practices alleged below were committed within the jurisdiction of the United States District Court for the Western District of Tennessee, Western Division.

### **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 § 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000-5(f)(1) and (3).

4. At all relevant times, Defendant, Gilley Construction Co., Inc. ("Defendant Employer"), has continuously been a Tennessee corporation doing business in Shelby County, Tennessee and in Fayetteville County, Tennessee, and has continuously had at least fifteen employees.

5. At all relevant times Defendant Employer has continuously been 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, Velbsy Campbell, Willie Chalmers, and Gary Keefer filed charges with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since May 20, 2004, Defendant Employer has engaged in unlawful employment practices at its job sites in Shelby County, Tennessee, and in Fayetteville County, Tennessee, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a).

8. The unlawful employment practices involved paying Velbsy Campbell, Willie Chalmers, Michael Jones, and Gary Keefer, who are African American and were

employed by Defendant Employer as Reinforcing Ironworkers, less than similarly situated White and Hispanic Reinforcing Ironworkers because of their race.

9. The unlawful employment practices also involved subjecting Mr. Campbell, Mr. Chalmers, Mr. Jones, and Mr. Keefer to different terms and conditions of employment because of their race.

10. The different terms and conditions of employment involved the White Foreman frequently leaving the work site with the two White employees, leaving the African American employees alone at the work site to do the work.

11. The unlawful employment practices also involved discharging Mr. Campbell, Mr. Chalmers, Mr. Jones, and Mr. Keefer because of their race.

12. The effect of the practices complained of in paragraphs 7-11 above has been to deprive Mr. Campbell, Mr. Chalmers, Mr. Jones, and Mr. Keefer of equal employment opportunities and otherwise adversely affect their status as employees because of their race.

13. The unlawful employment practices complained of in paragraphs 7-11 above were intentional.

14. The unlawful employment practices complained of in paragraphs 7-11 above were done with malice and/or with reckless indifference to the federally protected rights of Mr. Campbell, Mr. Chalmers, Mr. Jones, and Mr. Keefer.

#### **PRAYER FOR RELIEF**

Therefore the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer and its officers, successors, assigns, and all persons in active concert or participation with it,

from engaging in any employment practice which discriminates against employees because of their race;

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for African American employees, and which eradicate the effects of Defendant Employer's unlawful employment practices described in paragraphs 7-11 above;

C. Order Defendant Employer to make whole Mr. Campbell, Mr. Chalmers, Mr. Jones, and Mr. Keefer 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 Defendant's unlawful employment practices, including but not limited to rightful-place reinstatement;

D. Order Defendant Employer to make whole Mr. Campbell, Mr. Chalmers, Mr. Jones, and Mr. Keefer by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Mr. Campbell, Mr. Chalmers, Mr. Jones, and Mr. Keefer by providing compensation for nonpecuniary losses resulting from the unlawful employment practices, including emotional and psychological pain and suffering, in amounts to be determined at trial;

F. Order Defendant Employer to pay Mr. Campbell, Mr. Chalmers, Mr. Jones, and Mr. Keefer punitive damages for its malicious and/or reckless conduct, in amounts to be determined at trial;

G. Grant such further relief as the Court deems necessary and proper in the public interest; and

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.

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