

FILED *gwc*
JUL 22 2002

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

LARRY W. PROPEL, CLERK
U. S. DISTRICT COURT

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
FREEMAN MECHANICAL, INC.,)
FREEMAN MECHANICAL, LLC,)
FMC OF GREENVILLE, INC.,)
)
Defendants.)
_____)

CIVIL ACTION NO.:
~~6-01-3871-25~~
6 : 02-1783-25AK

AMENDED
COMPLAINT
JURY TRIAL DEMAND

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 retaliation, and to provide appropriate relief to Don Abrams who was adversely affected by such practices. The Equal Employment Opportunity Commission (the "EEOC") alleges that Don Abrams, an African-American man, was racially harassed by coworkers, supervisors and managers of an entity doing business as Freeman Mechanical, Inc. ("Freeman Mechanical"). Freeman Mechanical subsequently discharged Mr. Abrams because of his complaints about the racial harassment.

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 South Carolina, Greenville Division.

PARTIES

3. Plaintiff, the 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 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, Freeman Mechanical, Inc. (“Defendant FMI”), was a South Carolina corporation doing business in the State of South Carolina and the City of Greenville. At all relevant times, Defendant FMI had at least 15 employees.

5. At all relevant times, Defendant, Freeman Mechanical, LLC, (“Defendant FM LLC”), was a Georgia corporation business in the State of South Carolina and the City of Greenville. At all relevant times, Defendant FM LLC had at least 15 employees. During the relevant period, FMI merged into FM LLC.

6. At all relevant times, Defendant, FMC of Greenville, Inc., (“Defendant FMC”), has been a South Carolina corporation doing business in the State of South Carolina and the City of Greenville as Freeman Mechanical, Inc. At all relevant times, Defendant FMC has continuously had at least 15 employees. Defendant FMC has continued the business of FMI and FM LLC. FMC acquired the assets of FMI and FM LLC, with knowledge of Mr. Abrams’ discrimination claims, and it became a successor in interest to the predecessor entities. FMC is now jointly and severally liable for the wrongful acts of the predecessor entities for the actions described hereinbelow.

7. On the basis of successor liability or corporate merger, Defendants FMI, FM LLC, and

FMC are jointly and severally liable for the discriminatory acts described below. The three entities are referred to herein collectively as Defendant Employer. 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

8. More than thirty days prior to the institution of this lawsuit, Don Abrams filed a charge with the EEOC alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. From approximately May 8, 2000 through October 16, 2000, Defendant Employer engaged in unlawful employment practices at its Greenville and Anderson work sites, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), by subjecting Don Abrams to a racially hostile working environment including racial epithets (such as repeated use of the word “nigger”), insults, humiliation, intimidation, physically threatening behavior, and cursing.

10. On or about October 16, 2000, Defendant Employer engaged in unlawful employment practices at its Greenville and Anderson, South Carolina, work sites in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a), by discharging Mr. Abrams because he opposed race discrimination by his coworkers and supervisors, and because he otherwise engaged in protected activity.

11. The effect of the practices complained of in paragraphs 9 and 10 above has been to deprive Mr. Abrams of equal employment opportunities and has otherwise adversely affected his status as an employee because of his race, and because of his opposition to race discrimination by Defendant Employer.

12. The unlawful employment practices complained of in paragraphs 9 and 10 above were intentional.

13. The unlawful employment practices complained of in paragraphs 9 and 10 above were done with malice or with reckless indifference to the federally protected rights of Mr. Abrams.

PRAYER FOR RELIEF

Wherefore, the EEOC respectfully requests that this Court:

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

B. Order Defendant Employer 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 Employer to make whole Mr. Abrams by providing appropriate backpay 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 reinstatement of Mr. Abrams.

D. Order Defendant Employer to make whole Mr. Abrams by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 9 and 10 above.

E. Order Defendant Employer to make whole Mr. Abrams by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 9 and 10 above, including compensation for his emotional pain,

personal injury, pain and suffering, inconvenience, loss of enjoyment of life, loss of civil rights, and humiliation in amounts to be determined at trial.

F. Order Defendant Employer to pay Mr. Abrams punitive damages for its malicious and reckless conduct described in paragraphs 9 and 10 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 EEOC its costs of this action.

JURY TRIAL DEMAND

The EEOC requests a jury trial on all questions of fact raised by its complaint.

Dated this 18th day of July, 2002.

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