

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, et al.</b>	)	<b>CIVIL ACTION NO. 5:06CV1972</b>
	)	
<b>Plaintiffs,</b>	)	
	)	
v.	)	<b>JUDGE ADAMS</b>
	)	
	)	
<b>MULLINAX FORD NORTH CANTON, INC. d/b/a MULLINAX FORD NORTH CANTON,</b>	)	<b><u>PLAINTIFF EEOC'S</u> <u>AMENDED COMPLAINT</u> <u>W/JURY TRIAL DEMAND</u></b>
	)	
<b>Defendant.</b>	)	
	)	
	)	

**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 Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of race, Black, and retaliation for having engaged in activity protected by Title VII, and to provide appropriate relief to Avery Williams and similarly situated individuals who were adversely affected by such practices.

## **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) and 704(a) 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 pursuant to 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 Northern District of Ohio, Eastern 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 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 Employer, Mullinax Ford North Canton, Inc. d/b/a Mullinax Ford North Canton, has continuously been an Ohio corporation doing business in the State of Ohio and City of North Canton, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 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 institution of this lawsuit, Avery Williams filed a charge 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 at least May of 2004, Defendant Employer has engaged in unlawful employment practices at its North Canton, Ohio, facility in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §2000e-2 (a)(1). The alleged unlawful practices include, but are not limited to:

- a) Defendant Employer hired Avery Williams in May of 2004 as a Used Car Salesperson.
- b) Following his hire, Mr. Williams was subjected to race based verbal and physical harassment by his managers.
- c) In or about March of 2005, Mr. Williams was grabbed by the collar and dragged through the dealership by a manager and berated in front of co-workers and customers.
- d) Mr. Williams was told by a manager that if he “bleached his skin like Michael Jackson” he could sell more cars.
- e) Managers at Defendant’s facility made derogatory comments about African American customers.
- f) The racially hostile environment had an effect on other employees as well.
- g) Managers placed a monkey around the neck of an African American employee during a sales meeting. No other employee had a monkey placed around his/her neck.

h) Racial epithets were used by managers during company meetings.

8. Since at least May of 2005, Defendant has engaged in unlawful retaliation in violation of Section 704(a) of Title VII. The unlawful practices include, but are not limited to the following:

a) After Mr. Williams filed a charge of discrimination in May of, 2005, he was subjected to a pattern of severe and pervasive retaliation. The retaliation consisted of, among other things, being treated differently than white salespersons with respect to the assignment of customers, the handling of sales and commissions and being unfairly disciplined.

b) The harassment was so severe that it had the effect of interfering with his employment income and made his working conditions intolerable, leading to Mr. Williams' constructive discharge from employment at Defendant.

9. The effect of the practice(s) complained of in paragraphs 7 and 8 above has been to deprive Avery Williams and similarly situated employees of equal employment opportunities and otherwise adversely affect their status as employees due to impermissible considerations of race, and due to Mr. Williams' participation in activities protected by Title VII.

10. The unlawful practices complained of above were intentional.

11. The unlawful employment practices complained of above were undertaken with malice and/or reckless indifference to the federally protected rights of Avery Williams.

## PRAYER FOR RELIEF

WHEREFORE, the Commission 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 discriminating against individuals by the implementation of practices and policies which discriminate on the basis of race, Black and in retaliation for having engaged in activities protected by Title VII.

B. Order Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for African Americans and persons who have availed themselves of Title VIII protected activities and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Avery Williams and any aggrieved individuals by providing appropriate back pay and front 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.

D. Order Defendant Employer to make whole Avery Williams, and by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 through 8 above, including but not limited to out of pocket losses.

E. Order Defendant Employer to make whole Avery Williams by providing compensation for non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 7 through 8, above, including emotional pain, suffering, loss of enjoyment of life and humiliation, in amounts to be proven at trial.

F. Order Defendant Employer to pay Avery Williams and any aggrieved individuals punitive damages for its malicious and reckless conduct described in paragraphs 7 through 8, 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 in this action.

**JURY TRIAL DEMAND**

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

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

**I certify that on April 13, 2007, EEOC's Amended Complaint was served upon the following counsel of record by operation of the U.S. District Court, Northern District of Ohio's electronic case filing system:**

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**Donna**

**/s/ Donna L. Williams-Alexander  
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