

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF TENNESSEE NORTHEASTERN DIVISION**

EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
Plaintiff,)	
)	
TERRY R. JOHNSON,)	
Applicant for Intervention,)	
)	
vs.)	CIVIL ACTION NO. 02:04-CV-364
)	
AFG INDUSTRIES, INC.)	
Defendant.)	
)	

INTERVENER'S COMPLAINT

COMES NOW Terry R. Johnson for his cause of action against the Defendant as follows:

The Nature of the Action

1. This is an action seeking redress for discrimination in employment based on religion as prohibited by Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. 20003 et. Seq. (Title VII).
2. Intervener-Plaintiff Terry R. Johnson (Intervener-Plaintiff) is a citizen of the United States of America and a resident of the state of Tennessee.
3. Defendant AFG Industries is a person within the meaning of 42 U.S.C. Section 2000e (a) and an employer within the meaning of 42 U.S.C. Section 2000e (b).
4. At all relevant times Defendant has continuously been doing business in the state of Tennessee and has had at least fifteen (15) employees.
5. Jurisdiction of the Court arises under Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. Section 2000e, et. seq. (Title VII).

6. Intervener-Plaintiff timely filed a charge of discrimination against the Defendant with the Equal Employment Opportunity Commission (EEOC), which organization administers Title VII of the Civil Rights Act of 1964. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. On or about September 28, 2004, EEOC commenced this lawsuit.

8. Intervener-Plaintiff was hired by defendant as an employee within the meaning of 42 U.S.C. 2000e (f).

8. During all times relevant hereto, Intervener-Plaintiff was a member of the Seventh-day Adventist Church, and in conformity with both church doctrine and personal conviction keeps holy as the Sabbath the time period from sunset Friday to sunset Saturday.

9. Intervener-Plaintiff advised the Defendant that Intervener-Plaintiff could not work on his Sabbath and described the time period covered. After Defendant scheduled Intervener-Plaintiff to work during his Sabbath, Intervener-Plaintiff requested accommodation of his religious beliefs and practices.

10. Defendant refused to accommodate Intervener-Plaintiff's religious beliefs and practices, although such accommodation was possible without undue hardship on the conduct of Defendant's business.

11. When Intervener-Plaintiff was unable to work during the hours of his Sabbath, as scheduled by the Defendant, he was discharged from employment.

12. The unlawful employment practices complained of above were intentional and committed with reckless indifference and callous disregard for Intervener-Plaintiff's rights.

WHEREFORE, Intervener-Plaintiff prays that this Court:

1. Find that Defendant has engaged in unlawful employment practices with respect to Intervener-Plaintiff.
2. Enjoin Defendant from engaging in such unlawful employment practices.
3. Order Defendant to make whole Intervener-Plaintiff by providing appropriate back pay with prejudgement interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.
4. Order Defendant to make whole Intervener-Plaintiff by providing him compensation for past and future pecuniary losses resulting from the unlawful employment practices complained of herein, including job search expenses and other miscellaneous expenses, in amounts to be determined at trial.
5. Order Defendant to pay Intervener-Plaintiff punitive damages for its malicious and reckless conduct described above, in amounts to be determined at trial.
6. Order Defendant to expunge all disciplinary actions from Intervener-Plaintiff's personnel file.
7. Order Defendant to reinstate Intervener-Plaintiff employment.
8. Order Defendant to pay all of Intervener-Plaintiff's costs in this action.
9. Award Intervener-Plaintiff his reasonable attorney's fees as part of Intervener-Plaintiff's costs in this action.
10. Order or adjudge such other and further relief as it deems just and proper.

JURY TRIAL DEMAND

Intervener - Plaintiff requests a jury trial on all questions of fact raised by his Complaint.

Entered this 26th of January, 2005..

Respectfully submitted,

/s Glenn T. McColpin
Glenn T. McColpin, TN BPR# 1004
Attorneys for Intervener-Plaintiff
McColpin & Coffman
829 McCallie Avenue
Chattanooga, Tennessee 37403
(423) 756 0444

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of January, 2005, a copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

Sally Ramsey, Esquire
Equal Employment
Opportunity Commission
50 Vantage Way, Suite 202
Nashville, Tennessee 37228-9940

William C. Bovender, Esquire
Hunter, Smith & Davis
1212 N. Eastman Road
P. O. Box 3740
Kingsport, Tennessee 37664

/s Glenn T. McColpin
Glenn T. McColpin, TN BPR #1004
829 McCallie Avenue
Chattanooga, Tennessee 37403
(423) 756-0444

