

United States District Court
Southern District of Alabama

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Charlie Floyd Abney, Jerral Armstrong, Timmothy Jerrell Ball, Karlos T. Beasley, Robert James Beasley, Calvin Belton, Curtis Blount, Clarence Bright, Harvey F. Brown Wymus Clausell, Johnny Dale, Antonio Denson, Jamie L. Echols, Tyrell Finklea, Carl Green, Carlos Hicks, Charles Hurst, Donald Johnson, Sylvester D. Johnson, Floyd Jones Charles S. Kidd, Taquann Knight, James Lee, Willie Green Lee, Frederic Left, Mark O. Lewis, Eddie James Locke, James Marshall, Michael McMillian, Jonas Murphy, Leslie Packer, Admiyan Parker, Adrian Parker, Chris Parker, Darren Parker, Joe Parker, Joseph Parker, Nicholas Parker, Reginald Richardson, Wilbert Richardson, Kevin Riley, Antwan Rivers, Lee Rivers, Christopher Scott, Quincy Tyrone Scott, Chill Sigler, Lee Sigler, Lloyd Sigler, Timothy Eugene Sigler, Willie Lee Sigler, Jasper Smith, Mattie Smith, Tereyus Fortae' Smith, Carling Snell, Kendrick Spencer, George Lee Stots, Joe Stots, Anthony Stovall, Delano Marcel Taite, Robert Walker, Eddie Williams, Jr., and Augusta Winters,

Plaintiffs,

-against-

General Electric Company and
BHA Group, Inc.,

Defendants.

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Plaintiffs, by their counsel, Law Offices of Joshua Friedman, hereby complain as

follows:

Jurisdiction, Venue and Administrative Exhaustion

1. This is a racial harassment case brought pursuant to 42 U.S.C. Sec. 1981 and Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000 et seq. (hereinafter referred to as "Title VII").
2. This Court has jurisdiction pursuant to 28 U.S.C. Sec. 1343.

First Amended Complaint

Jury Trial Demanded

09 CV 00226 (MRO)

3. Venue is proper for all plaintiffs in this District based on the general venue statute, 28 U.S.C. Sec. 1391(b)(1) or 1391(b)(3), because General Electric Company (“G.E.”) resides in the Southern District of New York, within the meaning of 1391(c) and both defendants reside in the State of New York, within the meaning of 1391(c), or, G.E. may be found in the Southern District of New York, within the meaning of 1391(b)(3).

4. In or about August 2007 plaintiffs (the “Charging Plaintiffs”), except Willie Green Lee, Joe Parker, Jamie L. Echols, Augusta Winters and Anthony Stovall filed charges of discrimination against G.E. with the EEOC in New York City.

5. The charges alleged that defendant G.E. subjected the Charging Plaintiffs to a hostile work environment based on their race, African-American, and ultimately refused to provide further employment due to their race.

6. On or after May 23, 2008, the Charging Plaintiffs began receiving Notices of Right to Sue from the EEOC.

7. On August 19, 2008, the Charging Plaintiffs timely filed a summons and complaint in this Court.

Parties and Facts

8. The 62 Plaintiffs live in or around Monroeville, AL, with the exception of Calvin Belton, who lives in Milton, FL.

9. Plaintiffs are African-American.

10. Most lack secondary education, are poor and underemployed.

11. Defendant G.E. is a publicly traded corporation with a principal office in New York.

12. G.E. was founded by Thomas Edison in 1878. It does business in all of the United States.

13. Its businesses include Aircraft Jet Engines, Electricity, Entertainment, Finance, Gas Turbines, Power Generation, Industrial Automation, Lighting, Medical Imaging Equipment, Medical Software, Motors, Railway Locomotives and Wind Turbines.

14. In 2007, G.E. had a market capitalization of \$369.569 Billion, and net income of \$ 22.208 Billion.

15. At all times hereinafter mentioned, G.E. was an “employer” within the meaning of Title VII.

16. Defendant BHA Group, Inc. (“BHA”) is successor to Baghouse Associates, which was acquired by Defendant General Electric Company in 2004. BHA is operated by G.E. as part of its G.E. Energy division, an unincorporated business line within G.E.

17. On information and belief, BHA has not been maintained as a separate corporate entity. Instead, its former functions are now carried out by G.E. under the G.E. name by G.E. employees. BHA exists principally as a brand name.

18. G.E. contracts with industrial producers of effluent to change the bags, or filters, which collect the effluent (in baghouses, hence “Baghouse Associates”). G.E. also performs related services. Power producers emitting effluent are typical customers.

19. Changing baghouse bags is dangerous work. Effluent is highly toxic. It contains caustic chemicals such as lye, which causes terrible burn injuries. Working conditions include extreme temperatures.

20. In or about 1992, Ray Lacy became a consultant and then a Technical Advisor (“TA”) to BHA. As TA he was in charge of crews of men working in bag houses to change full bags for new and perform maintenance.

21. In or about 1996, Ray Lacy ceased working for BHA.

22. He started a business, Lacy Enterprises, leasing workers to BHA.

23. From 1996 through 2004, when BHA was bought by G.E., Lacy Enterprises leased laborers to work in bag houses to BHA.

24. At all times hereinafter mentioned, BHA was an “employer” within the meaning of Title VII.

25. When BHA was acquired by G.E., Lacy Enterprises began contracting to lease workers directly to G.E.

26. Plaintiffs were at all times relevant herein leased workers to BHA and then G.E.

27. Plaintiffs were at all times relevant herein employees of defendants BHA and then G.E.

28. Beginning in 1998, Lynn Dyer (Dyer) worked as a TA for BHA. When it was acquired by G.E., Dyer became a G.E. employee working in its Energy group.

29. At all times relevant hereto, Dyer acted as a supervisor of plaintiffs for BHA and G.E.

30. Plaintiffs desperately needed the employment provided by defendants and were therefore vulnerable to abuse.

31. Dyer was a vicious bigot who had a visceral hatred for African-Americans. He spewed his venom at plaintiffs who were all African-American, whenever he was assigned as TA on a job to which plaintiffs were leased.

32. He called them “niggers” and other racial slurs. He used racial slurs constantly when working with plaintiffs. He spoke openly and loudly about his contempt for African-Americans as workers. He openly stated his belief that African-Americans were inferior workers.

33. Examples of the racial abuse plaintiffs endured constantly under Dyer while working for him on BHA and then G.E. jobs include but were not limited to:

- a. Commenting that “‘black folks’ don’t work for no body, won’t do nothing;”
- b. Getting right in plaintiffs faces, cussing, and calling them “stupid workers;”
- c. Stating, “you damn black ass niggers;”
- d. Stating that plaintiffs “ain’t worth a damn;”
- e. Telling plaintiffs they were not “too bright” and were “always slow to comprehend;”
- f. Commenting, “Ya’ll ‘niggers’ ain’t doing shit right;”
- g. Refusing to allow them to go to the bathroom, and threatening to fire them if they did, because of his belief that all African-Americans are lazy;
- h. Condescending to plaintiffs and speaking to them like they were children;
- i. Threatening (and following through) that “niggers’ [are] getting fired,” and “don’t need niggers for this;”

- j. Stating, “this is the last job ya’ll niggers be working on;”
 - k. Stating, “this is your last job; I won’t have to work with those niggers no more;”
 - l. Telling each of several individual plaintiffs he was a “sorry black man;”
 - m. Commenting that he did not want any more “black folks” or “niggers” working for him;
 - n. Stating he did not want to work with plaintiffs’ “skin color;”
 - o. Calling plaintiffs “monkey boy;”
 - p. Telling plaintiffs he was “sick of these ‘blacks;”
 - q. Calling plaintiffs “boys” and “useless boys” in the racially derogatory sense;
 - r. Initially refusing to call an ambulance when Plaintiff Kevin Riley had a seizure;
 - s. Commenting, when Plaintiff OJ McMillan got sick and needed diabetic medicine, that he “didn’t want no more Niggers with him because he had to be taken to a doctor;”
 - t. Commanding, “‘Boys’ get your asses over here;”
 - u. Calling plaintiffs “Negro” to their face;
 - v. Making “jokes” like “nigger pants;” “‘Big black sambo nigger,’ his pants busted open.”
34. These are only examples. Plaintiffs heard these and other racial remarks and slurs on a daily basis working for Dyer.

35. Dyer tortured plaintiffs, whom he deemed lazy because they are African-Americans, by denying them bathroom breaks, denying them injury breaks, and denying them rest breaks.

36. One of the most vile things he did was to Plaintiff Antonio Densen (Densen). Densen has third degree burns over most of his body. He has had numerous skin grafts. On a job for Dyer, his hands were cracking through his gloves and oozing bodily fluids. Instead of helping Densen with first aid, Dyer fired him, and the worker who had come to Densen's aid, and forced them to leave the work site immediately.

37. Dyer also ridiculed Densen's appearance, calling him "black Sambo."

38. The racial abuse the plaintiffs endured on Dyer jobs was frequent. Some of the plaintiffs heard dozens of racial slurs from Dyer a week. The condescension and complaints about inferior working habits on jobs was constant. Dyer made it plain that he believed that African-Americans were inferior.

39. Plaintiffs observed Dyer working with white workers. Dyer treated them normally and professionally. He did not treat them with contempt or insult.

40. His speech to plaintiffs when he was not using racial slurs was a steady stream of insult and condescension.

41. Dyer combined his racial contempt with the power given to him by defendants to fire and deny work to plaintiffs. If he deemed one or more of the plaintiffs too lazy or inept due to his race, he would fire him. The fired employee was sent him home from the job site and Lacy was instructed not to staff him on G.E. jobs again.

42. On the G.E. job sites, Dyer was the senior manager. There was no one senior to him to whom plaintiffs could appeal or grieve his personnel or worksite misconduct, including racial abuse.

43. Dyer fired plaintiffs.

44. Dyer made plaintiffs time sheets.

45. Dyer docked workers (withheld pay) for time he deemed not well spent.

46. Dyer determined what time of day plaintiffs started and stopped working.

47. He determined whether working conditions would be safe, and frequently made decisions which made them dangerous.

48. Dyer made work assignments.

49. Dyer at times told plaintiffs what tools they should use.

50. Dyer had the authority to tell plaintiffs what they should wear.

51. Dyer imposed discipline on plaintiffs.

52. Plaintiffs worked for Defendants on Defendants' job sites.

53. The frequency and aggressiveness of the racial abuse was such that it was torture for plaintiffs to work for Dyer. However, they were poor, and the G.E. work was the only work they had, so they endured it.

54. Plaintiffs lost work and suffered unspeakable humiliation because Dyer exercised his managerial authority based on his racist view that plaintiffs were inferior due to their race.

55. In or about 2005, Lacy began complaining to G.E. that Dyer was subjecting plaintiffs to racial slurs, firing them from jobs, denying them work, denying them rest, medical and bathroom breaks because of his bias against African-Americans.

56. These complaints fell on deaf ears. Dyer continued his abuse until he terminated all plaintiffs in February 2007.

57. None of the plaintiffs has worked for G.E. since February 2007. As a result, they have been unemployed or seriously underemployed.

58. Plaintiffs have been traumatized by the experience of working for and being fired by Dyer. They are acutely aware of the fact that they were shamefully abused by Dyer because of their race and then fired by Defendants because of their race.

59. Because of their poverty, the termination has caused incredible hardships.

60. Their current living standards are reflected in photos of their homes and their neighbors home which are at <http://picasaweb.google.com/monroevilleal>

Count One

Hostile Work Environment In Violation of 42 U.S.C. 1981

61. Plaintiffs incorporate by reference all prior paragraphs.

62. Defendants engaged in illegal, intentional discrimination on the basis of race by creating a hostile work environment and allowing it to persist on jobs to which plaintiffs were assigned.

63. As a consequence of Defendants' conduct, plaintiffs suffered severe emotional distress.

64. Defendants' actions proximately caused plaintiffs' injuries.

Count Two

Discriminatory Discharge In Violation of 42 U.S.C. 1981

65. Plaintiffs incorporate by reference all prior paragraphs.

66. Defendants engaged in illegal discrimination by discharging plaintiffs on the basis of race.

67. As a consequence of Defendants' conduct, plaintiffs suffered severe emotional distress.

68. Defendants' actions proximately caused plaintiffs' injuries.

Count Three

Retaliatory Discharge In Violation of 42 U.S.C. 1981

69. Plaintiffs incorporate by reference all prior paragraphs.

70. Defendants terminated plaintiffs' employment in part because of plaintiffs' and Ray Lacy's opposition to Dyer's racial abuse.

71. As a consequence of Defendants' conduct, plaintiffs suffered severe emotional distress.

72. Defendants' actions proximately caused plaintiffs' injuries.

Count Four

Hostile Work Environment In Violation of Title VII

73. Plaintiffs incorporate by reference all prior paragraphs.

74. Defendants engaged in illegal discrimination on the basis of race by creating a hostile work environment and allowing it to persist on jobs to which plaintiffs were assigned.

75. As a consequence of defendants' conduct, plaintiffs suffered severe emotional distress.

76. Defendants' actions proximately caused plaintiffs' injuries.

Count Five

Discriminatory Discharge In Violation of Title VII

77. Plaintiffs incorporate by reference all prior paragraphs.

78. Defendants engaged in illegal discrimination by discharging plaintiffs on the basis of race.

79. Defendants engaged in illegal discrimination by interfering with plaintiffs' employment when Defendants terminated its relationship with Lacy Enterprises.

80. As a consequence of defendants' conduct, plaintiffs suffered severe emotional distress.

81. Defendants' actions proximately caused plaintiffs' injuries.

JURY DEMAND

Plaintiffs herein demand a trial by jury for all issues in this action.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs, ALL OF THEM, respectfully requests:

- a. Judgment against defendants for violation of 42 U.S.C. 1981;
- b. Compensatory damages for emotional distress;
- c. Compensatory damages in the form of lost wages;
- d. Punitive damages;
- e. An award of prejudgment interest;
- f. All costs and attorneys' fees incurred prosecuting these claims; and

f. For such further relief as the Court deems just and equitable.

Dated: December 10, 2008
Larchmont, NY

Law Offices of Joshua Friedman



By: Joshua Friedman (JF-2176)

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