

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN AND
FOR LEON COUNTY, FLORIDA

JAMES EARL,

Plaintiff,

CASE NO.: 19-CA-
FLA BAR NO.: 0739685

2019 CA 001084

v.

FLORIDA DEPARTMENT OF BUSINESS
AND PROFESSIONAL REGULATION,

Defendant.

COMPLAINT

Plaintiff, JAMES EARL, hereby sues Defendant, FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, and alleges:

NATURE OF THE ACTION

1. This is an action brought under the §112.3187, et seq., and Chapter 760, Florida Statutes.
2. This action involves claims which are, individually, in excess of Fifteen Thousand Dollars (\$15,000.00), exclusive of costs and interest.

THE PARTIES

3. At all times pertinent hereto, Plaintiff, JAMES EARL, has been a resident of the State of Florida and was employed by Defendant. Plaintiff reported Defendant's misfeasance and/or malfeasance and/or violation of one or more law, rules, and/or regulations and was subject to retaliation thereafter. He was also the victim of discrimination based on age and the victim of retaliation after reporting gender discrimination.

4. At all times pertinent hereto, Defendant, FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, has been organized and existing under the laws of the State of Florida. At all times pertinent to this action, Defendant has been an “employer” as that term is used under the applicable laws identified above. Defendant was Plaintiff’s employer as it relates to these claims.

CONDITIONS PRECEDENT

5. Plaintiff has satisfied all conditions precedent to bringing this action, if any.

STATEMENT OF THE ULTIMATE FACTS

6. Plaintiff began his employment with Defendant on November 21, 2003 and held the position of Attorney Supervisor/Chief Arbitrator at the time of his wrongful termination on October 9, 2017.

7. Despite Plaintiff’s stellar work performance during his employment with Defendant, he was subjected to a hostile work environment, disparate treatment, different terms and conditions of employment, and was held to a different standard because of his age and because he opposed Defendant’s unlawful employment practices and was the victim of retaliation thereafter.

8. The discrimination and retaliation came at the hands of specifically but not limited to Director Kevin Stanfield and Deputy Director Boyd McAdams.

9. On January 28, 2015, Stanfield emailed Plaintiff asking him to conduct research to support a request Plaintiff made about pay raises for arbitrators.

10. On February 5, 2015 Plaintiff sent Stanfield a memo about the compensation of arbitrators. This report was aimed at getting raises for arbitrators and retaining and recruiting experienced arbitrators.

11. In or around June 2015, Stanfield threatened to fire the entire arbitration team if the arbitrators did not “tow the line” for him in a human resources investigation.

12. At that time or shortly thereafter, by July 31, 2015, four female arbitrators employed with Defendant had filed lawsuits and/or multiple complaints with human resources about being treated differently due to their gender. After this lawsuit began, Stanfield began to retaliate against the arbitration section of Defendant.

13. On October 11, 2016, Plaintiff found out about a meeting Stanfield hosted a discussion of the hiring of private attorneys. Plaintiff informed Stanfield this was illegal and that there were issues with what he was attempting to do.

14. Approximately a week prior to May 24, 2017, Plaintiff met with Chief of Staff Reggie Dixon. Plaintiff expressed his concerns regarding Stanfield’s retaliation toward female arbitrators who were under his supervision and had reported disparity in pay based on gender and sought reclassification of their positions as a remedy.

15. During the week of May 24, 2017 Plaintiff emailed Stanfield reporting and objecting to retaliation against female arbitrators who were under his supervision and had reported disparity in pay based on gender from Defendant.

16. On September 21, 2017, Plaintiff was summoned into a meeting with the Defendant’s General Counsel, Jason Maine, and Deputy Secretary Andrew Frier, managers within the Defendant. Maine and Frier directed Plaintiff as to how he should rule legally on matters in arbitration cases without the parties present which would have impaired Plaintiff’s judgment as an attorney and independent arbitrator. Maine and Frier had no authority to direct Plaintiff as to how to rule on cases in his position as an Arbitrator for the Defendant and Plaintiff objected to this directive.

17. On October 2, 2017, Plaintiff met with Stanfield and discussed the hiring of a vacant arbitrator positions. Stanfield told Plaintiff he would manage the hiring so he could hire “inexperienced attorneys that could be trained to do what I want them to.” Plaintiff objected and Stanfield asked if Plaintiff wanted to resign.

18. On October 3, 2017, Plaintiff was asked questions about and expressed his opinion about Stanfield in a meeting. Plaintiff stated Stanfield intended to hire less experienced, younger employees into arbitrators because Stanfield could control them more. Plaintiff is over the age of 40 and clearly, the new arbitrators that Stanfield sought to hire were considerably younger than Plaintiff.

19. On or about October 5, 2017, Plaintiff reported Stanfield’s plans to the arbitrators he directly supervised. Arbitrator Terri Jones subsequently submitted a complaint with Defendant’s human resources division.

20. On October 9, 2017, Plaintiff was terminated, effective immediately, on contrived reasoning that Stanfield saw him as unable to adequately train, develop, or supervise the staff of the unit, which was demonstrably false.

21. Plaintiff has retained the undersigned to represent her interests in this cause and is obligated to pay a fee for these services. Defendant should be made to pay said fee under the laws set forth above.

COUNT I
PUBLIC EMPLOYEE WHISTLE-BLOWER RETALIATION

23. Paragraphs 1-21 above are incorporated herein by reference.

24. This count sets forth a claim against Defendant under §112.3187, et seq.,

Fla.Stats.

25. Plaintiff was a public employee protected under the provisions of Chapter 112, Fla.Stats.

26. As stated more specifically in part above, Plaintiff reported and disclosed violations of rules, regulations and laws, and/or malfeasance, misfeasance and/or gross misconduct to persons both inside and outside of his normal chain of command, and to others having the authority to investigate, police, manage and otherwise remedy the violations of rules, regulations and laws that he reported. Plaintiff also disclosed this information when she participated in investigations, hearings, or other agency inquiries. Plaintiff reported malfeasance, misfeasance, and other acts specifically outlined in §112.3187(5), Fla.Stats.

27. After reporting these matters and/or participating in investigations, hearings, or other agency inquiries, as related in part above, Plaintiff was the victim of retaliatory actions set forth in part above.

28. Plaintiff's suspensions, terminations, and/or being blocked from one or more positions were a direct adverse result of his reporting violations of rules, regulations or laws, and/or her reporting malfeasance, misfeasance or gross misconduct, and/or his participating in investigations, hearings or other inquiries, specified in part above.

29. The actions of all employees within Defendant who affected Plaintiff's employment adversely did so at least in part in retaliation against him for his "whistleblowing" activities.

30. As a direct and proximate result of the actions taken against him by Defendant, Plaintiff has suffered injury, including but not limited to past and future wage losses, loss of benefits, and other tangible damages. These damages have occurred in the past, are occurring at present and will occur in the future. Plaintiff is entitled to injunctive relief.

COUNT II
RETALIATION

31. Paragraphs 1 through 21 are hereby re-alleged and re-incorporated as if set forth in full herein.

32. Defendant is an employer as that term is used under the applicable statutes referenced above.

33. The foregoing allegations establish a cause of action for unlawful retaliation after Plaintiff reported and opposed unlawful discrimination against women in the workplace.

34. The foregoing unlawful actions by Defendant were purposeful.

35. Plaintiff engaged in protected activity during his employment with Defendant and he was the victim of retaliation thereafter, as related in part above.

36. Plaintiff is a member of a protected class because he participated in investigations involving gender discrimination and otherwise reported/objected to the discrimination and was the victim of retaliation thereafter. There is thus a causal connection between the reporting of the unlawful employment practices and the adverse employment action taken thereafter.

37. As a direct and proximate result of the foregoing unlawful acts and omissions, Plaintiff has suffered mental anguish, emotional distress, expense, loss of benefits, embarrassment, humiliation, damage to reputation, illness, lost wages, loss of capacity for the enjoyment of life, and other tangible and intangible damages. These damages are continuing and are permanent. Plaintiff is entitled to injunctive relief.

COUNT III
AGE DISCRIMINATION

38. Paragraphs 1 through 21 are hereby re-alleged and re-incorporated as if set forth in full herein.

39. This is an action against Defendant for discrimination based upon age brought under Chapter 760, Florida Statutes.

40. Plaintiff has been the victim of discrimination on the basis of Plaintiff's age in that Plaintiff was treated differently than similarly situated younger employees of Defendant and has been subject to hostility and poor treatment on the basis, at least in part, of Plaintiff's age.

41. Defendant is liable for the differential treatment and hostility towards Plaintiff because it controlled the actions and inactions of the persons making decisions affecting Plaintiff or it knew or should have known of these actions and inactions and failed to take prompt and adequate remedial action or took no action at all to prevent the abuses to Plaintiff. Furthermore, Defendant knowingly condoned and ratified the differential treatment of Plaintiff as more fully set forth above because it allowed the differential treatment and participated in same. Defendant's known allowance and ratification of these actions and inactions actions created, perpetuated and facilitated an abusive and offensive work environment within the meaning of the statutes referenced above.

42. In essence, the actions of agents of Defendant, which were each condoned and ratified by Defendant, were of an age-based nature and in violation of the laws set forth herein.

43. The discrimination complained of herein affected a term, condition, or privilege of Plaintiff's continued employment with Defendant. The events set forth herein lead, at least in part, to adverse action against Plaintiff.

44. Defendant's conduct and omissions constitutes intentional discrimination and unlawful employment practices based upon age.

45. As a direct and proximate result of Defendant's conduct described above, Plaintiff has suffered emotional distress, mental pain and suffering, past and future pecuniary losses,

inconvenience, bodily injury, mental anguish, loss of enjoyment of life and other non-pecuniary losses, along with lost back and front pay, interest on pay, bonuses, and other benefits. These damages have occurred in the past, are permanent and continuing. Plaintiff is entitled to injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant for the following:

- (a) that process issue and this Court take jurisdiction over this case;
- (b) that this Court grant equitable relief against Defendant under the applicable counts set forth above, mandating Defendant's obedience to the laws enumerated herein and providing other equitable relief to Plaintiff;
- (c) enter judgment against Defendant and for Plaintiff awarding all legally-available general and compensatory damages and economic loss to Plaintiff from Defendant for Defendant's violations of law enumerated herein;
- (d) enter judgment against Defendant and for Plaintiff permanently enjoining Defendant from future violations of law enumerated herein;
- (e) enter judgment against Defendant and for Plaintiff awarding Plaintiff attorney's fees and costs;
- (f) award Plaintiff interest where appropriate; and
- (g) grant such other further relief as being just and proper under the circumstances, including but not limited to reinstatement.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury on all issues herein that are so triable.

DATED this 7th day of May 2019.

Respectfully submitted,

/s/ Marie A. Mattox
Marie A. Mattox [FBN 0739685]
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ATTORNEYS FOR PLAINTIFF

Leon County Clerk of the Circuit Court and Com Court Case Sear

Full Case View

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Party Status	Party	Party Code	Attorney	Attorney Status
	DEPT OF BUSINESS AND PROFESSIONAL REGULATION DIVIS.	DEFENDANT	PRO SE	INACTIVE 08/30/2019
	DEPT OF BUSINESS AND PROFESSIONAL REGULATION DIVIS.	DEFENDANT	J STEVEN CARTER	ACTIVE
	DEPT OF BUSINESS AND PROFESSIONAL REGULATION DIVIS.	DEFENDANT	MIRIAM R COLES	ACTIVE
	EARL, JAMES	PLAINTIFF	JAMES GARRITY	ACTIVE
	EARL, JAMES	PLAINTIFF	MARIE A MATTOX	ACTIVE

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Action Dscr	Open/Reopen Status	Open/Reopen Date	Disposition	Disposition Date	Judge
OTHER DISCRIMINATION	OPEN	5/7/2019			DEMPSEY

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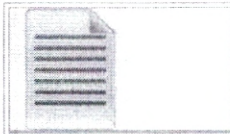
Charge # Action Code Description Plea Date Plea Decision Date Court Action Charge Disposition Citation

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Judges Appearing on Case			
Last Name	First Name	Date Assigned	Source
DEMPSEY	ANGELA	5/9/2019 8:26:06 AM	BM

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Viewable On Request Statuses



e-Certify



Docket Table Headers Are Sortable. Click For Ascending, Again For Descending Order
Source Table Abbreviations: BM = Benchmark; JIS = Justice Informations System

Docket Date	CCISSeqNbr	Docket Code	ECertify	Docket Text	OR Book	OR Page	Source
5/7/2019	2	CCS	<input type="checkbox"/> <<-Req \$	CIVIL COVER SHEET			BM
5/7/2019	3	COMP_CA	<input type="checkbox"/> <<-Req \$	COMPLAINT			BM
5/7/2019	4	SUIS	<input type="checkbox"/> <<-Req \$	SUMMONS ISSUED			BM
5/7/2019	5	SUIS	<input type="checkbox"/> <<-Req \$	SUMMONS ISSUED			BM
5/9/2019	1	a002		JUDGE DEMPSEY, ANGELA C: ASSIGNED			BM

5/9/2019	6	RECEIPT_	<input type="checkbox"/> «-Req_\$	PAYMENT \$420.00 RECEIPT #1426629	BM
7/15/2019	7	NAPR_	<input type="checkbox"/> «-Req_\$	NOTICE OF APPEARANCE AND DESIGNATION OF PRIMARY AND SECONDARY E-MAIL ADDRESSES	BM
7/17/2019	8	NOTO_	<input type="checkbox"/> «-Req_\$	NOTICE OF DISCLOSURE	BM
8/29/2019	9	NAPR_	<input type="checkbox"/> «-Req_\$	NOTICE OF APPEARANCE	BM
8/29/2019	10	DOEA_	<input type="checkbox"/> «-Req_\$	DEFENDANTS DESIGNATION OF ELECTRONIC MAIL ADDRESSES	BM
9/5/2019	11	ROSE_	<input type="checkbox"/> «-Req_\$	RETURN OF SERVICE EXECUTED DEPT OF BUSINESS	BM
9/16/2019	12	AAAD_	<input type="checkbox"/> «-Req_\$	ANSWER AND AFFIRMATIVE DEFENSES	BM
12/11/2019	13	NIRJ_	<input type="checkbox"/> «-Req_\$	NOTICE OF READINESS FOR ASSIGNMENT OF TRIAL DATE AND ASSOCIATED DEADLINES	BM
12/11/2019	14	RQPR_	<input type="checkbox"/> «-Req_\$	PLAINTIFFS DECEMBER 11, 2019 REQUEST FOR PRODUCTION OF DOCUMENTS, ELECTRONICALLY-STORED INFORMATION AND TANGIBLE THINGS	BM
12/12/2019	15	EMAIL		EMAIL SENT TO JUDGE DEMPSEYS JA RE SERVICE OF COURT DOCUMENT – 2019 CA 001084, EARL, JAMES VS. DEPT OF BUSINESS AND PROFESSIONAL REGULATION WITH 1 ATTACHMENTS: NIRJ-12/11/2019	BM
12/16/2019	16	ORME_	<input type="checkbox"/> «-Req_\$	ORDER REFERRING CASE TO MEDIATION	BM
12/30/2019	17	NOME_	<input type="checkbox"/> «-Req_\$	PLAINTIFFS NOTICE OF MEDIATION	BM
1/13/2020	18	RDD_	<input type="checkbox"/> «-Req_\$	PLAINTIFFS RESPONSE TO FIRST REQUEST FOR PRODUCTION	BM
1/13/2020	19	NSOI_	<input type="checkbox"/> «-Req_\$	NOTICE OF SERVICE OF INTERROGATORIES	BM
1/21/2020	20	NOIN_	<input type="checkbox"/> «-Req_\$	DEFENDANTS NOTICE OF INTENT TO ISSUE SUBPOENA FOR THIRD PARTY RECORDS	BM
1/28/2020	21	NOTD_	<input type="checkbox"/> «-Req_\$	NOTICE OF TAKING DEPOSITION	BM
1/28/2020	22	NOME_	<input type="checkbox"/> «-Req_\$	NOTICE OF MEDIATION	BM
1/28/2020	23	ANOD_	<input type="checkbox"/> «-Req_\$	AMENDED NOTICE OF TAKING DEPOSITION	BM
1/29/2020	24	SAND_	<input type="checkbox"/> «-Req_\$	SECOND AMENDED NOTICE OF DEPOSITION	BM
2/3/2020	25	RQFC_	<input type="checkbox"/> «-Req_\$	REQUEST FOR COPIES	BM
3/20/2020	26	NSOI_	<input type="checkbox"/> «-Req_\$	MR. EARLS MARCH 20, 2020 INTERROGATORIES TO DEFENDANT	BM

3/20/2020 RQPR_ «-Reg \$ PLAINIFFS MARCH 20, 2020
 27 REQUEST FOR PRODUCTION OF DOCUMENTS, ELECTRONICALLY-STORED INFORMATION AND TANGIBLE THINGS TO DEFENDANT BM

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Event	Date	Start	Location	Judge	Result	Source
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Docket Application	Owed	Paid	Dismissed	Due
COMPLAINT	\$400.00	\$400.00	\$0.00	\$0.00
SUMMONS ISSUED	\$10.00	\$10.00	\$0.00	\$0.00
SUMMONS ISSUED	\$10.00	\$10.00	\$0.00	\$0.00

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Ordered Amt	Paid	Ar Plan Dismissed	Balance	Delinquent
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