

2007 WL 2435555 (E.D.Mo.) (Trial Pleading)
United States District Court, E.D. Missouri,
Eastern Division.

UNITED STATES OF AMERICA, Plaintiff,
v.
ROBERTSON FIRE PROTECTION DISTRICT, Defendant.

No. 07CV01292.
July 17, 2007.

Jury Trial Demanded

Complaint

Wan J. Kim, Assistant Attorney General, Civil Rights Division, David J. Palmer, VA Bar 27802, Chief, Employment Litigation Section, Civil Rights Division.

William B. Fenton, DC Bar 414990, Deputy Chief, Kathleen T. Toomey, DC Bar 469841, Senior Trial Attorney, U.S. Department of Justice, Civil Rights Division, Employment Litigation Section, Room 4611, PHB, 950 Pennsylvania Ave., NW, Washington, DC 20530, Telephone: (202) 616-9504, Facsimile: (202) 514-1105, Email: kathleen.toomey@usdoj.gov.

Catherine L. Hanaway, United States Attorney, Nicholas P. Llewellyn #52836, Assistant United States Attorney, Chief, Civil Division, 111 South 10th Street, Room 20.333, St. Louis, MO 63102, Telephone: (314) 539-2200, Facsimile: (314) 539-2777, Email: nicholas.llewellyn@usdoj.gov, Attorneys for the United States of America.

Plaintiff United States of America ("United States"), alleges:

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* ("Title VII").
2. This Court has jurisdiction over this action under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. § 1345.
3. Defendant Robertson Fire Protection District ("Robertson FPD") is a governmental agency and a political subdivision of the State of Missouri, created pursuant to Missouri law.
4. Defendant Robertson FPD is a person within the meaning of Section 701 (a) of Title VII, 42 U.S.C. § 2000e(a), and an employer within the meaning of Section 701(b) of Title VII, 42 U.S.C. § 2000e(b).
5. Lamont Downer and Ephraim Woods, Jr., African-American males, were employed by defendant Robertson FPD as fire inspectors between approximately May 1999 and May 2004. As fire inspectors, Downer and Woods earned approximately \$42 per hour, held a rank equivalent to captain and worked 40 hours per week, from Monday through Friday.
6. In March 2004, Downer and Woods filed charges of discrimination with the Equal Employment Opportunity Commission ("EEOC"), alleging that defendant Robertson FPD was discriminating against them on the basis of their race, and that it had retaliated against them for engaging in protected activity during their employment.
7. On or about May 25, 2004, defendant Robertson FPD demoted Downer and Woods from fire inspector to firefighter. Defendant Robertson FPD cut Downer and Woods's pay by approximately \$15 per hour, reduced them to the rank of firefighter and required them to work 24-hour shifts.
8. At the time they were demoted, Woods and Downer were adequately performing their required job duties as fire inspectors and had never been subjected to any formal or informal disciplinary action for failure to adequately perform their jobs duties.
9. Defendant Robertson FPD has discriminated against Downer and Woods because of their race, African-American, in

violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), and has retaliated against Downer and Woods for filing charges of discrimination with the EEOC in violation of Section 704(a) of Title VII, 24 U.S.C. § 2000e-3(a) among other ways, by:

- a. Demoting Downer and Woods from fire inspector to firefighter; and,
- b. Failing or refusing to take appropriate action to remedy the effects of its discriminatory treatment of Downer and Woods.

10. The EEOC received timely charges of discrimination filed by Downer (Charge No. 280200405850) and Woods (Charge No. 280200405847), in which each alleged that defendant Robertson FPD demoted him from fire inspector because of his race, African-American, and in retaliation for having previously filed a charge of discrimination against the Robertson FPD with the EEOC. The EEOC investigated Charge Nos. 280200405850 and 280200405847, found reasonable cause to believe the allegations of discrimination on the basis of race and retaliation were true, attempted unsuccessfully to achieve through conciliation a voluntary resolution of the charges, and subsequently referred the matter to the United States Department of Justice.

11. All conditions precedent to the filing of this Complaint have been performed or have occurred.

WHEREFORE, plaintiff United States prays that this Court grant the following relief:

- a. Enjoin defendant Robertson FPD from failing or refusing to:
 - i. provide sufficient remedial relief, including back pay with interest, to make Lamont Downer and Ephraim Woods, Jr. whole for the loss they have suffered as a result of the discrimination and retaliation against them as alleged in this Complaint;
 - ii. require Robertson FPD to adopt a racial discrimination and retaliation policy that includes clear, meaningful and well-publicized provisions describing responsibilities of all supervisors to report and respond to complaints of racial discrimination and retaliation, and to establish an effective mechanism for receiving and responding to complaints of racial discrimination and retaliation;
 - iii. provide adequate training to all Robertson FPD employees and officials responsible for making determinations regarding complaints of racial discrimination and retaliation; and
 - iv. take other appropriate nondiscriminatory measures to overcome the effects of discrimination and retaliation.
- b. Award compensatory damages to Lamont Downer and Ephraim Woods, Jr. for mental and/or physical injuries incurred as a result of the discrimination and retaliation against them as alleged in this Complaint, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

The plaintiff United States prays for such additional relief as justice may require, together with its costs and disbursements in this action.

JURY DEMAND

The plaintiff United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

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Assistant Attorney General

Civil Rights Division

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