

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Dennis L. Brown,
Plaintiff,

v.

Low Country Creole, LLC and Lowcountry
Creole Restaurant, Inc. d/b/a LoLA Low
Country Louisiana Seafood Kitchen,
Defendants.

CASE NO: 2:20-cv-02063-RMG-MGB

COMPLAINT
(Jury Trial Requested)

JURISDICTION AND PARTIES

1. This suit is brought and jurisdiction lies pursuant to the Civil Rights Act of 1964 (Title VII), 42 U.S.C. §2000e *et seq.* and for racial discrimination under Title VII of the Civil Rights Act of 1964.

2. All conditions precedent to jurisdiction under §706 of Title VII, 42 U.S.C. §2000e-5 have occurred or been complied with.

a. A charge of employment discrimination on basis of racial discrimination, retaliation and unequal pay was filed by the Plaintiff with the U.S. Equal Employment Opportunity Commission (“EEOC”).

b. Notification of the Right to Sue was received from the U.S. Equal Employment Opportunity Commission (“EEOC”) on or about March 5, 2020.

c. This Complaint has been filed within the 90 days of receipt of the EEOC’s Notice of Right to Sue.

3. Plaintiff, Dennis L. Brown, is a citizen and resident of the State of South Carolina, and resides in Charleston County, South Carolina.

4. All discriminatory employment practices alleged herein were committed within the State of South Carolina.

5. Defendant, Low Country Creole, LLC, upon information and belief, is a domestic corporation organized in the state of South Carolina, doing business in the County of Charleston, State of South Carolina.

6. Defendant, Lowcountry Creole Restaurant, Inc. d/b/a LoLA Low Country Louisiana Seafood Kitchen, upon information and belief, is a domestic corporation organized in the state of South Carolina, doing business in the County of Charleston, State of South Carolina.

7. Defendants are "persons" within the meaning of §701 Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e.

8. Defendants are industries that affects commerce within the meaning of the Civil Rights Act of 1964, 42 U.S.C. §2000e.

9. Defendants employ fifteen (15) or more employees and is an "employer" within the meaning of the Civil Rights Act of 1964, 42 U.S.C. §2000e.

10. The parties, matters and all things and matters hereinafter alleged are within the jurisdiction of the Court.

STATEMENT OF FACTS

11. On or about September 23, 2017, the Plaintiff, an African American, began working for the Defendants as a Dishwasher.

12. At all times, the Plaintiff was efficient and effective in his job.

13. Beginning on or about January 9, 2019, Defendants' owner/supervisor called Plaintiff the "N" word. Defendant's owner/supervisor also made racial statements such as "don't give that nigger no more of my burgers."

14. Following the above incident, Plaintiff began to be called derogatory names and began to receive less than what he usually earned during the pay period.

15. On or about January 14, 2020, Plaintiff was contacted by Defendants' manager Michael, that Plaintiff's hours were being cut and that he wasn't scheduled to work again until the weekend, when Plaintiff normally worked 5 days a week.

16. Plaintiff witnessed Defendants' Caucasian employees receive preferential treatment, and after Plaintiff's complaint of discrimination, Defendants' began to reduce his hours in total for his complaints, while Caucasian employees were able to retain their regular hours.

17. Defendants retaliated against Plaintiff for reporting the discriminatory acts and failed to stop the discrimination, disparate treatment, and inappropriate behavior, thereby creating a hostile work environment.

18. On or about January 18, 2020, Plaintiff was forced to resign because of the racial discrimination, retaliation, and unequal pay.

19. It was the duty of Defendants, by and through their agents, servants and/or employees, to prevent such acts of racial discrimination, disparate treatment, and inappropriate behavior from occurring and to stop it once the behavior had been reported by the Plaintiff.

FOR A FIRST CAUSE OF ACTION
TITLE VII – RACIAL DISCRIMINATION

20. The Plaintiff reiterates and realleges each and every allegation as if fully set forth herein.

21. Plaintiff is a member of a protected group on the basis of his race. Plaintiff was and was retaliated against and terminated based on his race and/or color in violation of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. §2000e *et seq.*), and the Equal Employment Opportunity Act.

22. Defendants were wanton, reckless, willful and intentional in the discrimination of the Plaintiff in the following particulars, to wit:

- a. In showing preferential treatment to nonblack employees and detrimental treatment to Plaintiff;
- b. In failing to continue to employ Plaintiff based on his race and/or color;
- c. In demonstrating a pattern of discriminatory treatment towards African American employees by making disparaging remarks and terminating those who were in a protected class; and
- d. In other particulars which discovery may show.

23. In failing to protect the Plaintiff from racial discrimination or preferential treatment, the Defendants acted with malice or reckless indifference to the federally protected rights set out under Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000e *et seq.*) and the Equal Employment Opportunity Act.

24. The Defendants violated Title VII of Civil Rights Act of 1964, as amended (42 U.S.C. §2000e *et seq.*), and the Equal Employment Opportunity Act by allowing the racial discrimination and preferential treatment to exist in the workplace.

25. The Plaintiff's race and/or color were determining factors in the disparate treatment and wrongful discharge of the Plaintiff. But for the Plaintiff's race and/or color, he would not have been terminated.

26. As a direct and proximate result of the Defendants' discrimination on the basis of race and/or color, the Plaintiff has suffered a loss of wages, benefits, and employment opportunities.

27. The Defendants' discrimination against the Plaintiff has caused, continues to cause, and will cause the Plaintiff to suffer substantial damages for pecuniary losses, embarrassment, humiliation, pain and suffering, mental anguish, loss of enjoyment of life, and other nonpecuniary losses.

28. Due to the acts of the Defendants, its agents and employees, the Plaintiff is entitled to injunctive relief and/or civil damages, back wages, plus interest, payment for lost benefits, and reinstatement of benefits and front pay.

FOR A SECOND CAUSE OF ACTION
TITLE VII - RETALIATION

29. The Plaintiff repeats and reiterates each and every allegation as if fully set forth herein.

30. That as alleged above, plaintiff complained to the Defendants on several occasions about racial discrimination.

31. That Plaintiff's complaints were made in good faith, and constituted protected activity under Title VII of Civil Rights Act of 1964, as amended (42 U.S.C. §2000e et seq.).

32. That shortly after making said complaints, the Defendants forced the Plaintiff to resign, which is in violation of 42 U.S.C. §2000e-3.

33. The Defendants' stated reasons for retaliation were mere pretext for the retaliation against Plaintiff based on his engaging in protected activity.

34. The Plaintiff's reports of racial discrimination were determining factors in the retaliation and wrongful discharge of Plaintiff. But for Plaintiff's reports of racial discrimination, he would not have been forced to resign.

35. The Defendants were wanton, reckless and intentional in the retaliation against the Plaintiff for engaging in protected activity.

36. That the aforesaid conduct of Defendants, its agents and servants, violates United States laws against retaliatory dismissal and was, in fact, retaliatory in nature and was in violation of Title VII of Civil Rights Act of 1964, as amended (42 U.S.C. §2000e et seq.).

37. In failing to protect the Plaintiff from retaliation, the Defendants acted with malice or reckless indifference to the federally protected rights set out under Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000e et seq.).

38. The Defendants violated Title VII of Civil Rights Act of 1964, as amended (42 U.S.C. §2000e et seq.), and the Equal Employment Opportunity Act by allowing the retaliation to exist in the workplace.

39. That as a result of the above, Plaintiff has suffered damages in the form of lost back and future wages, income and benefits, expenses associated with finding other work, and has suffered severe psychological harm, emotional distress, anxiety, depression, pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, embarrassment, humiliation, loss to professional standing, character and reputation, physical and personal injuries, and further seeks attorney's fees and costs and prejudgment interest.

40. That the Defendants' actions as set forth above were undertaken intentionally, willfully, wantonly, recklessly, maliciously and with utter disregard for the federally protected rights of the Plaintiff, and therefore Plaintiff is entitled to recover punitive damages from the Defendant.

FOR A THIRD CAUSE OF ACTION
TITLE VII - HOSTILE WORK ENVIRONMENT

41. Plaintiff reiterates and realleges each and every allegation as if fully set forth herein.

42. Once Plaintiff asserted his rights under Title VII of Civil Rights Act of 1964, as amended (42 U.S.C. §2000e *et seq.*), Plaintiff was subjected to adverse terms and conditions by the Defendants causing a hostile work environment.

43. The Defendants' wrongful actions arising from Plaintiff's protected activity, as set forth aforesaid, constituted a hostile work environment for the Plaintiff. The Defendants violated Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000e *et seq.*), by allowing a hostile work environment to exist in the workplace.

44. The Defendants were wanton, reckless and intentional in the discrimination of the Plaintiff by creating a hostile work environment.

45. That the aforesaid discharge of Plaintiff's employment by the actions of Defendants constitutes a violation of Title VII of Civil Rights Act of 1964, as amended (42 U.S.C. §2000e *et seq.*).

46. As a direct and proximate result of the acts and practices of Defendants in the discharge of Plaintiff from employment, the Plaintiff has suffered and continues to suffer from emotional pain and suffering, mental anguish, humiliation, loss of enjoyment of life, damage to Plaintiff's reputation, loss of income and other past and future losses.

REQUEST FOR RELIEF

56. Plaintiff reiterates and realleges each and every allegation as if fully set forth herein.

57. Due to the acts of the Defendants, Plaintiff suffered great emotional and mental distress, fright, revulsion, disgust, humiliation, embarrassment, shock and indignities, lost wages, loss of front pay, back pay and other work benefits.

58. That by reason of such wrongful acts of the Defendants, the Plaintiff has been damaged in such an amount to be determined by the trier of fact.

WHEREFORE, Plaintiff prays for the following relief:

1. Judgment in favor of the Plaintiff and against Defendants for all causes of actions in an amount which is fair, just and reasonable, and for compensatory damages;
2. Prejudgment interest, costs and attorneys fees as may be allowed by law;
3. Judgment in favor of the Plaintiff and against Defendants with back pay and associated benefits he would have earned with all lost or diminished benefits, such date to be determined by the trier of fact;
4. Judgment in favor of the Plaintiff and against Defendants for front pay and any other work benefits he lost in an amount to be determined by the trier of fact;
5. Judgment in favor of the Plaintiff and against Defendants for pain and suffering, embarrassment and humiliation, and emotional distress in an amount to be determined by the trier of fact; and
6. Judgment against Defendants, in such an amount of actual damages, punitive damages, attorney fees, costs of this action and any other relief this Honorable Court deems allowable under law, and just and proper.

s/Christopher Bojarski
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Charleston, South Carolina
June 2, 2020