

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

JERRY JENNINGS, an individual,

Plaintiff,

CASE NO.:

v.

J.W. CHEATHAM LLC, a Florida
limited liability company,

Defendant.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Jerry Jennings files this Complaint against J.W. Cheatham LLC (“JWC”).

INTRODUCTION

1. Jerry worked for JWC as a concrete finisher. During his time with the Company, he was subjected to near constant racial harassment on the job. When Jerry complained to HR about his foreman calling him a “dumb nigger”, the Company immediately fired him. The Company gave no reason for his termination.

2. This is an action for race discrimination and retaliation in violation of 42 U.S.C. § 1981.

PARTIES

3. Jerry Jennings is a resident of Weakley County, Tennessee.

4. J.W. Cheatham LLC is a Florida limited liability company based in Palm Beach County.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 for claims arising under 42 U.S.C. § 1981.

6. This Court has personal jurisdiction over JWC because JWC continuously conducts business within this District.

7. Pursuant to 28 U.S.C. § 1391, venue is proper in this district because JWC is subject to personal jurisdiction in this District and because the acts occurred in this District.

GENERAL ALLEGATIONS

8. Jerry worked at JWC as a concrete finisher from January 2021 until January 2022.

9. Jerry worked in and around Palm Beach County, Florida.

10. Early in Jerry's employment with the Company, his foreman Anthony began making racist comments and racist "jokes" directed toward him. These included the following statements:

- a. "A black man has no business being president."
- b. "Don't be nigger rigging nothing."
- c. "You look like you been walking behind a team of mules and they shit in your face."
- d. "I can wash my black off, you can't."
- e. "I wish I was back in the Civil War."
- f. "All black lives don't matter. They deserve to be killed."
- g. "Mule with nigger teeth."
- h. "Obama."
- i. "Monkey."

11. After an incident in April 2021, Jerry's wife called Human Resources to report the abuse that he was experiencing on the job.

12. The following day, a supervisor named Jody picked Jerry up from the job site and drove him to a meeting with Mike Damron. Mr. Damron oversaw HR.

13. During this meeting, Jerry told Mr. Damron about the racism and harassment that he was experiencing at work.

14. Mr. Damron advised that he would speak with the work crew and the foreman about the situation.

15. Following this meeting, the Company transferred Jerry to another crew led by a different foreman named Wayne.

16. When various work crews overlapped, Jerry's old foreman Anthony continued to taunt him. Anthony and Wayne routinely would make racist jokes together.

17. The racial harassment occurred on a near daily basis.

18. In January 2021, Wayne called Jerry a "dumb nigger". Someone on the job site encouraged him to go back to HR.

19. Jerry again spoke with Mr. Damron in HR. Mr. Damron advised that the Company no longer needed him and that his employment was terminated.

20. The Company did not provide any reason for Jerry's termination.

21. During his time at JWC, Jerry received two raises. He started at \$18.50 an hour. His pay was increased to \$19.50 an hour and then \$20.50 an hour.

22. Jerry was never written up or otherwise told that his performance was unsatisfactory.

23. Jerry was fired immediately prior to his 1-year anniversary with the Company. At the 1-year mark, he would have earned a bonus and a paid vacation.

COUNT I – VIOLATION OF § 1981 (RACE DISCRIMINATION)

24. Plaintiff repeats and realleges Paragraphs 1 through 23 as if fully set forth herein.

25. Plaintiff was discriminated against because of his race.

26. Plaintiff suffered an adverse employment action when Defendant terminated his employment.

27. But for Plaintiff's race, Defendant would not have engaged in such conduct.

28. By discriminating against Plaintiff because of his race, Defendant denied Plaintiff the same right to enjoy the benefits, privileges, terms, and conditions of contracts as is and was enjoyed by non-black citizens, in violation of the Civil Rights Act of 1866 (42 U.S.C. § 1981).

29. Defendant acted with malice or with reckless indifference to Plaintiff's federally protected rights. Defendant's management knowingly countenanced or approved of the racial discrimination, as exhibited by Defendant's failure to take corrective action against those Company employees who racially harassed Plaintiff and Defendant's decision to terminate Plaintiff.

30. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and will continue to suffer damages including emotional distress, humiliation, loss of dignity, loss of income and benefits, and other damages.

31. Plaintiff is entitled to compensatory and punitive damages, to the fullest extent permitted by 42 U.S.C. § 1981.

COUNT II –VIOLATION OF § 1981 (RETALIATION)

32. Plaintiff repeats and realleges Paragraphs 1 through 23 as if fully set forth herein.

33. Plaintiff complained of the racial discrimination he endured to Defendant's HR department.

34. Plaintiff's complaints constituted a protected activity.

35. Immediately after Plaintiff's second report to HR, he was terminated and given no reason for his termination.

36. But for Plaintiff's race, Defendant would not have engaged in these adverse employment actions.

37. By retaliating against Plaintiff because his race and his protected activity, Defendant denied Plaintiff the same right to enjoy the benefits, privileges, terms, and conditions of contracts as is and was enjoyed by non-black citizens, in violation of Plaintiff's rights under the Civil Rights Act of 1866 (42 U.S.C. § 1981).

38. Defendant acted with malice or with reckless indifference to Plaintiff's federally protected rights. Defendant's management and human resources agents knowingly and directly countenanced or approved of the retaliation against Plaintiff.

39. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and will continue to suffer, damages including emotional distress, humiliation, loss of dignity, loss of income and benefits, and other damages.

40. Plaintiff is entitled to compensatory and punitive damages, to the fullest extent permitted by 42 U.S.C. § 1981.

REQUEST FOR RELIEF

Plaintiff respectfully requests the Court enter judgment in his favor as follows:

- a. Back and front pay resulting from Defendant's violations of 42 U.S.C. § 1981 to the fullest extent permitted by law;
- b. Compensatory damages resulting from Defendant's violations of 42 U.S.C. § 1981 to the fullest extent permitted by law;
- c. Punitive damages to punish Defendant's violations of § 1981 to the fullest extent permitted by law;
- d. Pre-judgment and post-judgment interest;
- e. An award of costs and reasonable attorneys' fees; and
- f. Such other relief as this Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all claims.

Dated: July 3, 2023

Respectfully submitted,

By: /s/ Jonathan E. Pollard

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