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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

ELIAS MAKERE, FSA, MAAA
(Plaintiff)

- against -

ALLSTATE INSURANCE COMPANY
(Defendant)

VERIFIED COMPLAINT

Title VII of the Civil Rights Act of 1964
March 9, 2021

JURY TRIAL DEMANDED



*Brimming with scorn and disdain,
the GM performed the attack-on-
black. Pushing past logic, doing
away with fact.*

*Thereby buoyed by the beckoning
crowd, the master acted
illegally. Moving three pawns at
once, retreating another at
twice. Even occupying two squares
with a single piece.*

*With GM's klan-destined
contradictions & subterfuge
hopping in the kangaroo court,
black must hereby summon a jury-
of-his-peers for redress.*



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ABBREVIATIONS

ALJ	Administrative Law Judge
DOAH	Division of Administrative Hearings (Florida)
EEOC	Equal Employment Opportunity Commission
FAC	Florida Administrative Code
FCHR	Florida Commission on Human Relations
FS	Florida Statute (2020)

III. JURISDICTION: PARTIES

3. At all times material hereto, Plaintiff was a resident of Jacksonville, FL (Duval County). Thus, he was a "Person", as described by Title VII.

4. At all times material hereto, Defendant (a Florida corporation), had its principal place of business in Jacksonville, FL (Duval County). Employing fifteen (15) or more employees at all times pertinent. As such, Defendant satisfies the definition of an "employer" - as contemplated by Title VII.

IV. JURISDICTION: VENUE

5. Defendant's unlawful conduct was committed within the jurisdiction of this Court. Thus, pursuant to 28 USC §1331 FS (and §1391), this venue is correct.

V. STATUTORY PREREQUISITES

6. All conditions precedent to bringing this action have been satisfied.

7. Plaintiff timely filed this complaint within ninety (90) days of receiving his right-to-sue letter from the EEOC (please see **Exhibit A, Exhibit B**).

a. On April 10, 2019, Plaintiff dual-filed his discrimination charge with the FCHR (a state agency which had a workshare agreement with the EEOC). After much impropriety (delay, writ of prohibition, etc.) the federal agency sent Plaintiff the requisite document today (3/9/21).^{1/}

VI. STATEMENT OF THE FACTS

8. Plaintiff, a black male, began working for Defendant on November 18, 2013.

9. Defendant admitted him into its Actuarial Career Program ("ACP") alongside many of his newfound co-workers. The ACP's goal was to develop its members into FSAs (Fellows of the Society of Actuaries).

10. At the time of hiring, Plaintiff had passed six (6) actuarial exams, and had a little over one year of experience. This meant that he would have to pass four (4) more exams to attain the desired credential.

11. Defendant hired Plaintiff into its entry-level position named "Actuarial Technician" even though he was qualified for Defendant's higher "Actuarial Associate" position.

a. Based on information & belief, Plaintiff was the most qualified "actuarial technician" that Defendant had ever hired (judging by exam success + experience).

He reported directly to Ms. Lisa Henry.

12. Right off the bat, Ms. Henry subjected Plaintiff to sexual harassment; severe enough to alter the terms & conditions of his employment.

a. A few Saturdays into Plaintiff's employment, Ms. Henry asked him to join her for dinner-&-a-movie. She added - voluntarily - that her husband would not be there. Plaintiff was distressed:

i. For one, he had just moved to Jacksonville; did not know anyone else in the city; and was reliant on work income.

ii. Secondly, he did not want a personal relationship with Ms. Henry.

iii. Moreover, he did not want a romantic/sexual relationship with Ms. Henry either.

Plaintiff declined Ms. Henry's first date request.

It would not be her last.

13. Throughout Plaintiff's 3-year tenure with Defendant, Ms. Henry asked him out on a near-weekly basis. Usually asking him to go bowling with her. In that 33-month span, Ms. Henry never asked any other employee to go bowling with her. Just Plaintiff.

14. As a result, Plaintiff tried to avoid contact with Ms. Henry. Most notably, by abstaining from lunch outings. For instance, he exchanged his night-time gym visits with lunch-time gym visits (the gym was on Defendant's property) to dodge further harassment.^{2/}

15. The gym was of special importance to Plaintiff, because he had a heightened need for exercise. Plaintiff's legs were his only form of transportation^{3/}.

a. Early into his tenure, Plaintiff's car died. He never replaced it.

b. Thus, he commuted to work via bicycling or jogging.

Defendant knew this (please see ¶96-104).

16. Defendant also knew that Plaintiff lost his cell phone shortly after hire. Similarly, he never replaced it. From January 2014 to February 2018, Defendant - and Defendant's managers - never had Plaintiff's personal cell phone number (¶50, ¶56, ¶86-91).

Continued Harassment and Plaintiff's Initial Mitigating Efforts

17. In early December 2013, Plaintiff took and passed three minor exams.^{3/} Ms. Henry sat in as his proctor. He took the exams on company property.
18. Later that month, Plaintiff took and passed his seventh (7th) actuarial exam (the "Final Assessment"). These tests qualified Plaintiff for his first actuarial credential: the ASA (Associate of the Society of Actuaries).
19. To receive it, he would have to attend the Society of Actuaries' ("SOA") in-person course. The course was held in Atlanta, GA (ie, 500 miles from Plaintiff/Defendant).
20. In the days leading up to his multi-day trip, Ms. Henry offered to join Plaintiff. The trip included a hotel stay. She asked him in front of her own manager, Mr. Richard Schaefer. Plaintiff found her request to be illegitimate and sexually-motivated.
21. As a result, Plaintiff ramped up his measures for avoiding Ms. Henry. For example, he minimized face-to-face meetings with her by putting more detail in his Monday-morning updates.
 - a. Note: these face-to-face meetings featured Ms. Henry staring at Plaintiff's privates; excessively.
22. Plaintiff developed a business-only relationship with Defendant's employees. Offering only the courtesy, friendliness, and compassion he offered to complete strangers.

23. In-or-around Winter 2013/2014, Mr. Paul Ramirez (Defendant's managerial employee) hosted a one-on-one meeting with Plaintiff. The objective was to show Plaintiff a software program named Insight®.

a. In the meeting, Mr. Ramirez showed Plaintiff various computer functions. Functions that Plaintiff already had mastery of. In deference and respect, Plaintiff played dumb to allow Mr. Ramirez to finish his presentation in its most-natural form.

b. After the meeting, Plaintiff never asked Mr. Ramirez - or anyone - about Insight®. Any mild interest that he might have had beforehand evaporated (§119-124).

c. He had to focus, instead, on the work that his manager, Ms. Henry, assigned to him. This is because she gave him explicit directions prior to the meeting. She said words to the effect of *"only do the work that I assign to you; other people might ask you to do work, but don't do it"*.

d. It was an easy directive for Plaintiff to follow; and he never attended any of the subsequent Insight® sessions that anyone scheduled (§119a, §121, §123).

i. Moreover, there were many other actuarial employees who did not attend Insight® sessions. So, there was no subsequent need to single out Plaintiff (§119-124).

Increasing Hostilities, Disparate Pay

24. Around this same time, racial harassment began ramping up, too. In a Spring 2014 inter-departmental meeting, Ms. Henry characterized Plaintiff as being racially inferior.

- a. Doing so by saying a task was so easy she could get a "monkey to do [it]". She elaborated, "[it] will sit down, look at a piece of paper, then look up to compare it to what's on the computer". It seemed she was casting Plaintiff as this monkey.
 - i. After all, he was Ms. Henry's only [in-house] direct report. Plus, likening black people to monkeys was a classic way of imputing racial inferiority onto them.
- b. Just minutes later, Ms. Henry's offensive remarks crystallized. Upon returning to the cubicles, she directed Plaintiff to sit down at his seat. Then, she printed out a spreadsheet, placed it on his desk, and instructed him to compare the printout to the computer screen to see if the numbers were the same.
- c. Plaintiff was the monkey.

25. As Defendant's only black actuary, Plaintiff's employment was conditioned on racial inferiority. Here are some highlights:

- a. When Plaintiff received his ASA credential - a major, equalizing milestone for Defendant's actuaries - Defendant paid him a lower salary than it paid his peers.
- b. In June 2014, Mr. Louis Posick (an actuarial manager) proclaimed that Plaintiff's recent credentials "devalue[d] the profession". Despite the fact that:
 - i. Plaintiff passed the same exams that everyone else did;
 - ii. Plaintiff received his ASA faster than most of his peers/predecessors.

As became the norm, Defendant eschewed facts for the fictions of Plaintiff's racial inferiority.

c. Mr. Posick's direct report, Mr. Kazuhiko Nagai, followed suit by issuing a nonstop array of harassment directed at Plaintiff. Harassment which involved mocking, ridicule, and incessant invasions of space. Harassment punctuated by a racist doll (a monkey that Mr. Nagai placed on Plaintiff's desk - in plain sight).

i. The invasion of space was particularly extreme. Plaintiff spent every weekend, night, and morning at Defendant's office; studying for his final three actuarial exams. Mr. Nagai got a whiff of that and began spending seven days a week at the office, too. Mornings and nights, too.

ii. Mr. Nagai's new behavior was a significant departure from his behavior prior to Plaintiff's employment. In addition to his ballooning office time was his new standing desk.

iii. In total, it meant that every step from every day of every week Mr. Nagai was observing Plaintiff. Watching him work; watching him study; watching him go to the bathroom/kitchen/elevator; watching him do everything.

iv. It caused Plaintiff extreme discomfort. Plaintiff was Defendant's only employee subjected to such invasions.

v. And it was when Plaintiff asked Mr. Nagai '*why the excessive attention*' that Mr. Nagai placed the racist doll on Plaintiff's desk.

- d. Mr. Posick's other direct report, Mr. Phil Kite, joined in by characterizing Plaintiff as a monkey, too. In Fall 2015, as Mr. Nagai's racist monkey doll sat on Plaintiff's desk, Mr. Kite yelled loudly, "[Plaintiff] you look like a chimpanzee!!!".
- e. In Summer 2015, Ms. Marilou Halim (an actuarial manager) screamed profanities at Plaintiff as he sat studying in a small conference room. His 'crime': buying a condolence card for a grieving co-worker.
- f. Likewise, in Spring 2016, on two separate occasions, Ms. Henry said that "[Plaintiff was the] monkey we can't let grow into a gorilla". Once again playing on the theme of black inferiority.

26. Three things were clear:

- a. Defendant held its actuarial department in high esteem; basing that prestige on the notion of high intelligence.
- b. Defendant viewed black people as being racially inferior; basing that disdain on the notion of low intelligence.
- c. Defendant believed that black actuaries - and Plaintiff in particular - defiled the sanctity of its actuarial department; just by virtue of their existence.

Disparate Treatment, Discriminatory Animus

27. Recognizing Defendant's animus, Plaintiff begged management to let him **work from home**. He asked on a routine basis. Mainly in response to direct hostilities (eg, mocking & ridicule, racist dolls, racist characterizations, racial proclamations, etc.).

a. Defendant denied his requests every time; giving the following excuse: *'Plaintiff could not work from home because sitting near his coworkers was a condition of his employment'*. Fateful.

b. Defendant, however, allowed its non-black employees to work from home.

i. Ms. Bridget Tennant - who also reported to Ms. Henry - had been working from home for over a decade (her home was in Maryland; 700 miles away).

ii. Ms. Tetyana Dostie - who reported to Ms. Halim - was granted her contemporaneous work-from-home request.

iii. Defendant has allowed many other non-black-male actuarial employees to work from home.

28. Yet every time Plaintiff attempted to avoid the harassment, Defendant targeted him for more. Graduating the harassment into discrimination.

29. In Fall 2015, Mr. David Dickson (an IT manager) initiated Defendant's systematic method for discrimination. He called Plaintiff at 5:17 pm, introduced himself, told Plaintiff a series of lies, then threatened to get Plaintiff fired. It was a severe, surprising, and unwarranted escalation.

a. Additionally, in November 2015, prior to his call, Mr. Dickson approached Plaintiff in the parking lot after dark. Plaintiff was on his bicycle heading home. Mr. Dickson told Plaintiff in an ominous tone, *"be careful on your bike."* Plaintiff saw it as a threat. One which later came to fruition (§92-95). One which was capped off with a spiteful gesture (§118, §120-124).

30. Also, in Fall 2015, Ms. Marianne Poriecca (an IT manager) told Plaintiff's direct manager (Ms. Henry) that she wanted Plaintiff fired ("*I can't believe he still works here*"). A message that Ms. Henry relayed to Plaintiff in early 2016. A message - that Ms. Henry admitted - was made without reason.

31. There was no legitimate reason for someone to hunt for Plaintiff's termination.

a. Note: at this point, Plaintiff had passed his eighth (8th) actuarial exam and was working on number nine (9).

Internal Complaints, Retaliation

32. Plaintiff thereby filed an internal discrimination complaint against Mr. Dickson. Who acknowledged that it was based on "racism". As it turns out, Mr. Dickson had been charged with employment discrimination before.^{5/}

33. Management responded by sending several staff members to replace Plaintiff's employment. The most explicit one was Mr. James Parks; who said that management (Mr. Schaefer, Mr. Dickson) sent him to take over for Plaintiff. Plaintiff obliged; sharing his knowledge and skills - as he had always done with all of his work (with everyone).

34. Also, in retaliation for Plaintiff's internal complaint, Ms. Henry denied Plaintiff a raise in 2016. Instead, she gave Plaintiff the standard actuarial salary increase for having passed an actuarial course (the DMAC)^{6/}. Plaintiff subsequently filed an internal retaliation complaint against Ms. Henry.

35. Matters only got worse for Plaintiff. Perhaps, the most significant event was when a non-actuarial co-worker sabotaged his work. On June 30, 2016, Ms. Patricia Boland staged an actuarial miscalculation; and attempted to blame it on Plaintiff. Plaintiff caught her in the act, though.

36. Alarmed that anyone would do that (ie, deliberately attempt to get Plaintiff fired), Plaintiff reported it - among other things (see Racist Doll ¶25c, see Mr. Dickson ¶29, see Ms. Henry ¶34) - to Mr. Schaefer. Who told Plaintiff, "*[Plaintiff] you're paranoid*", coupled with "*you should figure out if this is the place for you to work*".

37. The message was clear: discrimination was going to win out.

a. A message which was further emphasized when Plaintiff learned that Defendant made him purchase his actuarial exam (\$1,025) while not requiring the same of his non-black-male peers (Mr. Victor Ciuarte, Mr. Kazuhiko Nagai, etc.).

Termination Excuse

38. Within a week-or-so Plaintiff received negative results from his ninth (9th) actuarial exam. He believed foul play was involved.

a. Specifically, he believed that Ms. Marilou Halim graded his exam, and failed him in order to produce an excuse to terminate Plaintiff's employment.

i. For over 20 years, Ms. Halim presented to Defendant's actuarial department that she was an actuarial exam grader.

ii. In November 2018, however, she told state administrative authorities the opposite (that she was never an exam grader). Statements that were contradicted by everyone else who testified that she was an exam grader.

39. Based on information & belief, Ms. Marilou Halim graded Plaintiff's ninth (9th) actuarial exam. She did so with the intent to get him fired from Defendant's employ.

40. Nevertheless, as of July 2016, Plaintiff had thereby failed to satisfy Defendant's "1-in-3 rule".

a. Note: Defendant's ACP had a "1-in-3 rule". The rule stated that an employee had to pass one exam in three attempts. Failure to satisfy that rule could lead to removal from the program.

41. Shortly thereafter, on-or-around August 10, 2016, Ms. Henry approached Plaintiff at his desk. It was at about 5:12 pm. She - once again - asked Plaintiff to go out with her (bowling). This request was different, though, because Defendant had severely compromised Plaintiff's employment. Nevertheless, Plaintiff - once again - declined to go out with Ms. Henry. Shocked; she stood at the corner of his desk; mouth open; for about 2-3 seconds.

42. A few hours later, Ms. Henry filed to have Plaintiff terminated.

43. That Friday (August 12, 2016), Ms. Henry escorted Plaintiff to the 1st floor for a meeting. It was not a regular staff meeting (as had been described). Instead, it was a termination meeting. The HR manager, Mr. Ellis Manucy, conducted it. He informed Plaintiff he was being fired because he failed his actuarial exam. He added that it was "extremely rare". No other reason was given.

Discriminatory Termination Excuse

44. The failure was not rare; the termination response was (and discriminatory). Here is a list of Defendant's employees who also failed to satisfy the "1-in-3" actuarial exam requirement:

- a. Mr. Victor Ciurte
- b. Ms. Tetyana Dostie
- c. Mr. Josh Garcia
- d. Mr. Phil Kite
- e. Ms. Anna Lunder
- f. Mr. Kazuhiko Nagai
- g. Ms. Bridget Tennant

None of whom were black (let alone black men).

45. Moreover, Defendant had a number of employees who were never even required to satisfy the "1-in-3 rule". Including, but not limited to, Ms. Nasreen Ali. Likewise, Ms. Ali was neither black nor a man.

46. Immediately after terminating Plaintiff, Defendant hired two non-actuaries to assume his responsibilities. Neither of whom had even attempted an actuarial exam (let alone pass one). They were Ms. Boland and Mr. Christopher Mirisola. Again - neither were black (let alone black men).

Subsequent Events

47. Within a month, Ms. Henry approached Plaintiff in a restaurant near Plaintiff's home. She followed up with friendly emails to his personal account.

Plaintiff never replied.

48. Additionally, Plaintiff never re-applied for employment with Defendant. Nor did he ever inquire about returning to Defendant's employ.

49. Plaintiff was still focused on attaining his FSA. That Fall, he passed his ninth (9th) actuarial exam.
50. Also, that Fall, Plaintiff got a new cell phone. None of Defendant's employees had the number (¶16, ¶56, ¶86-91). He was going to need it for his ultimate venture into small business ownership.
51. In early 2017, Plaintiff registered a company name with the Florida Department of State. He never advertised it. He never promoted it. He never mentioned it to Defendant (or any of Defendant's employees).
52. The subsequent legal action that he took against Defendant ended up consuming an unexpectedly large amount of Plaintiff's time.

First External Complaint

53. On June 30, 2017, Plaintiff filed a charge of discrimination with the FCHR ("Originating Charge"). It was on the basis of race and sex.
54. On September 8, 2017, Defendant responded to **both** bases by denying any discriminatory conduct. Stating that it fired Plaintiff for a legitimate reason. Specifically, because he had failed an actuarial exam (see **Exhibit A**):

"Complainant was terminated solely because he failed his [FSA] exam."

- Allstate Insurance Company, 9/8/17

55. Notably, Defendant told the FCHR - under oath - that it investigated Plaintiff's allegation of a racist doll, interviewed employees (including Mr. Nagai), and said that no one could corroborate it.
- a. This statement was a bold lie.

i. The person who put the racist doll on Plaintiff's desk (ie, Mr. Nagai - ¶25c) admitted that he did it.

[1]He told the state investigator he did.

[2]He testified the same one year later.

b. This false statement exhibited Defendant's propensity to lie about its discriminatory conduct.

56. As the case progressed to the administrative hearing phase (at DOAH), Plaintiff contacted several non-parties to begin discovery.

a. It is important to note, that by virtue of DOAH's rules & procedures, Plaintiff's contact information became public record (eg, his previously unknown cell phone number).

Post-Termination Retaliation | Higgins (Part A)

57. One person, Mr. Kirk Higgins, went on attack in response. Filing documents aimed at embarrassing Plaintiff - in violation of §120.569(2)(e) FS; even calling local police departments to try to dig up dirt on Plaintiff.

"It seems clear that [this message] would be an embarrassment to [Plaintiff]..."

- Mr. Higgins | DOAH 18-0373 | FL | 2/27/18

58. Plaintiff believed that Defendant was putting him up to it. So, in early 2018, Plaintiff asked Defendant's trial counsel if Defendant was encouraging Mr. Higgins to retaliate. Defendant gave a minimal response. Plaintiff got a full answer, though; from Mr. Higgins himself.

59. At about 6:12pm EST on Monday, March 26, 2018, Mr. Higgins called Plaintiff's cell phone. Plaintiff picked up, and maintained that this was strictly a legal action which he was going to see through to the end.

60. Mr. Higgins responded by saying he had been in recent communication with Defendant's employees. He emphasized that two of them were Ms. Henry and Mr. Schaefer.

a. Ms. Henry, of course, was responsible for Plaintiff's termination. Mr. Schaefer was her manager.

61. During the call, Mr. Higgins added that Ms. Henry gave him good marks/recommendations on a professional networking site (LinkedIn.com). He posited it as if it would dissuade Plaintiff from litigating his claim against Defendant.

62. It did not. The facts surrounding Defendant's discrimination were too strong. Instead, Mr. Higgins' words only shed greater light on Defendant's pattern & practice of retaliation.

63. Fear played a major role. As Mr. Higgins continued, he explained that he was afraid that Defendant would retaliate against him if he were to comply with Plaintiff's discovery requests.

a. Mr. Higgins' concerns were well-taken. At DOAH, Plaintiff made several attempts to conceal Mr. Higgins' identity (motions for confidentiality, aliases, etc.). As such, Defendant's intimidation factor was affecting Plaintiff's lawsuit.

64. The 10-minute phone call went on. Importantly, Mr. Higgins made unsolicited offers to network with Plaintiff. Plaintiff declined; on several grounds:

- a. Most importantly, Plaintiff was solely focused on litigating his case against Defendant;
- b. Secondly, Plaintiff did not want to network with anyone; and
- c. Thirdly, Plaintiff had particular disinterest in relating to anyone who had Allstate origins.

Defendant and Mr. Higgins

65. Mr. Higgins had an employment relationship with Defendant (ie, Allstate). One of the 'master-servant' type.^{7/}

66. Immediately before Defendant hired Plaintiff, Defendant employed Mr. Higgins. Mr. Higgins also reported to Ms. Henry. Mr. Higgins was also black.

67. On information & belief, Defendant has never hired any other black-male actuary (just Mr. Higgins; just Plaintiff).

68. Defendant had disdain for Mr. Higgins. Its employees expressed as much to Plaintiff.

- a. Mr. Posick spoke negatively of him (eating habits, lack of socializing). Mr. Ramirez said the same. As did Mr. Schaefer. Ms. Henry - his direct manager - took it a step further by lamenting the cleanliness of Mr. Higgins' keyboard.

69. Plaintiff never knew him (had no knowledge of his demographics). In Summer 2014, though, during a car ride back to the office, Mr. Ramirez showed Plaintiff a picture of Mr. Higgins. On Mr. Ramirez's phone was a LinkedIn page showing Mr. Higgins as a connection. Mr. Ramirez quipped [something to the order of] "*maybe that's why they keep comparing you to him*". Plaintiff thereby learned that Mr. Higgins was a black man.

a. Important note: on information & belief, this car ride was the return trip from the farewell lunch in which Mr. Posick proclaimed Plaintiff's newly attained credentials "*devalue[d] the profession*" (§25b).

b. Additional note: Plaintiff had already begun requesting to work-from-home on account of Defendant's ongoing harassment.

70. In Plaintiff's 3-year tenure, none of Defendant's employees ever said a positive thing about Mr. Higgins. Not a single word.

71. Ms. Henry did add, though, that she bemoaned Mr. Higgins' prior requests to work-from-home; requests she always denied.

72. As Defendant's disparate history shows, it **never** granted the work-from-home privilege to any of its black-male actuaries. Defendant **always**, however, granted it to everyone else in the actuarial department.

Post-Termination Retaliation: Higgins (Part B)

73. Equipped with this knowledge, Plaintiff found Mr. Higgins' 2018 phone call to have been:

(a) motivated by fear of Defendant;

(b) cushioned by the aid & comfort Defendant plied him with; and

(c) aimed at dissuading Plaintiff from continuing his lawsuit.

74. Mr. Higgins hung up dejected. His March 26, 2018 call marked the second-&-last time the two ever spoke.

75. Thus, what Mr. Higgins did next - in concert with Defendant - was purely in response to Plaintiff's lawsuit.

76. At first, the two paired up to relay Mr. Higgins' conversation points (networking solicitations, subpoena avoidance, etc.) to DOAH.

77. It progressed to a tag-team smear campaign. Mr. Higgins told the state agency that he called Plaintiff's local police department to try to find harmful information on Plaintiff.

"Upon doing further check on [Plaintiff] using public information, I am startled to find information that indicates [Plaintiff] has been arrested at least twice."

- Mr. Higgins | DOAH 18-0373 | FL | 4/4/18

Mr. Higgins added - explicitly - that his aim was to interfere with Plaintiff's case:

"The purpose of this document is to allow potential witnesses an opportunity to request protective orders against any potential subpoenas by [Plaintiff]..."

- Mr. Higgins | DOAH 18-0373 | FL | 4/4/18

He continued, however, by saying his court filings may be frivolous:

"There is no evidence of any convictions and no evidence any prosecutor attempted to pursue charges in court... This arrest may or may not have relevance to the case..."

- Mr. Higgins | DOAH 18-0373 | FL | 4/4/18

He also disclosed his zeal:

"I attempted to obtain confirmation from Jacksonville Police Department but was told inquiries for public records could take weeks or months."

- Mr. Higgins | DOAH 18-0373 | FL | 4/4/18

78. Around this same time, Defendant hired an attorney named Christine Manzo (52121). She filed her notice of appearance with DOAH.

79. Upon information & belief, Ms. Manzo was hired only in response to Plaintiff's lawsuit/complaint.

a. She never worked for Defendant beforehand; and

b. She never worked for Defendant afterwards

80. Ms. Manzo spoke for Defendant; and her actions spoke volumes.

81. On June 21, 2018, while Plaintiff was preparing his non-party subpoena to the Society of Actuaries ("SOA") Ms. Manzo emailed Mr. Higgins.

82. Her email encouraged Mr. Higgins to file documents on Defendant's behalf. Documents that Mr. Higgins was not authorized to file. Documents that were aimed at the most contentious piece of discovery (see ¶38a, ¶39).

83. Ms. Manzo further instructed Mr. Higgins to avoid writing anything that could negatively impact Defendant's accompanying pleading (**Exhibit D**).

84. Ms. Manzo was well-aware of Mr. Higgins' previously unlawful conduct.

a. Such conduct was captured in the public forum; and

b. Such conduct was the subject of Plaintiff's prior motion for sanctions.

85. In short, Defendant enlisted its former employee to attack Plaintiff for filing his discrimination lawsuit.

Post-Termination Retaliation: Lethal

86. Running contemporaneous to Defendant's tag-team smear campaign against Plaintiff was Defendant's near-fatal attacks.

87. From the outset of the DOAH proceedings, Plaintiff received death threats on the phone; and supplemental taunts through the mail. The calls numbered in the dozens-per-day; the mailings came in at about six pieces per month.

88. All of the threats had a common theme centered around '*praying to God*'.

a. One recorded phone call had an intimidating woman's voice asking, "*Do you need someone to pray for your life?*"

b. Mailed postcards contained similar phrasing.

c. It must be noted that the religious theme of '*praying to God*' was the exact quote Mr. Higgins levied at Plaintiff to dissuade Plaintiff from continuing his lawsuit against Defendant.

i. Thereby linking Defendant - via Ms. Manzo/Mr. Higgins - to the death threats.

89. Prior to his lawsuit, Plaintiff never received such phone calls. All of which came once his phone number entered the public domain (via DOAH).

90. Upon information & belief, Defendant was encouraging its employees (Ms. Henry, etc.) to attack Plaintiff for filing suit.

91. The verbal/mailed threats eventually turned into a physical assault.

92. In Spring 2018, Plaintiff was hit by a car while riding his bicycle. The car was traveling 45 mph (reportedly). Mr. Dickson's 2015 threat had indeed played out (§29a).

a. When Plaintiff awoke on the grassy median, he immediately thought Defendant was behind it. His first thought was that either Ms. Halim or Mr. Dickson was involved; and perhaps others.

93. The driver of the car was a man named Matthew Myrick. As revealed by the crash report, Mr. Myrick lived within 10 minutes of Defendant's office.

a. As Plaintiff later learned, Mr. Myrick's home was down the street from Mr. Schaefer's home (ie, the manager who told Plaintiff he should '*figure out if [Defendant] was the place for [Plaintiff] to work*' when Plaintiff complained of harassment/discrimination.) (see §36)

b. 12 minutes away from Mr. Myrick's home lay the home of Mr. Greg Guidos, Defendant's CEO. Whose subsequent resignation marked the end of the retaliatory threats + assaults described herein - but not the taunts (see §117-124).

94. If not for Plaintiff's safety gear, he likely would have fallen into a coma, become paralyzed, or died. Each result would have brought a near-certain end to his lawsuit against Defendant.

a. The injury was still severe, nonetheless. As it reduced Plaintiff's responsiveness to the administrative proceedings.

i. Evidenced by him filing only 3 documents in 51 days.

- ii. Compared to the 170 he filed in the 292 days after recovery.
- iii. The difference put Plaintiff at 10% capacity due to the hit.^{8/}

b. A reduction in capacity that had a pivotal effect on Plaintiff's administrative case.

- i. While injured, Defendant filed a motion to strike Plaintiff's sex discrimination charge, because it had too much detail. Details that Defendant claimed it was not ready to handle.
- ii. The motion sat on DOAH's docket for 30 days before Plaintiff could file a response. By then it was too late, because DOAH entered its order already.
- iii. An order that was improvident. An order that DOAH held onto in contravention of the 14th Amendment of the US Constitution (*Equal Protection Clause*). An order that DOAH's ALJ perjured himself to defend.

[1] Thereby exposing himself to a 42 USC §1983 action (ie, the "*Ku Klux Klan Act of 1871*").

- iv. An order that violated Plaintiff's due process rights.
- v. The hit was severe.

95. Upon information & belief, Defendant enlisted people (eg, Mr. Myrick) to maim, injure, and/or kill Plaintiff in retaliation for filing suit.

Post-Termination Retaliation: Surveillance

96. Around this same time, complete strangers began befriending Plaintiff. Some did so at Plaintiff's neighborhood gym - the only place Defendant knew Plaintiff to frequent.
97. One was a 50-60 year old 5'9 man who always wore an Allstate T-Shirt. The man presented himself as an in-house lawyer. He spoke to Plaintiff as if the two knew each other.
- a. Asking about Plaintiff's time with Defendant;
 - b. Asking about actuarial work;
 - c. Asking about Plaintiff's direct manager.
98. Plaintiff did not know the man; and could not recall ever seeing him prior to his lawsuit against Defendant. He kept the conversations cordial, though, and brief.
99. Upon information & belief, Defendant sent that man to (a) keep tabs on Plaintiff; (b) startle plaintiff; and (c) interfere with Plaintiff's legal action.
100. Another man was a 50-60 year old 6'3 man named David. David always wore a hat. David always talked about bicycle riding. David chatted up Plaintiff as well; regularly inviting him to play basketball. Plaintiff found him suspicious, but was friendly nonetheless.
101. One time, David bumped into Plaintiff at the beach. Where he revealed that he worked for Defendant.
- a. It must be noted, that no one else (from any other company) has (a) approached Plaintiff at this gym; **and** (b) befriended him with recurring conversation.

102. Upon information & belief, Defendant sent this man (David) to (a) investigate Plaintiff; (b) get legal intel from Plaintiff; and (c) dissuade Plaintiff from following through on his lawsuit.

103. Moreover, upon information & belief, Defendant enlisted people to surveil/investigate Plaintiff. Whereby the employer could obstruct Plaintiff's lawsuit; either by force, with guile, or through a combination of the two.

104. Of course, Defendant's involvement in such subterfuge was corroborated by the emailed instructions from Ms. Manzo.

Post-Termination Retaliation: Financial

105. One month after Ms. Manzo sent that incriminating email, Plaintiff's former employer (Genworth Financial) reduced his retirement benefits substantially. They mailed him the notice.

106. Yet, Plaintiff had never given Genworth his Florida address.

107. Nor did Plaintiff ever talk to Defendant about Genworth.

108. Notwithstanding, Defendant's other trial lawyer (Ms. Carmen Rodriguez) made several statements about Genworth. She did so at Plaintiff's first administrative deposition. She did so at his second. Then she sandwiched in some more statements during Plaintiff's hearing.

109. Statements, of course, which were not pulled from evidence, from discovery, or even from discovery requests.

110. It was clear that Defendant was communicating with Genworth surreptitiously.

111. Considering the circumstances, Plaintiff reached out to Genworth to understand their actions. Genworth's benefits coordinator explained that Plaintiff's dissolved retirement benefits were not part of a company-wide policy. She further explained that he was the only person she knew who suffered dissolution.

112. Thus, upon information & belief, Defendant (via Genworth) retaliated to further damage Plaintiff's employment, compensation, and employment benefits. He believes Defendant did so by complaining about Plaintiff's lawsuit during phone calls with Genworth.

Plaintiff's Professional Progress and Defendant's Professional Retaliation

113. In the days surrounding Defendant's acts of financial retaliation, Plaintiff received passing results for his tenth (10th) actuarial exam. He took it weeks after the vehicular assault (see ¶91-95). Therefore, as of Spring 2018, Plaintiff had passed every exam necessary to qualify for his FSA (see **Exhibit E**).

a. Coming full circle: at the administrative hearing (November 2018), Defendant's employee - and Plaintiff's manager - Mr. Richard Schaefer testified that Plaintiff should find a different career because of his exam progress.

"I probably recommended to you that you might consider another profession because you couldn't pass the exams for this one. That would be general career advice"

- Mr. Schaefer | DOAH 18-0373; Tr. 647:20 | FL | 11/29/18

A classic display of Defendant's discriminatory animus. Mr. Schaefer was referring to the termination excuse that Defendant concocted to try to conceal its unlawful motives.

i. At the time that Defendant assembled the excuse (\approx 2016), it had many employees with far less exam success than Plaintiff (see ¶44-46).

[1]Some who failed every exam (passing none); some who never attempted any; and some who quit with fewer.

ii. Plus, at the time that Mr. Schaefer gave the "general career advice" Plaintiff had already passed all of the exams. Passing the first 5 faster than 98% of the population.^{9/}

b. Also coming full circle: at the same hearing, Defendant's other managerial employee, Mr. Scott Randles, testified that he had never been an exam grader.

114. Yet, there he was. The next summer - at Plaintiff's graduation ceremony - 3,000 miles from home (in Seattle, Washington); grading the last course for the FSA designation.^{10/}

115. Upon information & belief, Mr. Randles - at Defendant's behest - went to Plaintiff's graduation ceremony in order to:

- a. target Plaintiff for harassment;
- b. obstruct Plaintiff's attainment of his FSA;
- c. blackball Plaintiff from the profession; and

d. supply the SOA with a false, perjured, unconstitutionally propagandized narrative on Plaintiff's racial inferiority.

Spite and Malevolence

116. Plaintiff found Mr. Randles' about-face presence (and suspected written submissions) to be spiteful and malevolent.

117. Also spiteful were the two mailings that arrived at Plaintiff's home (around June 2019).

118. One was a brochure to attend a Sharepoint® conference.

a. Sharepoint® was part of the pretextual stream of lies that Mr. Dickson (Defendant's manager) targeted Plaintiff with back in Fall 2015 (see ¶29 *supra*). Plaintiff complained of Mr. Dickson's conduct, and wanted nothing to do with him.

b. Upon information & belief, Defendant (via Mr. Dickson) effectuated delivery of the brochure to Plaintiff's home as a harassing, retaliatory gesture.

119. The other mailing was a different brochure to attend a conference on Insight®.

a. Insight® was the software program that Mr. Ramirez (Defendant's manager) tried to get Plaintiff in on (¶23). Plaintiff was hamstrung by management; plus, he had no interest in Insight®.

b. Upon information & belief, Defendant (via Mr. Ramirez) effectuated delivery of the brochure to Plaintiff's home as a harassing, retaliatory gesture.

120. Both of these brochures, importantly, were addressed to the company that Plaintiff registered with the state (2017 - after termination).

a. The only time Plaintiff revealed this company name was when Defendant deposed him in the administrative phase.

121. These brochures indicated a collaborative effort to harass Plaintiff.

a. The harassment was based on the same perjured, stereotyped narrative that Mr. Randles flew across the country on (¶113b-116).

122. These brochures, individually and together, showed that Defendant's managers were (a) tracking Plaintiff's lawsuit, (b) responding with malice, and (c) tying themselves to all of the adverse acts Plaintiff suffered since the suit went public (as further spite/intimidation).

123. Plaintiff did not have any relationship with any of Defendant's employees. He did not want anything to do with them. The only thing that tied Plaintiff to Defendant's employees was Defendant itself.

a. Moreover, before-&-after June 2019, Plaintiff never received any material from either Sharepoint® or Insight®.

b. Plus, Defendant effectuated their delivery soon after DOAH's ALJ entered its perjurous Recommended Order. Doing so by typing Plaintiff's contact information onto online mailing lists.

124. As such, upon information & belief, Defendant has been spending years carrying out a campaign of spite, slander, surveillance, malice, and violence against Plaintiff. All in an effort to mute his lawsuit.

a. A lawsuit with indisputable facts which *suffocated its king with a smothering checkmate.*

VII. ULTIMATE FACTS

125. It is indisputable that Defendant only fired the black man who failed an actuarial exam.

a. Defendant preceded this adverse employment action with years of harassment. Punctuated by:

- i. unwanted sexual attention;
- ii. date requests;
- iii. racist dolls;
- iv. racist characterizations; and
- v. more.

b. The harassment was coupled with disparate treatment. Highlighted by:

- i. paying Plaintiff a lower salary than his non-black-male peers (indisputable);
- ii. forcing Plaintiff to pay \$1,025 for an actuarial exam while not doing the same to Plaintiff's non-black-male counterparts (indisputable); and
- iii. denying Plaintiff the work-from-home privilege that it granted Plaintiff's non-black-male coworkers (indisputable).

126. It is also indisputable that Defendant knew that Plaintiff exercised his civil rights.

a. It answered his first complaint in September 2017.

- i. Notarized by a state agent

b. The complaint was investigated by a state agency.

c. The complaint became public record in January 2018.

d. Defendant hired at least 5 attorneys-of-record in response.

i. One such attorney was Ms. Christine Manzo.

127. It is also indisputable that Plaintiff suffered more adverse acts while his legal action was still pending.

a. It is indisputable that Plaintiff was hit by a car in Spring 2018 (within two months of the case going public).

b. It is indisputable that Plaintiff's former employer reduced Plaintiff's retirement benefits in July 2018.

c. It is indisputable that Defendant's former employee harassed Plaintiff to presumably embarrass Plaintiff.

Upon information & belief, these adverse acts - individually and in total - would cause most reasonable employees to abandon their case.

128. It is also indisputable that Defendant was tied to these adverse acts.

a. Via its legal representative (Ms. Manzo), Defendant encouraged its former employee to file unlawful, unauthorized documents to hinder Plaintiff's civil rights case.

i. Defendant even instructed him on what to say.

129. Lastly, it is also indisputable that all throughout its retaliatory campaign, Defendant replaced Plaintiff with employees with far less qualifications while keeping others who also failed actuarial exams.

a. Objectively speaking: in terms of exam success (see ¶44)

b. Objectively speaking: in terms of experience

COUNT I: RACIAL DISCRIMINATION | 42 USC §2000e, et. seq.

130. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 8 through 129).

131. Defendant continuously treated Plaintiff less favorably and unfairly compared to his non-black coworkers. The offensive and derogatory remarks/actions were related to Plaintiff's race; and were so severe and pervasive they created a hostile work environment for Plaintiff.

132. Defendant's resulting decision to terminate Plaintiff was motivated by Plaintiff's race.

COUNT II: SEXUAL DISCRIMINATION | 42 USC §2000e, et. seq.

133. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 8 through 129).

134. Defendant continuously treated Plaintiff less favorably and unfairly compared to his non-male coworkers. Ms. Henry's sexual harassment related to Plaintiff's gender; and was so severe and pervasive it created a hostile work environment for Plaintiff.

135. Defendant's resulting decision to terminate him was motivated by Plaintiff's sex.

COUNT III: COLOR DISCRIMINATION | 42 USC §2000e, et. seq.

136. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 8 through 129).

137. Defendant continuously treated Plaintiff less favorably and unfairly compared to coworkers of a different complexion. Ms. Henry's sexual harassment related to Plaintiff's gender; and was so severe and pervasive it created a hostile work environment for Plaintiff.

138. Defendant's resulting decision to terminate him was motivated by Plaintiff's skin color.

COUNT IV: RETALIATION | 42 USC §2000e, et. seq.

139. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 8 through 129).

140. Defendant continuously treated Plaintiff less favorably and unfairly compared to his non-black-male coworkers. The offensive and derogatory remarks/actions were related to Plaintiff's race & gender; and were so severe and pervasive they created a hostile work environment for Plaintiff.

141. Defendant thereafter retaliated against Plaintiff because he complained [internally] about Defendant's discriminatory practices.

142. Defendant's resulting decision to fire Plaintiff was motivated by Plaintiff's demographics; and in retaliation (Opposition Clause).

143. Defendant also retaliated against Plaintiff because he filed suit against Defendant (under the Participation Clause). It did so by interfering with his efforts to recover damages inflicted upon him by Defendant's discriminatory animus.

a. Most directly by instructing its former employee to file unauthorized and unlawful documents to obstruct Plaintiff's pursuit of justice.

b. Most severely by enlisting a man to follow and strike Plaintiff with his vehicle.

The adverse acts that Plaintiff suffered were causally related to his lawsuit because (a) Defendant knew Plaintiff had engaged in a protected activity; (b) the events took place in close temporal proximity to the complaint going public; (c) the attacks came from the same motivating themes; and (d) the attacks were material/severe.

COUNT V: PATTERN & PRACTICE OF RETALIATION | 42 USC §2000e, et. seq.

144. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 8 through 129).

145. Defendant continuously treated Plaintiff less favorably and unfairly compared to his non-black-male coworkers. Defendant's actions were stereotyped and based on a false premise.

146. In order to propagate its illusion of fairness & legitimacy, Defendant carried out its tried & true methods of subjugation.

147. Tactics which included - but were not limited to - intimidation, coercion, bald-faced lies, falsified employment records, harassment, slander, financial retaliation, and violence.

148. Defendant honed this practice years before Plaintiff's employment. Notably doing so with Mr. David Dickson harassing & discriminating against his female direct reports (Latham, etc.). Ratifying his behavior so that select management could continue with impunity.

149. By the time Plaintiff arrived, Defendant's predatory might was taut and springing into action.

150. Defendant had a predetermined disdain for black people - viewing them as 'less than' - and treated them accordingly.

PRETEXT

151. Defendant claimed that it terminated Plaintiff for a legitimate business reason by asserting that it terminated Plaintiff "solely" because he failed an actuarial exam (see **Exhibit C**).

152. Yet, when Defendant's non-black-male employees also failed actuarial exams Defendant never fired them.

153. Notably, Defendant replaced Plaintiff with unqualified non-black-male employees. Neither of whom had passed even one actuarial exam.

a. The disparity in qualifications (ie, 0 exams vs 8 exams) "*jumps off the page and smacks you in the face*".

154. As such, Defendant's reason for terminating Plaintiff was illegitimate, and merely a pretext for unlawful discrimination.

155. Gripped with this reality - as probably relayed to it by its trial attorneys (circa March 2018) - Defendant went on the attack. Enlisting people to harass Plaintiff, surveil Plaintiff, impair Plaintiff, and kill/maim Plaintiff.

156. None of the people that Defendant enlisted had any rational reason to engage with Plaintiff. They acted purely to rid Defendant of the towering set of indisputable facts pointing to its guilt.

DAMAGES

157. As a direct and proximate result of said acts, Plaintiff has suffered - and continues to suffer - loss of employment, loss of income, loss of other employment benefits, loss of earning capacity and has suffered and continues to suffer mental anguish, distress, pain, great expense, inconvenience, professional damage and other pecuniary and nonpecuniary losses.

158. As a further result of Defendant's discrimination, Plaintiff has incurred legal fees and will continue to incur legal fees.

RESERVATION OF RIGHTS

159. Defendant's acts, discriminatory patterns, and unlawful practices demonstrate a callous disregard and reckless indifference to Plaintiff that justifies an award of punitive damages at trial. Upon an evidentiary showing and hearing, Plaintiff reserves the right to amend his pleadings to assert a claim for punitive damages against Defendant.

160. Plaintiff may retain an attorney to represent him in prosecuting this action and if so will be obligated to pay them a reasonable fee for their services.

- a. Pursuant to 42 USC §1988, Plaintiff is entitled to request that the Court allow him to recover his reasonable attorney's fees incurred in successfully prosecuting this cause, should he retain an attorney.

REQUEST FOR JURY TRIAL

161. Pursuant to Amendment 7 of the United States Constitution (and Rule 38(b) Fed. R. Civ. P., Rule 81(c) Fed. R. Civ. P.), Plaintiff respectfully requests that this honorable Court grant him a trial by jury on all issues so triable.

REQUEST FOR RELIEF

162. WHEREFORE Plaintiff respectfully requests that this Honorable Court enter judgment in favor of Plaintiff and against Defendant on all claims herein, and enter an Order providing the following relief:

- a. Declaring that Defendant violated Title VII;
- b. Enjoining Defendant from committing further violations of Title VII;
- c. Awarding Plaintiff back pay and front pay, including interest, in the form of lost wages, including lost fringe benefits, which resulted from the illegal discrimination, harassment, wrongful termination, and retaliation;
- d. Awarding Plaintiff medical compensation for the vehicular assault Defendant carried out on Plaintiff;
- e. Awarding Plaintiff the cost of this action, together with reasonable attorney's fees (if any);
- f. Awarding Plaintiff pre-judgment interest;
- g. Awarding Plaintiff punitive damages; and
- h. Awarding such other and further relief as is just, equitable, and proper.



Dated this 9th day of March 2021.

Respectfully submitted,

/s/ Elias Makere

ELIAS MAKERE, FSA, MAAA, Plaintiff

3709 San Pablo Rd. S # 701

Jacksonville, FL 32224

P: (904) 294-0026

E: justice.actuarial@gmail.com

W: TextBookDiscrimination.com

Get **Booked Up** on Justice!

Endnotes:

1/ please see "Plaintiff's Memorandum of Law on Equitable Tolling" (filed on-or-around 3/9/21)

2/ evidenced by electronic badge records.

3/ "only form of transportation" excludes the occasional flight/rental car (\approx 2-3 times/year)

4/ "minor" exams in the sense that they were not one of the 10 "actuarial" exams mentioned earlier. Specifically, these "minor" exams were the VEEs - necessary for obtaining actuarial credentials with the Society of Actuaries.

5/ in-or-around 2011, a former employee named Clare Latham charged Mr. Dickson with sexual discrimination.

6/ the DMAC is a course on decision-making and professionalism.

7/ see Spirides v Reinhardt, 613 F.2d 826 (D.C. Cir. 1979).

see *Barron's Dictionary of Legal Terms*, 5th Edition, Page 348

8/ $10\% \text{ Capacity} = \frac{0.0588}{0.5820}$

Where:

0.0588 = documents per day (before)
= 3 documents \div 51 days

0.5820 = documents per day (after)
= 170 documents \div 292 days

9/ Notably, the "first 5" are graded by computer. Leaving no room for interpretation. The last 5 are graded by human. And as this Complaint details, they are open to surreptitious conduct.

Additional note: the exams don't have an actual order; just a logical order that candidates typically follow.

10/ the "last course" is a presentation aimed at getting FSAs to blossom out of their cocoons. Those who fail have to try again (\approx \$2,600, 3-6 months later)

Verification Under Oath Pursuant to 28 USC §1746

I declare under penalty of perjury that the foregoing is true and correct. Moreover, the ultimate, material facts laid out above come from publicly available sources. Thus, they are not subject to dispute because *"they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned"*. Some of the other facts are based on information & belief. These two elements come from my own personal observation, knowledge, and experience – coupled with circumstantial evidence of the matter.

Executed on this 9th day of March 2021.

UNITED STATES OF AMERICA



3/9/2021

Elias Makere, Plaintiff/Affiant

EXHIBIT A

EEOC Form 161
Right-to-Sue Letter

Date Sent: Tuesday, March 9, 2021

[transmission email included]

***please see "*Plaintiff's Memorandum of Law Regarding Equitable Tolling*" (3/9/21)**

From: Ina Depaz <INA.DEPAZ@EEOC.GOV>
Sent: Tuesday, March 9, 2021 2:05 PM
To: justice.actuarial@gmail.com;
Subject: RTS

Good afternoon,

Per your request, enclosed please find RTS.

Thank you,

Ina

DISMISSAL AND NOTICE OF RIGHTS

To: **Mr. Elias Makere**
c/o Jerry Girley, Esquire
The Girley Law Firm
125 E Marks Street
Orlando, FL 32803

From: **Miami District Office**
Miami Tower, 100 S E 2nd Street
Suite 1500
Miami, FL 33131

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
15D-2019-00685	Ina Depaz, State & Local Coordinator	(786) 648-5826

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state)

- NOTICE OF SUIT RIGHTS -
 (See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Nina Santo Wright

JAN 23 2020

Enclosures(s)

[Signature]
Michael J. Farrell,
District Director

(Date Mailed)

cc:

Allstate Benefits
c/o Heather A. Johnson, Esquire
Littler Mendelson, P.C.
2301 McGee Street, 8th Floor
Kansas City, MO 64108

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

(This information relates to filing suit in Federal or State court under Federal law. If you also plan to sue claiming violations of State law, please be aware that time limits and other provisions of State law may be shorter or more limited than those described below.)

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, appoint a lawyer to represent you. You must file a request with the U.S. District Court in the efforts to retain an attorney. Request for appointment of a lawyer must be plain in detail your reasons for the request. Because such requests do not relieve you of the responsibility to pay for the lawyer or if you have any other questions, you should consult a lawyer. If you need to inspect or obtain a copy of information about your charge number (as shown on your charge), you should file a request for a copy of your charge file, please make your review request within the next 90 days.)

ATTORNEY REFERRAL AND EEOC

You may contact the EEOC representative for questions about your legal rights, to inspect or obtain a copy of information about your charge number (as shown on your charge), you should file a request for a copy of your charge file, please make your review request within the next 90 days.)

IF YOU FILE SUIT, PLEASE

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee \$ 150-2019-00685	01-23-20
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy) \$	
<input type="checkbox"/> Return Receipt (electronic) \$	
<input type="checkbox"/> Certified Mail Restricted Delivery \$	
<input type="checkbox"/> Adult Signature Required \$	
<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage \$	
Total Postage and Fees \$	
Sent To <i>Elias Makere</i>	
Street and Apt. No., or PO Box No. <i>D & N of P.</i>	
City, State, ZIP+4®	

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

assistance must be plain in detail your reasons for the request mentioned above,

ryer or if you have any e. If you need to writing and provide n time, all charge files t to review the charge request should be

OFFICE.

EXHIBIT B

Plaintiff's Submission of Administrative Complaint
(pursuant to 60Y-5.001 FAC)

Certified/Stamped by State Agency (the FCHR)

4/10/2019

[first and last pages only]

[first page = officially stamped page]

[last page = acknowledgement of receipt]

Elias Makere, Complainant
3709 San Pablo Rd. S #701
Jacksonville, FL 32224

Phone: 904.294.0026
Fax:
Email: justice.actuarial@gmail.com

MAKERE
V
ALLSTATE

COMPLAINT ATTACHMENT

Employment Discrimination (Race, Sex, Retaliation)

Here is the attachment to the employment discrimination complaint.

Petitioner: Elias Makere
Dates: November 2013 – July 2018
Race: Black
Sex: Male
Retaliation: Yes

RECEIVED
FLORIDA COMMISSION ON
HUMAN RELATIONS
2019 APR 10 PM 2:35

Williams, DarLinda

From: justice.actuarial@gmail.com
Sent: Wednesday, April 10, 2019 8:00 AM
To: FCHR Website Email
Subject: Complaint | Employment Discrimination | Makere v Allstate
Attachments: EEOC-Form-5.pdf; 0a_Complaint_001_Employment.pdf

Good Morning FCHR,

May you please investigate my employment discrimination complaint against Allstate Insurance Company?

Thank you,

Elias Makere, Complainant
904.294.0026 | justice.actuarial@gmail.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

EXHIBIT C

Position Statement

From: Respondent
To: State Agency (FCHR)

Date: September 8, 2017

[marked]



Complainant was terminated solely because he failed to pass his ASA exam and as a result, he became ineligible to maintain his status in the Allstate Financial Actuarial Career Program (ACP).

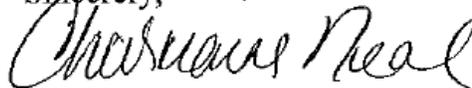


Lastly, Complainant's allegation that more African-American actuarial employees were involuntarily terminated is without merit. Complainant was the only employee that Respondent terminated in his department between 2014 and 2016.

CONCLUSION

Complainant's charge of discrimination based upon race without merit. Accordingly, Respondent requests that this Charge be dismissed in its entirety. Should you have any additional questions, please do not hesitate to contact me at (847) 402-7367.

Sincerely,



Charmaine Neal
Human Resources Lead Consultant

Attachments

Page 4 of 4

EXHIBIT D

Email

From: Defendant
To: Malevolent Retaliator

6/21/18

From: Christine M. Manzo <CMM@lgplaw.com>
Sent: Thursday, June 21, 2018 6:14 PM
To: Kirk H. <kirkhiggins@gmail.com>
Cc: justice.actuarial@gmail.com; crpa@crlaborlawfirm.com; Zascha Blanco Abbott <zba@lgplaw.com>
Subject: RE: 18-0373 : Notice of Motion to Strike Subpoenas to Non-Parties and Strike Motion to Compel First, Second, and Fifth Production

Mr. Higgins,

Respondent Allstate does not oppose the motions to strike Petitioner's motions to compel or the subpoena to ACE Manuals.

As to the subpoena to SOA, Respondent has not objected to that subpoena of Petitioner, and has served its own subpoena on SOA. Thus, Respondent will not object so long as it does not interfere with the subpoena Respondent has served and the information Respondent has requested from SOA.

Thank you,

EXHIBIT E

Photo

Plaintiff Receiving his FSA (final actuarial credential)



'A Picture Says a Thousand Words'. This one says the following:

Allstate fired the black guy for slipping in front of his destination – which he later got to – but rewarded his non-black peers for not even coming close.

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