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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION

ELIAS MAKERE, FSA, MAAA

2020 AUG 12 AM 9:08

Plaintiff,

CLERK, US DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE FLORIDA

vs.

Case No (LT):

Division: (3) Jacksonville

ALLSTATE INSURANCE COMPANY,

Defendant,

---

**COMPLAINT**

---

COMES NOW, Plaintiff, Elias Makere on this 10<sup>th</sup> day of August 2020 and hereby sues Defendant, Allstate Insurance Company and states the following:

**I. NATURE OF THE CLAIM**

1. This action is brought under 42 U.S.C. 1981 The Civil Rights Act of 1886 ("§1981") to redress Defendant's unlawful employment practices towards Plaintiff (also see 28 USC §1331, §1343, and §1367). Charges which include - but are not limited to - unlawful retaliation, unlawful interference, color discrimination, race discrimination, and sex discrimination.

**II. JURISDICTION: AMOUNT**

2. Plaintiff seeks declaratory relief, injunctive relief, and damages in excess of thirty thousand dollars (\$30,000) - exclusive of interest, costs, and attorney fees.

**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 §1981.

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 §1981 (via state law).

**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 has timely filed this complaint within four (4) years of the date that Defendant terminated his employment.

**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. 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.<sup>1/</sup>
15. In early December 2013, Plaintiff took and passed three minor exams.<sup>2/</sup> Ms. Henry sat in as his proctor. He took the exams on company property.
16. Later that month, Plaintiff took and passed his seventh (7<sup>th</sup>) actuarial exam (the "Final Assessment"). These tests qualified Plaintiff for his first actuarial credential: the ASA (Associate of the Society of Actuaries).
17. 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).
18. 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.

19. 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.

20. Around this same time, the racial harassment ramped 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.

21. 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).

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. 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.

22. 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.

23. 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 actuarial employees to work from home.

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

25. 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 (§47, *infra*).

b. 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.

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

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

27. Plaintiff thereby filed an internal discrimination complaint against Mr. Dickson. Who acknowledged that it was based on "racism". As it turns out, Mr. Dickson has been charged with employment discrimination before.<sup>3/</sup>

28. 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).
29. 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)<sup>4/</sup>. Plaintiff subsequently filed an internal retaliation complaint against Ms. Henry.
30. 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.
31. Alarmed that anyone would do that (ie, deliberately attempt to get Plaintiff fired), Plaintiff reported it - among other things (see Racist Doll ¶22cd, see Mr. Dickson ¶28, see Ms. Henry ¶30) - 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".
32. 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 peers (Mr. Victor Ciurte, Mr. Kazuhiko Nagai, etc.).

33. Within a week-or-so Plaintiff received negative results from his ninth (9<sup>th</sup>) actuarial exam. He believed foul play was involved. Nevertheless, 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.

34. 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.

35. Just hours later, Ms. Henry filed to have Plaintiff terminated.

36. That Friday (August 12, 2016), Ms. Henry escorted Plaintiff to the 1<sup>st</sup> 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.

37. 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).

38. 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.

39. 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).

40. 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.

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

42. Plaintiff was still focused on attaining his FSA. That Fall, he passed his ninth (9<sup>th</sup>) actuarial exam.

43. On June 30, 2017, Plaintiff filed a charge of discrimination with the FCHR ("Originating Charge"). It was on the basis of race and sex.
44. As the case progressed to the administrative hearing phase, Plaintiff contacted several non-parties to begin discovery.
45. 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. Importantly, Mr. Higgins explicitly stated that his actions were motivated by (i) his relationship with Defendant; and (ii) Plaintiff's demographics.
46. In April 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 (§26 *supra*).
47. Plaintiff was also getting death threats on the phone; and supplemental taunts through the mail.
48. In July 2018 - during the administrative case - Defendant encouraged Mr. Higgins to file unauthorized documents against Plaintiff; instructing him on what to say. Defendant was behind these attacks.
49. That same month, Plaintiff's former employer (Genworth Financial) reduced his retirement benefits substantially. They mailed him the notice. Yet, Plaintiff had never given Genworth his Florida address. It was clear that Defendant (via Genworth) was taking retaliatory actions to further damage Plaintiff's employment and compensation.
50. Around this time, Plaintiff passed his tenth (10<sup>th</sup>) actuarial exam; and achieved FSA status (see Exhibit B). Soon thereafter, Plaintiff notified the FCHR; eventually leading to these charges.

**VII. ULTIMATE FACTS**

51. Defendant only fired the black man who failed an actuarial exam.

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

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

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

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

c. Defendant followed up this adverse act with:

- i. financial retaliation;
- ii. professional retaliation;
- iii. and lethal retaliation.

**COUNT I: RACIAL DISCRIMINATION | §760.11 FS, et. seq.**

52. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 9 through 51).

53. 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.

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

**COUNT II: SEXUAL DISCRIMINATION | §760.11 FS, et. seq.**

55. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 9 through 51).

56. 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.

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

**COUNT III: RETALIATION | §760.11 FS, et. seq.**

58. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 9 through 51).

59. Defendant retaliated against Plaintiff because he complained about Defendant's discriminatory practices (both internally and externally).

**COUNT IV: RACE DISCRIMINATION | 42 U.S.C. §1981 et. seq.**

60. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 9 through 51).

61. 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.

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

**PRETEXT**

63. 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 A**).

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

65. 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*".

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

**DAMAGES**

67. 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.

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

**RESERVATION OF RIGHTS**

69. 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.

70. 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**

71. 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**

72. WHEREFORE Plaintiff respectfully requests that this 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 §1981;
- b. Enjoining Defendant from committing further violations of the §1981;
- 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 and wrongful termination.
- d. Awarding Plaintiff the cost of this action, together with reasonable attorney's fees (if any).
- e. Awarding Plaintiff pre-judgment interest.
- f. Awarding Plaintiff punitive damages; and
- g. Awarding such other and further relief as is just, equitable, and proper.

Dated this 30<sup>th</sup> day of June 2020.

Respectfully submitted,

**ELIAS MAKERE, FSA, MAAA**  
s/ Elias Makere, Pro Se  
3709 San Pablo Rd. S # 701  
Jacksonville, FL 32224  
Tel: (904) 294-0026  
E-mail: justice.actuarial@gmail.com

Endnotes:

1/ evidenced by electronic badge records.

2/ "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.

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

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

# EXHIBIT A

Position Statement

From: Respondent  
To: State Agency (FCHR)

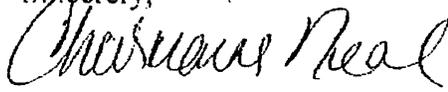
[marked]

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 B

Photo

Petitioner Receiving his FSA (final actuarial credential)



'A Picture Says a 1,000 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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