



II Plaintiff has fulfilled all conditions precedent to the institution of this action under Title VII of the Act of Congress known as the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, and 42 U.S.C. Section 2000e et seq. Plaintiff timely filed his charge of discrimination within 180 days of occurrence of the last discriminatory act. He also timely filed his lawsuit within 90 days of the receipt of his Right-To-Sue Letter from the EEOC.

## **II. PARTIES**

4. Plaintiff, Randall Nalls, is an African-American male, a citizen of the United States, and a resident of the State of Alabama. Plaintiff worked for Defendants from around June 2006 until November 2006.

5. Defendants, Wal-Mart Stores East, L.P. and Wal-Mart-Stores, are entities subject to suit under Title VII and 42 U.S.C. § 1981.

## **III. FACTS**

6. Plaintiff was hired with Defendants on or around June 2006.

7. Plaintiff heard his white co-worker, Tony Gill, use the term "nigger" at work, and Plaintiff confronted him and told him how such language offended him.

8. Plaintiff subsequently had a disagreement with Mr. Gill, and shortly thereafter, Mr. Gill referred to Plaintiff as a “nigger”.

9. Plaintiff complained about Mr. Gill’s use of racial slurs to his supervisor, Thomas Burke, and Burke assured Plaintiff he would handle the complaint. However, when Burke next spoke to Plaintiff about his complaint, Burke said Gill was just rapping, that the term “nigger” was acceptable to use, and that the term was in the dictionary.

10. Plaintiff subsequently learned that Gill continued to use the term “nigger” at work, and Plaintiff again reported this usage to Burke. Burke told Plaintiff that, in today’s society, the word “nigger” is acceptable, and Burke explained to Plaintiff why he believed such language was acceptable to use.

11. Plaintiff made it clear to Burke and other management that he did not want to work around Gill because of his use of racially derogatory language; however, Defendants ignored Plaintiff’s request and constantly assigned Plaintiff to work side-by-side with Gill.

12. Around November, Plaintiff had to leave work due to medical problems suffered by his daughter, and he obtained permission from management to leave.

13. Although Plaintiff continued to call into work, Defendants subsequently terminated Plaintiff for allegedly abandoning his job.

14. After Plaintiff's daughter became well enough for him to return to work, Plaintiff tried to return or be rehired, but Defendants refused to rehire him.

#### **IV. CAUSES OF ACTION**

##### **A. COUNT I — RACIALLY HOSTILE WORK ENVIRONMENT**

15. Plaintiff re-alleges and incorporates by reference paragraphs 1-14 above with the same force and effect as if fully set out in specific detail herein below.

16. During the course of his employment, Plaintiff was subjected to a racially hostile work environment.

17. Defendants were aware of this hostile and abusive environment and refused to take appropriate remedial action.

18. Defendants ratified and/or condoned such hostile and abusive behavior by failing to take appropriate remedial action.

19. Defendants are vicariously liable for the conduct of the employees and supervisors that harassed Plaintiff.

20. Defendants took a tangible employment action against Plaintiff by terminating him.

21. Said racial harassment was done maliciously, willfully, and with reckless disregard for the rights of Plaintiff.

22. Plaintiff has no plain, adequate, or complete remedy at law to redress the wrongs alleged herein and this suit for backpay, declaratory judgment, injunctive relief, compensatory, and punitive damages is his only means of securing adequate relief.

23. Plaintiff is now suffering, and will continue to suffer, irreparable injury from Defendants' unlawful conduct as set forth herein unless enjoined by this Court.

### **C. COUNT II — RETALIATION**

24. Plaintiff re-alleges and incorporates by reference paragraphs 1-23 above with the same force and effect as if fully set out in specific detail herein below.

25. Plaintiff complained to supervisors and management that he was being racially harassed.

26. In response to Plaintiff's opposition to discrimination, Defendants retaliated against Plaintiff in work assignments and by terminating him.

27. Said retaliation was done maliciously, willfully, and with reckless disregard for the rights of Plaintiff.

28. Plaintiff has no plain, adequate, or complete remedy at law to redress the wrongs alleged herein and this suit for backpay, declaratory judgment, injunctive relief, and compensatory and punitive damages is his only means of securing adequate relief.

29. Plaintiff is now suffering, and will continue to suffer, irreparable injury from Defendants' unlawful conduct as set forth herein unless enjoined by this Court.

## **V. DAMAGES**

30. Plaintiff has suffered embarrassment, humiliation, shame, damage to reputation, mental distress, emotional and physical pain and anguish, and lost wages as a consequence of Defendant's unlawful conduct.

## **VI. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that this Court assume jurisdiction of this action and after trial:

1. Issue a declaratory judgment that the employment policies, practices, procedures, conditions and customs of Defendants violate the rights of Plaintiff secured by Title VII of the Act of Congress known as the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e et seq., and 42 U.S.C. Section 1981.
2. Grant Plaintiff a permanent injunction enjoining Defendants, their agents, successors, employees, attorneys, and those acting in concert with Defendants and at Defendants' request from continuing to violate Title VII of the Act of Congress known as the Civil Rights Act of 1964, as amended, and 42 U.S.C. Section 1981.
3. Enter an Order requiring Defendants to make Plaintiff whole by reinstating him into the position he would have occupied in the absence of race discrimination and retaliation, and awarding him back-pay (plus interest), nominal damages, lost seniority, benefits, loss of pension, compensatory, and punitive damages and post judgment interest.
4. Plaintiff further prays for such other relief and benefits as the cause of justice may require, including, but not limited to, an award of costs, attorneys' fees, and expenses.

**PLAINTIFF DEMANDS A TRIAL BY STRUCK JURY**

Respectfully submitted,



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