

FILED

UNITED STATES DISTRICT COURT OF
THE MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

1999 OCT 22 PM 12:04
CLERK OF COURT
OCALA, FL

ANTHONY N. THACKER,

CASE NO.:

Plaintiff,

99-320-Civ-Co-10A

vs.

SUMTER ELECTRIC COOPERATIVE, INC.,

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Anthony N. Thacker, by and through his undersigned counsel, hereby sues Defendant, Sumter Electric Cooperative, Inc. (hereinafter referred to as "Sumter Electric") and would allege as follows:

JURISDICTION AND VENUE

1. This action is brought to remedy discrimination on the basis of sex in the terms, conditions, and privileges of employment and to remedy retaliation against an employee in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000(e) et seq., ("Title VII") and the Florida Civil Rights Act of 1992, § 760.01, et seq., Florida Statutes.

2. Injunctive and declaratory relief, damages and other appropriate legal and equitable relief are sought pursuant to 42 U.S.C. §2000(e)(f)(g) and §760.01, et seq., Florida Statutes.

3. Venue is proper under 28 U.S.C. §1391(b) and 42 U.S.C. §2000e-5(f)(3). The Defendant corporation is authorized to do business and is doing business in the State of Florida and within the jurisdiction of this Honorable Court in

SCANNED

Ocala, Florida. The alleged unlawful practices were committed in Ocala and in the State of Florida and within the jurisdiction of this Honorable Court.

4. Plaintiff, ANTHONY N. THACKER, a male and resident of the State of Florida, filed his initial Charge of Discrimination against Defendant, SUMTER ELECTRIC, with the Equal Employment Opportunity Commission (EEOC) and the Florida Commission on Human Relations on or about January 14, 1998, complaining of the acts of sex discrimination and retaliation alleged herein. A copy of said Charge is attached hereto and marked as Exhibit "A". The EEOC issued to this Charge of Discrimination charge number 1D980223. The Florida Commission on Human Relations issued to this Charge of Discrimination charge number 980829. This Charge addressed discrimination which occurred in November, 1997 with respect to alleged sex discrimination, and it was filed within 300 days of then, the last date of harm. Plaintiff was issued a "Right to Sue" on August 9, 1999 and has filed this action within ninety (90) days of his receipt of same. A copy of said Right to Sue is attached hereto and marked as Exhibit "B". Plaintiff has filed an additional Charge of Discrimination on or about January 7, 1999 alleging retaliation as a result of complaining of discrimination and filing the aforementioned Charge. However, Plaintiff has not yet received a Right to Sue with respect to that Charge of Discrimination. Thus, the allegations contained in Charge EEOC No. 15D995490 and FCHR Charge No. 99-1060, will be made a part of this Complaint, upon proper motion to this Honorable Court, upon receipt of the additional Right to Sue.

5. Plaintiff has complied fully with all prerequisites to jurisdiction in this Court under Title VII and the Florida Civil Rights Act. Jurisdiction of the Court is proper

under §706(f)(3) of Title VII, 42 U.S.C. §2000e-5(f)(3). Jurisdiction of this claim under the Florida Civil Rights Act of 1992, §760.01 et seq., Florida Statutes.

PARTIES

6. Plaintiff has been an employee of Sumter Electric Cooperative, Inc. through all dates where illegal discrimination is alleged, and remains an employee of the Defendant up to the filing of this lawsuit.

7. Defendant, SUMTER ELECTRIC, maintains a business at 4872 S.W. 60th Ave., Ocala, Marion County, Florida 34471. All of the actions described herein occurred in Marion County, Ocala, Florida.

8. Plaintiff, ANTHONY N. THACKER, claims compensatory damages as a result of the actions of SUMTER ELECTRIC.

9. Defendant, a Florida corporation, operates a business in Ocala, Marion County, Florida and employs more than 15 employees at all material times hereto. All acts complained of occurred during business hours, at Defendant's place of business, and while Plaintiff was attempting to carry out his job duties.

ALLEGATIONS COMMON AS TO ALL CAUSES OF ACTION

10. On or about November, 1997, Plaintiff filled all prerequisites for, and applied for the Ocala Coordinator position at Sumter Electric. Despite the fact that he met or exceeded all job qualifications, and was in fact the most qualified for this position, a female, Penny Embach, was hired from outside the Company, and certainly did not exceed the qualifications for the position. Plaintiff (male) was denied said promotion on the basis of his sex.

11. Patty Embach, female, was granted the Coordinator position because of her sex, and Defendants exhibited an intentional and willful acts of discrimination against Plaintiff based upon his sex, male.

12. Despite Plaintiffs making pleas to the managers, officers, and directors, and employees of the Defendant, the discrimination was not remedied and the acts described herein have caused Plaintiff severe emotional and physical symptoms, caused the Plaintiff devastating losses financially, and said losses will continue into the indefinite future until said discrimination is remedied.

13. This action is brought to remedy discrimination on the basis of sex in the terms, conditions, and priveleges of employment against an employee, Anthony N. Thacker.

I - FEDERAL CLAIM FOR SEX DISCRIMINATION
(SEX HARASSMENT/GENDER DISCRIMINATION/HOSTILE ENVIRONMENT)

14. Plaintiff repeats and alleges each and every allegation contained in Paragraphs 1 through 13 of this Complaint with the same force and effect as is set forth herein.

15. Defendant has discriminated against the Plaintiff in the terms and conditions of his employment on the basis of his sex in Violation of Title VII and have permitted or otherwise perpetuated a discriminatory work environment for the Plaintiff due to the conduct described herein.

16. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of the Defendant's discriminatory practices, unless

and until this Court grants relief. The acts of Defendant or Defendant's agents were willful, wanton, and in utter disregard of the rights of Plaintiff.

II- STATE CIVIL RIGHTS ACT
VIOLATION - SEX DISCRIMINATION
(SEX DISCRIMINATION/SEX HARASSMENT/HOSTILE ENVIRONMENT)

17. Plaintiff re-alleges and incorporates herein paragraphs 1 through 16, of this Complaint with the same force and effect as is set forth herein.

18. The above practices of the Defendant constitute unlawful discriminatory employment practice within the meaning of the Florida Civil Rights Act of 1992, §760.01 et seq., Florida Statutes.

19. As a result of the Defendant's discriminatory acts, Plaintiff has suffered and will continue to suffer monetary damages and damages for mental anguish and humiliation unless and until this Court grants relief.

VII - PRAYER FOR RELIEF

20. Plaintiff realleges and repeats the allegations set forth in paragraphs 1-19 hereof as if fully set forth herein.

21. WHEREFORE, Plaintiff, ANTHONY N. THACKER, respectfully prays for judgment against the Defendant as follows:

- (a) Declaring the acts and practices complained herein are in violation of Title VII and the Florida Civil Rights Act.
- (b) Enjoining and permanently restraining these violations of Title VII and the Florida Civil Rights Act;
- (c) Directing Defendant to take such affirmative actions as is necessary to ensure that the effects of these unlawful employment practices are eliminated;

(d) Directing Defendant to place Plaintiff in the position that he would have occupied but for the Defendant's discriminatory and retaliatory treatment of him and make his whole for all earnings he would have received but for the Defendant's discriminatory and retaliatory treatment;

(e) Awarding Plaintiff compensatory and punitive damages, pursuant to Federal and State law;

(f) Awarding Plaintiff the costs of this action, together with reasonable attorney's fees as provided by Section 706(k) of Title VII, 42 U.S.C. §2000(e)-6(k) and the Florida Civil Rights Act; and

(g) Granting such other and further relief as this Court deems necessary and proper.

JURY DEMAND

22. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff, ANTHONY N. THACKER, herein demands trial by jury of all issues in this action.

BOGIN, MUNNS & MUNNS

By: 

PAMELA BOUNDS OLSEN, ESQUIRE
2215 S.E Fort King Street
Suite A
Ocala, Florida 34471
Telephone: (352) 690-7400
Facsimile: (352) 690-6618
Florida Bar No: 0894117
Attorneys for Plaintiff/Trial Attorney

FLORIDA COMMISSION ON HUMAN RELATIONS
 325 John Knox Road, Suite 240, Building F
 Tallahassee, Florida 32399-1570

CHARGE OF DISCRIMINATION	FCHR No.
Name (Indicate Mr., Ms., or Mrs.) ANTHONY N. THACKER	Telephone No. (area code) 352-245-4934
Street Address 11118 S.E. 40TH AVE.	Home 352-245-4934
City, State, and Zip Code BELLEVIEW, FL, 34420	Work (if possible to call you there) Ext. 3038 352-237-4107

List the employer, labor organization, employment agency, apprenticeship committee, government agency, or other person who discriminated against you.

Name SUMTER ELECTRIC COOPERATIVE	No. of Employees APPROX. 250	Telephone No. (area code) 352-793-3801
Street Address P.O. Box 301, SUMTERVILLE, FL, 33585	City, State and Zip Code	County SUMTER
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> HANDICAP <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> AGE <input type="checkbox"/> MARITAL STATUS <input type="checkbox"/> RETALIATION		DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month, day, year) NOV. 1997

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

TWICE IN THE PAST TWO YEARS I HAVE BEEN DENIED PROMOTION DUE TO LESSER QUALIFIED FEMALES BEING PROMOTED. I FOUND OUT THAT I COULD NOT FILE A COMPLAINT ON THE FIRST COMPLAINT DUE TO THE 300 DAY LIMIT.

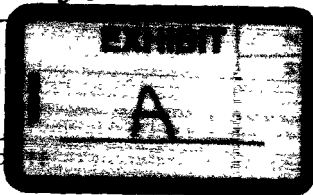
THIS SECOND OCCURANCE, IN NOVEMBER 1997, FORCES ME TO TAKE ACTION.

PARTICULARS IN THIS CASE ARE; I WAS DENIED A PROMOTION AFTER HAVING 13 YEARS EXPERIENCE IN THIS WAREHOUSE. EVERYONE IN THE COMPANY WAS SHOCKED WHEN I DID NOT GET THE JOB. ALSO, THE COMPANY HAD TO RESORT TO HIRING A FEMALE FROM OUTSIDE THE COMPANY WITH LESS TIME IN THE CLASSIFICATION THAN I HAVE. SHE KNEW VIRTUALLY NOTHING ABOUT THE JOB WHEN SHE WAS HIRED AND I AM CONTINUING TO TRAIN HER IN THE EVERYDAY ASPECTS OF THE POSITION.

I will advise the agency if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures

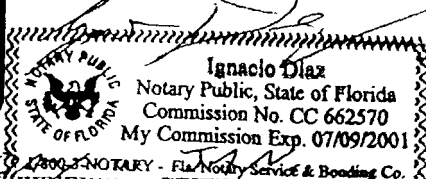
SIGNATURE OF COMPLAINANT

A. N. Thacker



1-14-98

NOTARY (Required for Filing)
 SUBSCRIBED AND SWORN TO BEFORE ME



19 98

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE

(ISSUED ON REQUEST)

To:

Anthony N. Thacker
1118 S.E. 40TH Avenue
Bellevue, FL 34420

From:

Miami District Office
Equal Employment Opportunity Commission
One Biscayne Tower, Suite 2700
2 South Biscayne Boulevard
Miami, Florida 33131-1805

On behalf of a person aggrieved whose identity is CONFIDENTIAL
(29 C.F.R. 1601.7(a))

Charge Number

15D980223

EEOC Representative

James Colon, State & Local Coordinator

Telephone Number

(305) 536-4454

(See the additional information attached to this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act(ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your suit under Title VII or the ADA **must be filed in federal or state court WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.

More than 180 days have passed since the filing of this charge.

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the Commission EEOC will be able to complete its administrative processing within 180 days from the filing of the charge.

The EEOC is terminating its processing of this charge.

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies.

The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.

EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of your charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required). EPA suits must be brought in federal or state court within 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.**

If you file suit based on this charge, please send a copy of your court complaint to this office.

AUG 09 1999

(Date Mailed)

Enclosures

Information Sheet
Copy of Charge

cc: Sumter Electric Cooperative, Inc.
c/o John F. Wymer, III, Esq.
Powerll, Goldstein, Frazer & Murphy
191 Peachtree Street, N.E.
Sixteenth Floor
Atlanta, Georgia 30303

Pamela B. Olsen, Esq.
Bogin, Munns & Munns
2215 S.E. Ft. King Street
Su
Oc

On Behalf of the Commission

Federico Costales
Federico Costales, District Director

