

terminating his employment after he failed to prevent an employee he supervised from complaining about discrimination in violation of Title VII, 42 U.S.C. § 2000e-3(a) .

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345.

2. This action is authorized and instituted pursuant to § 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) (Title VII), and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

3. The alleged unlawful employment practices complained of herein were committed in Memphis, Tennessee, within the jurisdiction of the United States District Court for the Western District of Tennessee, Western Division.

PARTIES

4. At all relevant times, Plaintiff Equal Employment Opportunity Commission (Commission), was (and is) the agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII, and is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3) and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

5. At all relevant times, Defendant operated under and by virtue of the laws of Tennessee as a for-profit corporation registered with the Secretary of State of Tennessee.

6. At all relevant times, Defendant continuously employed at least 15 employees.

7. At all relevant times, Defendant has continuously been engaged in an industry affecting commerce under Sections 701(b), (g) and (h) of Title VII and 42 U.S.C. §§ 2000e(b), (g), and (h.)

ADMINISTRATIVE PROCEDURES

8. More than 30 days before the institution of this lawsuit, Louis Walker, Demarcus Benson, and Demetric Brownlee, all former employees of Defendant, filed charges of discrimination with the Commission, Charge Nos. 490-2022-01599, 490-2022-01613, 490-2022-01615, respectively, alleging Defendant violated Title VII.

9. On August 22, 2024, the Commission issued a Letter of Determination to Defendant finding reasonable cause to believe Defendant violated Title VII in each of the aforementioned charges and invited Defendant to join with the Commission in informal methods of conciliation to endeavor to eliminate the discriminatory practices and provide appropriate relief.

10. The Commission engaged in communications with Defendant to provide it the opportunity to remedy the discriminatory practices described in the Letter of Determination.

11. The Commission was unable to secure from Defendant a conciliation agreement acceptable to the Commission.

12. On September 20, 2024, the Commission issued to Defendant a Notice of Failure of Conciliation.

13. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF CLAIMS

COUNT I RACIAL DISCRIMINATION

14. Since at least May 2022, Defendant has engaged in unlawful employment practices in violation of 42 U.S.C. § 2000e-2(a)(1).

15. These unlawful employment practices include denying Walker, Benson, Brownlee, and a class of aggrieved individuals the same conditions and privileges of employment, access to the same restroom/breakroom available only to White employees.

16. Defendant hired Benson, Brownlee, and Walker in December 2018, January 2021, and January 2022, respectively. The three men worked together at Defendant's Memphis, Tennessee, facility located at 2440 Whitten Road maintaining the grounds and providing burial services. Benson, also responsible for maintenance of the physical facility, supervised Walker and Brownlee. The three Black employees constituted the non-managerial groundskeeping staff whose duties included laying headstones, burying bodies, and backfilling graves.

17. Defendant promoted Benson several times in less than five years during his employment – from temporary staff to a full-time supervisor.

18. On or around May 5, 2022, Benson arrived at work to find a new lock on the door through which he usually entered the building placed by Heath Fairfax (Fairfax), White, area maintenance director. When Benson complained about the lockout to Fairfax and Brad Shooks (Shooks), White, the funeral director/funeral-home manager, they notified Benson the lock was part of a new protocol prohibiting his groundskeeping staff from entering the facility and to curb their use of Defendant's toilets or breakrooms.

19. At some point after Benson complained about the lockout, Defendant notified Walker and Brownlee they could no longer use Defendant's facilities.

20. Defendant did not provide an exterior lavatory for the groundskeepers. Consequently, from May 5, 2022, to approximately May 15, 2022, Benson, Brownlee, and Walker used their personal vehicles for breakrooms and a neighboring gas station's toilet for a restroom.

21. Defendant instructed Benson he was responsible for keeping Walker and Brownlee out of the building during the prohibition, which lasted from May 5, 2022, to approximately May 15, 2022. Benson, in support of his subordinates Brownlee and Walker, also did not use Defendant's restroom facilities or breakroom during this prohibition.

22. At all relevant times, Defendant employed Black and White employees as office staff working in the cemetery or funeral services divisions at the Whitten Road facility.

23. Upon information and belief, since at least May 2022 Defendant restricted staff including Benson, Brownlee, and Walker, and a class of aggrieved Black employees including but not limited to Tiffany Joiner, Shelby Rouse, and Victoria Thomas, access to a preferred restroom/breakroom only available to executive management (all White) and non-executive professional-level White female employees.

24. Members of the aggrieved class of individuals worked inside the facility in client-facing or professional positions, similarly situated to White employees Defendant afforded access to the preferred restroom/breakroom that was restricted via a combination code lock.

25. Upon information and belief, at all relevant times, Defendant employed at the Whitten Road facility professional-level Black employees similarly situated to the White staffers who were granted access to the preferred restroom/breakroom.

26. On or about May 15, 2022, Benson, Brownlee, and Walker complained again to management about the poor treatment. Defendant thereafter designated an indoor area for the groundskeepers and notified Benson his crew could use a first-floor, single-occupancy restroom and adjoining foyer for lavatory and breakroom needs and stipulated they must access the area via a backdoor to the facility.

27. On or about May 20, 2022, Walker complained to local management and the corporate office, then-located in Bensalem, Pennsylvania, the makeshift breakroom was inhospitable and unhygienic as it was little more than an oft-used staff restroom foyer.

28. Upon information and belief, all other staffers were provided dedicated areas for breakroom and restroom needs. This included the White-only preferred restroom located on an upper floor of the multi-story, mansion-inspired funeral home and mausoleum.

29. The grounds crew complained to management about the location's lack of hygiene and before the end of May 2022, management designated a different interior room for the groundskeeping staff to use as a breakroom.

30. At no time did Defendant provide Benson, Brownlee, Walker, or any other Black employees, access to the preferred restroom which Defendant allowed the above-described White employees to use.

31. Upon information and belief, Defendant placed a lock with a combination code on the restricted restroom.

32. At all relevant times Defendant provided the combination code only to White professional-level employees.

33. When StoneMor's former cemetery administrator Sherrice Cates requested the combination code, Defendant refused her request, as it did for all other similarly situated Black employees.

34. Upon information and belief, Defendant never provided a reason for the restriction to any such Black employee who sought access.

35. Defendant never distributed an official policy regarding the preferred restroom's restriction.

36. By denying similarly situation Black employees the same access to its restroom/breakroom facilities that it allowed its White employees to use, Defendant treated its Black employees differently with a race-based restriction, denying them equal status in the

workplace, and impacting a class of aggrieved individuals' condition of employment all in violation of 42 U.S.C. § 2000e-2(a)(2).

37. Each of the unlawful employment practices complained of above was intentional.

38. Each of the unlawful employment practices complained of above was done with malice or with reckless indifference to the federally protected rights of Benson, Brownlee, and Walker, and a class of aggrieved individuals.

COUNT II RETALIATORY DISCHARGE

39. Since at least May 2022, Defendant has engaged in unlawful employment practices in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

40. The unlawful employment practices include Defendant retaliating against Benson by suspending and then discharging him because he and Walker complained internally about discrimination, and because Walker also threatened to contact the Commission regarding a charge of discrimination.

41. The Commission incorporates by reference the allegations stated in paragraphs 15-35 as if repeated verbatim herein.

42. Shortly after Defendant hired a group of temporary employees, which included Benson, in December 2017, to assist the groundskeeping superintendent at StoneMor's Whitten Road location. Defendant promoted Benson to full-time.

43. Defendant quickly promoted Benson to supervisor when his predecessor left the position and provided Benson with employment benefits and perks that included paid leave, health benefits, and use of a company vehicle.

44. Benson's duties included maintaining the grounds, executing burial-service orders from management including laying headstones, burying bodies, backfilling graves, maintenance

of the physical facility, and supervision of three employees (not all three were concurrently employed) during his tenure at StoneMor.

45. On or around May 5, 2022, Benson arrived at work to find a new lock on the door placed by Fairfax.

46. Benson complained about the lockout to Fairfax and Shooks who advised Benson the lock was part of a new protocol prohibiting Benson's staff from entering the facility to use Defendant's toilets or breakrooms.

47. Defendant did not provide an exterior lavatory for the groundskeepers. Consequently, from May 5, 2022, to approximately May 15, 2022, Benson, Brownlee, and Walker used their personal vehicles for breakrooms and a neighboring gas station's toilet for a restroom.

48. On or about May 5, 2022, Defendant instructed Benson to keep Walker and Brownlee out of the building.

49. Defendant did not deny Benson, a supervisor, access to its building. Nevertheless, in a protest of solidarity and support for his crew, Benson did not use Defendant's breakrooms or restrooms from May 5, 2022, to approximately May 15, 2022, and instead used his vehicle for breaks and the nearby gas station for lavatory needs like grounds crew members Walker and Brownlee.

50. On or about May 11, 2022, Benson complained informally to management about the new restrictions.

51. On or around May 15, 2022, Walker requested from StoneMor the electronic-mail address of its human resources department where he could send a complaint about the alleged discriminatory treatment.

52. On or about that same day, Walker asked Benson for instructions on how to file a charge of discrimination with the Commission. Benson, unsure himself, asked someone at StoneMor for such information.

53. Benson, pursuant to his subordinate's protected request, provided what he learned about the Commission to Walker.

54. On or about May 15, 2022, Benson, Brownlee, and Walker complained again to management about the poor treatment.

55. Defendant subsequently designated an indoor area for the groundskeepers and notified Benson his crew could use a first-floor, single-occupancy restroom and adjoining foyer for lavatory and breakroom needs which they were instructed to access via a backdoor to the Whitten Road facility.

56. On or about May 16, 2022, Fairfax called Benson to a meeting where General Manager William High (High), White, was on speakerphone. At that meeting, Fairfax made it clear he and High were aware Walker requested information about filing a discrimination charge with Plaintiff.

57. Fairfax instructed Benson to dissuade Walker from contacting the Commission and make sure his subordinate did not file a charge of discrimination.

58. Fairfax, with High listening in, threatened to fire Benson if Walker called the Commission.

59. On or about May 18, 2022, Walker told Benson he called the Commission about filing a charge of discrimination.

60. Defendant suspended Benson on May 20, 2022, alleging Benson was responsible for a wrongful burial and consequent disinterment. Defendant claimed the wrongful burial occurred long before Benson's suspension but never stated exactly when it occurred.

61. Benson said the alleged wrongful burial occurred in January 2022, when Benson was on leave – not at work.

62. The alleged wrongful burial service Defendant ascribed to Benson occurred under Fairfax's supervision.

63. Benson and Brownlee both say the burial was not erroneous as the body was placed in the correct plot; consequently, there was no disinterment and thus no legal consequence for that process.

64. Defendant did not investigate the alleged negligent burial when it occurred.

65. Defendant began its investigation of the suspect burial during its investigation of Walker's discrimination complaint, when, it alleges, StoneMor unearthed the unrelated issue by happenstance.

66. Defendant began its investigation of the suspect burial on or about the same day Fairfax threatened to fire Benson if he did not keep Walker from complaining to the Commission.

67. On or about May 20, 2022, Walker complained to local management and to StoneMor's corporate human resources office, then-located in Bensalem, Pennsylvania, that the makeshift breakroom management provided was inhospitable and unhygienic as it was little more than an oft-used staff restroom foyer.

68. StoneMor subsequently designated a different interior room for the groundskeeping staff to use as a breakroom.

69. Defendant discharged Benson on May 25, 2022, for the alleged burial infraction reversing its practice of not punishing supervisors for wrongful burials which occur under someone else's supervision, which in this instance was Fairfax.

70. Defendant's investigation of the alleged wrongful burial found Fairfax and sales associate Isaiah May shared responsibility for the negligent act which seemingly required Defendant to fire Benson but not Fairfax – nor May, who only received a warning for his part in the alleged wrongful burial.

71. Similarly, StoneMor also did not discipline High, its Whitten Road facility general manager, for his role in any of the few wrongful burials Fairfax claimed are attributed to him.

72. Benson's discharge occurred two weeks after his initial complaint and about one week after Fairfax threatened to fire Benson if Walker called the Commission, and about five days after Walker formally complained to HR about racial discrimination.

73. Defendant suspended Benson and ultimately terminated his employment in retaliation for complaining about its restrictions based on race, and for not keeping Walker from formally complaining to HR or contacting the Commission about StoneMor's alleged discrimination.

74. But for Benson's complaint and his refusal to unlawfully restrict Walker's protected activity described above, StoneMor would not have discharged Benson.

75. The effect of the practices complained of above has been to deprive Benson of equal employment opportunities, and otherwise adversely affect his status as an employee because of retaliation.

76. The unlawful employment practices complained of above were intentional.

77. The unlawful employment practices complained of above were done with malice or with reckless indifference to Benson's federally protected rights.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of race, including but not limited to, fostering, or permitting a hostile work environment and retaliating against employees who engage in statutorily protected activity in the workplace.

B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for its employees regardless of race, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to make whole Louis Walker, Demarcus Benson, and Demetric Brownlee, and a class of aggrieved individuals by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including, but not limited to, interest, in amounts to be determined at trial.

D. Order Defendant to make whole Louis Walker, Demarcus Benson, and Demetric Brownlee, and a class of aggrieved individuals by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in the paragraphs above, in amounts to be determined at trial.

E. Order Defendant to make whole Louis Walker, Demarcus Benson, and Demetric Brownlee, and a class of aggrieved individuals by providing compensation for past and future

nonpecuniary losses resulting from the unlawful practices complained of in the paragraphs above, including emotional pain and suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant to pay Louis Walker, Demarcus Benson, and Demetric Brownlee, and a class of aggrieved individuals punitive damages for its malicious and reckless conduct, as described in the paragraphs above, in an amount to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest including but not limited to post-judgment interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its Complaint.

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