

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL RODRIGUEZ
82 Deep Hole Road
Drums, PA 18333
Plaintiff,

v.

Civil Action No.

NATIONAL ASSOCIATION FOR STOCK
CAR AUTO RACING, INC.
1801 W. International Speedway Blvd.
Daytona Beach, FL 32114

and

ACCESS MARKETING &
COMMUNICATIONS, LLC
327 Hillsborough Street
Raleigh, NC 17603
Defendants.

COMPLAINT

Plaintiff, Michael Rodriguez, by his undersigned counsel, brings this action seeking relief from discrimination by Defendants, National Association for Stock Car Auto Racing, Inc. ("NASCAR") and Access Marketing & Communications, LLC ("ACCESS") and makes the following allegations in support thereof:

JURISDICTION AND VENUE

1. This Court has original jurisdiction to hear this Complaint and adjudicate the claims herein stated under 42 U.S.C. § 1981, to redress and enjoin the discriminatory behavior and practices of Defendants, NASCAR and ACCESS.

2. Venue is proper in this District by reason 28 U.S.C. § 1391(b) because NASCAR and ACCESS have sufficient contacts with the Eastern District of

Pennsylvania to subject them to personal jurisdiction.

3. Plaintiff, Michael Rodriguez, is of Puerto Rican and European descent and a member of a racial minority.

4. Defendant, NASCAR, is privately owned company which oversees and sanctions automobile racing events throughout the United States with a principal place of business in Daytona Beach, Florida.

5. Defendant, ACCESS, is a privately owned company organized and existing in Raleigh, North Carolina which, in conjunction with NASCAR, developed and implemented a racing program geared towards minority participants around the United States, including the Philadelphia and surrounding area.

PLAINTIFF'S ALLEGATIONS

6. NASCAR and ACCESS developed a program called Drive for Diversity (the "Program") designed to provide opportunities for female and minority drivers in the sport of automobile racing. A copy of an article posted on NASCAR.com regarding its Drive for Diversity initiative is attached hereto as Exhibit "A".

7. The Program was created to diversify NASCAR's participant and audience base and has been continually growing since its inception in 2004.

8. The Program serves as a way to develop driving and pit crew skills for young participants from multicultural backgrounds.

9. NASCAR oversees and funds the Program, however, ACCESS runs its daily operations.

10. As part of the Program, NASCAR and ACCESS select minority drivers from around the United States to compete at an event where several races take place

("the Combine") to qualify for driving contracts and sponsorship.

11. The Combine is a two day event where one day is spent evaluating the driving ability of the participants and one day is spent training participants for marketing and media exposure.

12. The ages of the participants of the Combine vary from fifteen (15) years of age to thirty (30) years of age.

13. The Combine is attended by several major professional racing teams which evaluate the talent of the participants for possible driving contracts and sponsorship.

14. If placed under contract, participants earn in excess of \$50,000.00 for the racing season and the exposure can launch a young participant's racing career.

15. In the summer of 2005, Plaintiff submitted his resume to ACCESS for consideration to the Combine. A copy of Plaintiffs Racing Resume is attached hereto as Exhibit "B".

16. The resumes of the applicants are reviewed by NASCAR's selection committee (the "Committee") which chooses the drivers that will be invited to race at the Combine.

17. Plaintiff was the only driver chosen by the Committee by unanimous first round vote to race at the Combine.

18. In the fall of 2005, Plaintiff was invited to compete at the Combine which took place at the South Boston Speedway in Virginia.

19. Although Plaintiff is of Puerto Rican and European descent, he has blue eyes and fair skin.

20. The Combine was run by employees of ACCESS and NASCAR, the majority of whom were of African American descent.

21. Although invited to compete at the Combine, this was the first time that Plaintiff met with NASCAR and ACCESS personnel.

22. While attending a meeting with NASCAR and ACCESS personnel, several derogatory comments were made to Plaintiff based on Plaintiff's racially identifiable characteristics.

23. The comments were intended to make Plaintiff feel unwelcome because of his racially identifiable characteristics.

24. Approximately twenty (20) minutes before Plaintiff was to drive at the Combine, Plaintiff inadvertently struck his head on a safety bar and asked NASCAR and/or ACCESS personnel for aspirin.

25. Plaintiff was evaluated by an EMT and/or medical doctor and cleared to test drive.

26. Even though he had been cleared to drive by an EMT and/or medical doctor, NASCAR and ACCESS personnel refused to allow him to participate in the Combine.

27. During a subsequent meeting involving ACCESS and NASCAR, the comment was made that Plaintiff was "the poster boy for the Ku Klux Klan."

28. The following year, Plaintiff again submitted his resume to drive in the 2006 Combine.

29. Although Plaintiff once again had a unanimous vote by the Committee at NASCAR, he was not chosen to compete.

30. During a meeting where drivers were chosen by NASCAR and ACCESS to compete at the 2006 Combine, an employee of NASCAR and/or ACCESS placed a picture of Plaintiff on an overhead projector and stated "he is the poster boy for the Ku Klux Klan and we can't have him at the Combine."

31. Plaintiff was not invited to compete at the 2006 Combine, even though other drivers of African American descent with no automobile racing experience were invited to compete.

32. In 2007, Plaintiff once again submitted his resume and was not selected to compete at the Combine.

33. Plaintiff has not been given an explanation as to why he was not selected to compete at the Combine, even though he is the most qualified and experienced driver compared to all other persons invited to compete at the Combine.

34. Plaintiff was not chosen because Defendants believe that Plaintiff's racially identifiable characteristics appear too Caucasian and do not fit Defendants' stereotyped and preconceived notion of how Plaintiff should look.

35. Plaintiff was discriminated against by NASCAR and ACCESS based on his racially identifiable characteristics in violation of 42 U.S.C. § 1981.

36. Defendants' conduct described above was intentional, deliberate, and willful and in callous disregard for Plaintiff's rights.

37. The acts alleged above have continued for several years and constitute a continuing violation of 42 U.S.C. § 1981.

38. Plaintiff demands a trial by jury in all issues and an award for prejudgment interest, attorneys' fees, costs, expenses and whatever other equitable relief that the

Court deems proper.

COUNT I
CLAIMS FOR RELIEF UNDER
THE CIVIL RIGHTS ACT OF 1866, 42 U.S.C. § 1981

39. Plaintiff incorporates paragraphs 1 through 37, inclusive, as though set forth herein at length.

40. Defendants NASCAR and ACCESS have discriminated against Plaintiff by denying him the same rights enjoyed by other minority participants in the Drive for Diversity event based on Plaintiffs racially identifiable characteristics to Plaintiffs detriment in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981, as amended.

41. Defendants' conduct has been intentional, deliberate, willful and conducted in callous disregard of the rights of Plaintiff.

42. Because of Defendants' discrimination, Plaintiff is entitled to all legal and equitable remedies available under Section 1981, including but not limited to damages for loss of earnings, mental anguish and punitive damages.

JURY DEMAND

43. Plaintiff demands a trial by jury on the claims asserted herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Michael Rodriguez, respectfully prays that the Court:

a. Adjudge, decree and declare that the actions of NASCAR and ACCESS complained of herein violated Plaintiff's civil rights;

b. Enter judgment in Plaintiff's favor and against Defendants for all legal and equitable relief available under 42 U.S.C. § 1981, including, but not limited to, monetary damages, interest, fringe benefits, past and future mental anguish and emotional

distress, and other compensatory damages in amounts to be determined at trial;

c. Order NASCAR and ACCESS to pay punitive damages to Plaintiff in an amount to be determined at trial under 42 U.S.C. § 1981;

d. Order NASCAR and ACCESS to pay his attorneys' fees, costs, expenses, disbursements, and expert witness fees under 42 U.S.C. § 1981a and 42 U.S.C. § 1988; and

e. Grant such other and further legal and equitable relief as may be found appropriate and as the Court may deem just or equitable.

Date: 1/14/10



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