

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

CRAIG JACKSON : **Case No. 1:17cv632**
661 Speigle Street :
Hillsboro, OH 45133 : **Judge**
 :
vs. :
 :
CITY OF HILLSBORO, OHIO :
130 North High Street :
Hillsboro, OH 45133 :
 :
and :
 :
DREW HASTINGS :
c/o City of Hillsboro :
130 North High Street :
Hillsboro, OH 45133 :
 :

VERIFIED COMPLAINT AND JURY DEMAND

Plaintiff Craig Jackson, for his Complaint against the City of Hillsboro, Ohio and Drew Hastings, states as follows:

I. PRELIMINARY STATEMENT

1. This is a civil rights and an employment discrimination action brought by Craig Jackson, an African American, who is currently an employee of the City of Hillsboro, Ohio.
2. Mr. Jackson has brought this action to vindicate his constitutional and federal statutory rights to be free from a racially hostile work environment created and maintained by the City of Hillsboro, Ohio and by its Mayor Drew Hastings, and to be free of retaliation by the City and Mr. Hastings in response to Mr. Jackson's

statements as a citizen and as an employee protesting racial discrimination against him and other African American employees.

3. Mr. Jackson brings this action to remedy violations of First, Fourth, and Fourteenth Amendments of the United States Constitution, pursuant to 42 U.S.C. § 1983; Title VII of the Civil Rights Act of 1964; and the Americans with Disabilities Act.
4. Mr. Jackson seeks relief in the form of an injunction prohibiting the City of Hillsboro from conditioning his employment upon the results of an involuntary medical examination and an award of compensatory damages for his emotional pain and suffering, punitive damages against Mr. Hastings, reimbursement for his reasonable attorney's fees and costs associated with prosecution of this matter, and all other forms of relief, in law or in equity, to which he is entitled under premises.

II. JURISDICTION

5. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1343 and 42 U.S.C. § 1983.
6. Venue in this Court is appropriate because the actions out of which these claims arose occurred within the Southern District of Ohio.

III. ADMINISTRATIVE HISTORY

7. On or about February 9, 2016, Mr. Jackson filed a Charge of Discrimination (#473-2016-00401) with the Equal Opportunity Commission ("EEOC") on the grounds that he has been subjected to discrimination on account of his race and retaliation for complaining to the City about inappropriate and discriminatory comments by Mr. Lewis.

8. On or about July 13, 2017, Mr. Jackson received a Notice of Suit Rights from the EEOC.
9. Mr. Jackson is filing this action within 90 days of his receipt of the aforementioned in compliance with 42 USC § 2000e-5 et seq.

IV. PARTIES

10. Plaintiff, Craig Jackson, is an African American and a citizen of the United States who resides in Hillsboro, Ohio.
11. Defendant, City of Hillsboro, Ohio (the City) is a political subdivision of the state of Ohio located in Highland County, Ohio.
12. Defendant, Drew Hastings (“Mr. Hastings”) is and at all times pertinent has been the duly elected Mayor of the City. Mr. Hastings is being sued in his individual and official capacities.

V. STATEMENT OF THE CASE

Hostile Work Environment

13. Mr. Jackson has been an employed by the City in its Public Works Department since 2003. To the best of Mr. Jackson’s information and belief, he is one of two African Americans employed by the City. The entire administration of the City, including its Mayor, Drew Hastings, is Caucasian.
14. In December 2015, Mayor Drew Hastings began publicly making racially-charged social media posts referring to a race war in the United States. In one such post, he stated:

When are people going to figure out that we are in a Revolution in this Country. Blacks have all but formally declared war on whites, ideological types are fighting with Planned Parenthood, there’s violence over immigration, Muslim extremism, and our own Government as war with it’s citizens.

This isn't "lone wolf" stuff. It isn't a crazy with a gun. It isn't "domestic terrorism", these are all skirmishes in a Revolution that's here.

Pick your side and pick your battles, We are about 3 steps away from All bets are off.

15. Some members of the overwhelmingly Caucasian community seemingly acted on the Mayor's incitement. In the ensuing weeks and months, Mr. Jackson faced horrific discrimination. He was called a nigger by passing drivers when he was out in the community. One passing driver threatened to hang him.
16. Randy Barr, then the City's Assistant Safety Services Director, called Mr. Jackson a nigger and said, in Mr. Jackson's presence, that he "went into the bathroom and shit out a turd that looks like Craig." On another occasion, when Mr. Jackson's supervisor, who was set to retire, recommended Mr. Jackson to take over as supervisor in the street department, Mr. Barr said that Mr. Jackson was not the right color for the job.
17. Following these incidents, Mr. Jackson attended a meeting of Hillsboro's City Council and complained about Mayor Hastings's racially-charged remarks and explained that, as a result of those remarks, he was facing racial hostility from the community and from others within the City. He was subsequently quoted in the Highland County Press as one of several members of Hillsboro's black community who called on Mayor Hastings to resign as a result of the comments.
18. Mr. Jackson also filed a Charge of Discrimination with the EEOC in February 2016. As the EEOC was concluding its investigation, the EEOC facilitated settlement discussions. In late June 2017, the City of Hillsboro offered Mr. Jackson \$2,500 to resolve his claims.
19. In late July 2017, Mr. Jackson declined the settlement offer.

20. Mr. Jackson suffers from several disabilities. He underwent bypass surgery in April 2016, he has some back problems, and he suffers from diabetes and diabetic nerve pain. Despite these disabilities, Mr. Jackson has continued to work without restrictions, and his treating physicians have certified that he can work without restrictions.
21. On August 24, 2017, while on the job, Mr. Jackson suffered a flare up of his diabetic nerve pain in his foot, and he requested to leave approximately one hour early. His request was granted. But later that evening, Mr. Jackson's supervisor, Sean Atkins, called Mr. Jackson at home and informed him that he would not be permitted to return to work because he posed a health and safety risk and because he was a liability to himself and to the City.
22. The next day, August 25, the City sent Mr. Jackson a letter, issued by the office of Mayor Hastings, stating that he was being scheduled for a medical examination with Dr. Ronald Bloomfield, and gave him a choice of days to attend. The letter also commanded him to bring "all medical records pertaining to your condition(s) to your appointment." The letter did not, however, identify the reason he was being required to undergo a medical examination, nor did it identify the condition or conditions that prompted the examination. He informed the City that he would attend the medical examination on September 20, the last offered date, so that he could gather his medical records and evaluate the City's request.
23. On September 1, 2017, the City sent Mr. Jackson another letter, again issued by the office of Mayor Hastings, changing the date of the medical examination with Dr. Bloomfield to September 6, 2017 without explanation. Mr. Jackson protested the change.

24. On September 13, 2017, the City sent Mr. Jackson yet another letter scheduling him for a medical examination, this time on September 22, 2017 with a different physician, Dr. James Sardo. The letter also demanded that he sign a medical release granting the City of Hillsboro and Dr. Sardo unlimited access to Mr. Jackson's complete medical history.
25. Mr. Jackson believes that the City's motive for removing him from his position and requiring him to undergo a medical examination is retaliation for opposing what he reasonably and in good faith believed to be race discrimination, for exercising his right to freedom of speech under the First Amendment, and for rejecting the City's offer of settlement in July 2017.

VI. STATEMENT OF CLAIMS

Count One – Race Discrimination (42 U.S.C. § 2000e-2 and Ohio Rev. Code § 4112)

26. Mr. Jackson repeats the allegations of paragraphs 1-25 as if rewritten herein.
27. Mr. Jackson is an African-American male employed by the City of Hillsboro.
28. The City of Hillsboro, including the mayor and supervisors, has created a hostile working environment for Mr. Jackson on account of his race.
29. The working environment is objectively and subjectively hostile.
30. Mr. Jackson has reported the hostile work environment, and the City of Hillsboro has failed to take appropriate remedial action.
31. As a result of the City of Hillsboro's actions, Mr. Jackson has suffered damages.

Count Two – Retaliation (42 U.S.C. § 2000e-3 and Ohio Rev. Code § 4112)

32. Mr. Jackson repeats the allegations of paragraphs 1-31 as if rewritten herein.
33. Mr. Jackson has complained about a racially-hostile working environment.

34. The City of Hillsboro has retaliated against Mr. Jackson, including by removing him from work and requiring him to undergo an unjustified medical examination.

35. As a result of the City of Hillsboro's actions, Mr. Jackson has suffered damages.

Count Three – Violation of Fourth Amendment (42 U.S.C. § 1983)

36. Mr. Jackson repeats the allegations of paragraphs 1-35 as if rewritten herein.

37. The City of Hillsboro and Drew Hastings are requiring Mr. Jackson to undergo a medical examination as a condition of his continued employment.

38. The City of Hillsboro and Drew Hastings have no reasonable justification to require Mr. Jackson to undergo a medical examination.

39. The City of Hillsboro and Drew Hastings are violating Mr. Jackson's reasonable expectation of privacy.

Count Four – Americans with Disabilities Act (42 U.S.C. § 12112)

40. Mr. Jackson repeats the allegations of paragraphs 1-39 as if rewritten herein.

41. The City of Hillsboro is requiring Mr. Jackson to undergo a medical examination as a condition of his continued employment.

42. The City of Hillsboro has not, and cannot, demonstrate that the required medical examination is job related and consistent with a business necessity.

43. The City of Hillsboro is violating Mr. Jackson's reasonable expectation of privacy.

Count Five – First Amendment (42 U.S.C. § 1983)

44. Mr. Jackson repeats the allegations of paragraphs 1-43 as if rewritten herein.

45. Mr. Jackson exercised his right to free speech when he complained about a racially-hostile working environment in a public forum.

46. The City of Hillsboro and Drew Hastings have retaliated against Mr. Jackson, including by removing him from work and requiring to undergo an unjustified medical examination.
47. As a result of the City of Hillsboro's Drew Hastings's actions, Mr. Jackson has suffered damages.

Count Six – Equal Protection (42 U.S.C. 1983)

48. Mr. Jackson repeats the allegations of paragraphs 1-47 as if rewritten herein.
49. Mr. Jackson is an African-American male employed by the City of Hillsboro.
50. The City of Hillsboro and Drew Hastings have created a hostile working environment for Mr. Jackson on account of his race.
51. The City of Hillsboro and Drew Hastings have retaliated against Mr. Jackson for opposing race discrimination.
52. As a result of the City of Hillsboro's and Drew Hastings's actions, Mr. Jackson has suffered damages.

PRAYER FOR RELIEF

Wherefore Plaintiff Craig Jackson demands judgment against Defendants, the City of Hillsboro and Drew Hastings, jointly and severally, as follows:

- a. A judgment for compensatory damages for Mr. Jackson's economic injuries in an amount to be determined at trial.
- b. A judgment for compensatory damages for Mr. Jackson's non-economic injuries in an amount to be determined at trial.
- d. A judgment against Drew Hastings for punitive damages in an amount to be determined at trial.

- e. A judgment for an award of Mr. Jackson's reasonable attorney fees and costs in this matter;
- f. Injunctive relief preventing the City of Hillsboro and Drew Hastings from continuing to require Mr. Jackson to undergo a medical examination; and
- g. An award for such other relief, in law or in equity, which is appropriate under the premises.

Respectfully submitted,

MEZIBOV BUTLER

/s/Marc D. Mezibov

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JURY DEMAND

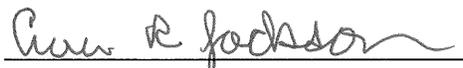
Plaintiff Craig Jackson demands a jury trial to resolve all issues of fact related to his Complaint.

/s/Marc D. Mezibov

Marc D. Mezibov (Ohio No. 0019316)

VERIFICATION

I verify that the facts contained in the foregoing complaint are true and accurate to the best of my knowledge and belief.

A handwritten signature in cursive script that reads "Craig Jackson". The signature is written in black ink and is positioned above a horizontal line.

Craig Jackson