

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

ALDOUPHUS GUICE,

Plaintiff,

Civil Action No.

-against-

POZIN ENTERPRISES, INC., d/b/a
SUN-GLO PLATING CO.;

Defendant.

COMPLAINT FOR DAMAGES AND JURY DEMAND

Plaintiff, ALDOUPHUS GUICE (hereinafter referred to as “Plaintiff” and/or “GUICE”), as and for his complaint against the above Defendant respectfully alleges upon information and belief as follows:

NATURE OF THE CASE

1. This action is brought under 42 U.S.C. § 1981; Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. (Title VII); and the Florida Civil Rights Act §760.01, et seq., Florida Statutes (FCRA); to redress unlawful employment practices toward Plaintiff, including but not limited to discrimination based on race.

JURISDICTION AND VENUE

2. This court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question) and 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. (Title VII).
3. Venue is proper in this district based upon the fact that Defendants own and operate their business within the Middle District of Florida. Additionally, the events and actions giving rise to this Complaint took place within Saint Petersburg, Florida, in the Middle District

of Florida.

4. Additionally, venue is proper under 28 U.S.C. § 1391 (b)(2) because all or a substantial part of the events giving rise to this cause occurred in this district.

PARTIES

5. Plaintiff is a citizen of the State of Florida. Plaintiff resides in Saint Petersburg, Florida.
6. At all times material, Defendant POZIN ENTERPRISES, INC. (herein after also referred to as “POZIN ENTERPRISES”) was and is a Florida Profit Corporation duly organized and existing under the laws of the State of Florida and authorized to conduct business in the State of Florida.
7. At all times material, Andrew Pozin (hereinafter referred to as “Defendant” or “POZIN”) is a Director and the Title President, Treasurer, and Secretary of POZIN ENTERPRISES.
8. On March 3, 2019, Plaintiff filed charges with the Equal Employment Opportunity Commission (“EEOC”) against Defendant POZIN ENTERPRISES as set forth herein.
9. On October 17, 2019, the EEOC issued Plaintiff a Right to Sue Letter.
10. This action is being commenced within ninety (90) days of receipt of the EEOC Right to Sue Letter.
11. Plaintiff is an individual African- American male residing in the State of Florida, Pinellas County in the State of Florida.
12. Defendant POZIN ENTERPRISES was, and still is, a business entity authorized to do business in the State of Florida.
13. POZIN ENTERPRISES does business under the name “Sun Glo Plating Corporation”.

MATERIAL FACTS

14. In or around August 2011, Plaintiff initially began working for Defendant. Plaintiff was initially hired for the Part/Product Mechanical Inspector position.

15. In May 2015, Plaintiff was promoted to the Quality Manager position at POZIN ENTERPRISES. Despite the promotion and additional responsibilities that came with it, Plaintiff received no raise. Plaintiff made numerous requests for a raise, but they were to no avail.
16. In November 2016, Plaintiff voluntarily resigned from POZIN ENTERPRISES and moved to Orlando, Florida, to accept a job with Trulite Glass & Aluminum Solutions, LLC (hereinafter referred to as “Trulite”).
17. Approximately six (6) months after commencing his work with Trulite, Plaintiff was already promoted to Department Supervisor.
18. Shortly after his promotion at Trulite, in late June 2017, Plaintiff was contacted by POZIN with an offer to return to work for POZIN ENTERPRISES. The written offer promised a \$90,000 annual salary, multiple benefits, and potential ownership/ partnership interest in the company.
19. Plaintiff met with POZIN and his wife to discuss his potential acceptance of their offer to re-join POZIN ENTERPRISES. During that meeting, POZIN offered the position of General Manager with ownership interest to Plaintiff.
20. At all times relevant, the General Manager position did not include physical labor.
21. On or about July 26, 2018, Plaintiff officially accepted Defendant’s offer and re-joined POZIN ENTERPRISES.
22. Plaintiff’s work as part of the POZIN ENTERPRISES team lead to growth in the company. By way of example, on or about August 14, 2018, Plaintiff presented a successful presentation to the Vice President of General Electric that resulted in approximately \$10 million in business for POZIN ENTERPRISES.
23. POZIN previously promised Plaintiff that he would be able to hire/ fire someone to perform the duties of Quality Manager so that Plaintiff would only need to do the job of

General Manager. However, months passed, and POZIN refused to hire additional employees to handle the duties outside of Plaintiff's job description.

24. Instead, POZIN required Plaintiff to perform production labor duties on a daily basis.

None of the other employees who held managerial roles were requested to perform labor duties.

25. Throughout Plaintiff's employment, Plaintiff worked long days, six to seven days a week, to complete the multiple jobs that POZIN ENTERPRISES directed him to complete.

26. On or about July 6, 2018, prior to the commencement of Plaintiff's employment, Defendant POZIN ENTERPRISES, the company provided Plaintiff with remote log-in access.

27. Plaintiff worked from home with the remote log-in access provided by POZIN ENTERPRISES. POZIN e-mailed with Plaintiff on Plaintiff's personal e-mail account.

28. At all times relevant, POZIN held a supervisory position over Plaintiff. In fact, POZIN was Plaintiff's direct supervisor who Plaintiff was to report to.

29. At all times relevant, POZIN had the power to hire or terminate Plaintiff within his discretion.

30. In late September 2018, Plaintiff was contacted by the attorney for POZIN ENTERPRISES who requested he execute an affidavit in support of POZIN ENTERPRISES relating to another employee's EEOC complaint. Plaintiff, believing the affidavit to be false, refused to sign.

31. Throughout his course of employment, Plaintiff was taunted and harassed by people he supervised. By way of example, those employees would say "NIGGER" under their breath as they left Plaintiff's office.

32. When Plaintiff complained about the inappropriate and racially motivated behavior, POZIN responded: "YOU SHOULD BE HAPPY YOU HAVE A GOOD PAYING JOB."

IT'S NOT THAT LONG AGO THAT YOUR PEOPLE WERE BEING HUNG IN THE STREETS.”

33. Plaintiff's further attempts to speak to POZIN about the illegal, discriminatory and derogatory were met with hostility.
34. On or about March 3, 2019, Plaintiff filed jointly with the EEOC and the Florida Commission on Human Relations.
35. On or about September 23, 2018, Plaintiff contacted legal counsel for POZIN ENTERPRISES, and a manager (“Patti”) from the Human Resources Department at POZIN ENTERPRISES and provided them with a copy of the EEOC complaint.
36. On or about October 5, 2018, shortly after providing notice of the EEOC complaint to POZIN ENTERPRISES, Plaintiff was unlawfully and wrongfully terminated.
37. Plaintiff was never counseled about his job performance.
38. In terminating Plaintiff, Defendants unlawfully and wrongfully retaliated against Plaintiff because of his race as well as for his continued complaints of discrimination and a hostile work environment.
39. Defendants claimed that Plaintiff was being terminated, in part, for using his personal e-mail address to conduct work business, despite Plaintiff's supervisor sending Plaintiff electronic messages to Plaintiff's personal e-mail address. It was not until Plaintiff objected to his co-workers' racially motivated, unlawful comments, and Plaintiff filed with the EEOC that he was terminated.
40. At all times relevant, Plaintiff claims a continuous practice of discriminatory treatment and a hostile work environment.
41. The above are just some examples of the discrimination and retaliation to which Defendants subjected Plaintiff.

42. Defendants exhibited a pattern and practice of not only racial discrimination but also retaliation.
43. At all times material, Defendants' supervisors and management acted with deliberate indifference to the discriminatory treatment and hostile work environment and retaliation.
44. As a result of Defendants' continued harassment of Plaintiff, he suffered numerous injuries including economic and emotional damages.
45. As a result of Defendants' actions, Plaintiff felt extremely humiliated, degraded, victimized, embarrassed, and emotionally distressed.
46. Plaintiff had to be hospitalized several times for mental health and physical ailments as a result of the extreme emotional distress caused by Defendants' actions.
47. As a result of the acts and conduct complained of herein, Plaintiff has suffered and will continue to suffer the loss of income, the loss of a salary, bonuses, benefits and other compensation which such employment entails, and Plaintiff has also suffered future pecuniary losses, emotional pain, suffering, inconvenience, loss of enjoyment of life, and other non-pecuniary losses.
48. As Defendants' conduct has been malicious, reckless, willful, outrageous, and conducted with full knowledge of the law.

AS A FIRST CAUSE OF ACTION
FOR DISCRIMINATION UNDER TITLE VII

49. Plaintiff repeats and re-alleges each and every allegation made in the above paragraphs of this complaint.
50. Title VII states in relevant parts as follows: § 2000e-2. [Section 703](a):

“Employer practices: It shall be an unlawful employment practice for an employer –
(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms,

conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.”

51. Defendants engaged in unlawful employment practices prohibited by 42 U.S.C. §2000e et seq., by discriminating against Plaintiff because of his race.
52. Defendants' employees referred to Plaintiff as a “NIGGER.”
53. On one specific occasion, Defendant said to Plaintiff, “YOU SHOULD BE HAPPY YOU HAVE A GOOD PAYING JOB. IT'S NOT THAT LONG AGO THAT YOUR PEOPLE WERE BEING HUNG IN THE STREETS.”
54. At all relevant times, Defendant subjected Plaintiff to discriminatory comments and conducts based on his race.
55. The discriminatory conduct directed at Plaintiff was sufficiently severe and pervasive so as to unreasonably interfere with Plaintiff's physical and/or psychological health, work performance and to create and intimidating, hostile and offensive working environment.
56. As a direct and proximate result of Defendants' intentional discriminatory conduct in violation of the Title VII, Plaintiff suffered and will continue to suffer damages including lost wages and benefits, severe emotional distress, mental anguish, suffering, loss of dignity, humiliation, embarrassment, loss of reputation, and other pecuniary and non-pecuniary losses.
57. Defendants' actions were knowing, intentional, willful, malicious, and in reckless disregard of Plaintiff's rights under the Title VII.
58. Conduct of Defendants and/or its agents deprived Plaintiff of his statutory rights guaranteed under federal law.
59. Plaintiff has been damaged by the illegal conduct of Defendants.

**AS A SECOND CAUSE OF ACTION FOR
RETALIATION UNDER TITLE VII**

60. Plaintiff repeats and re-alleges each and every allegation made in the above paragraphs of this complaint.
61. Plaintiff engaged in protected activity when he complained about the discriminatory comments and conduct. As a result of his complaints, Defendants terminated Plaintiff's employment.
62. Specifically, Defendants claimed that Plaintiff was being terminated, in part, for using his personal e-mail to conduct work business. However, this reason was pre-textual, as Plaintiff's supervisor received and sent e-mails to Plaintiff's personal e-mail address. It was not until Plaintiff objected to his co-workers' racially motivated, unlawful comments, and Plaintiff filed his charge with the EEOC that he was terminated.
63. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-3(a) provides that it shall be unlawful employment practice for an employer:
- “(1) to ... discriminate against any of their employees ... because [s]he has opposed any practice made an unlawful employment practice by this subchapter, or because [s]he has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this subchapter.”
64. Defendants engaged in unlawful employment practice prohibited by 42 U.S.C. §2000e *et seq.* by retaliating against Plaintiff with respect to the terms, conditions or privileges of employment because she opposed Defendants' unlawful employment practices.

**AS A THIRD CAUSE OF ACTION FOR
HOSTILE WORK ENVIRONMENT UNDER TITLE VII**

65. Plaintiff realleges and adopts, as if fully set forth herein, the allegations stated in the above numerated paragraphs.

66. The Civil Right Act of 1964 prohibits inappropriate conduct in the workplace which leaves any person feeling harassed or discriminated against, due to his or her race, religion, age or national origin.
67. At all relevant times, Defendants' and their employees subjected Plaintiff to a hostile work environment.
68. At all relevant times, the harassing conduct was directly related to Plaintiff's race.
69. At all relevant times, Defendants' employees referred to Plaintiff as a "NIGGER."
70. At all relevant times, Defendants' discriminatory comments and conduct was unwelcomed by Plaintiff.
71. POZIN had supervisory authority to control Plaintiff's work environment. Defendant's abused that authority by creating a hostile work environment. A reasonable person subjected to similar working environment would believe Defendants' conduct was so severe and pervasive enough to have altered the terms and conditions of employment and render the working environment intimidating, hostile and abusive.

**AS A FOURTH CAUSE OF ACTION FOR
DISCRIMINATION UNDER 1981**

72. Plaintiff realleges and adopts, as if fully set forth herein, the allegations stated in the above numerated paragraphs.
73. This an action for discrimination and harassment because of race under section 1981.
74. Defendants and their employees referred to Plaintiff as a "NIGGER."
75. POZIN told Plaintiff, "YOU SHOULD BE HAPPY YOU HAVE A GOOD PAYING JOB. IT'S NOT THAT LONG AGO THAT YOUR PEOPLE WERE BEING HUNG IN THE STREETS."

76. Defendants constantly enforced a purposefully discriminatory pattern and practice of depriving African-Americans of the equal rights described therein, in further violation of 1981.

77. As alleged above, Defendants acted with malice or reckless indifference to the rights of Plaintiff, thereby entitling Plaintiff to an award of punitive damages.

78. Defendants violated the above and Plaintiff suffered numerous damages as a result.

**AS A FIFTH CAUSE OF ACTION FOR
HOSTILE WORK ENVIRONMENT UNDER 1981**

79. Plaintiff realleges and adopts, as if fully set forth herein, the allegations stated in the above enumerated paragraphs.

80. 1981 prohibits inappropriate conduct in the workplace which leaves any person feeling harassed or discriminated against, due to his or her race, religion, age or national origin.

81. At all relevant times, Defendants' and their employees subjected Plaintiff to a hostile work environment.

82. At all relevant times, the harassing conduct was directly related to Plaintiff's race.

83. At all relevant times, Defendants' employees referred to Plaintiff as a "NIGGER."

84. At all relevant times, Defendants' discriminatory comments and conduct was unwelcomed by Plaintiff.

85. POZIN had supervisory authority to control Plaintiff's work environment. Defendant's abused that authority by creating a hostile work environment. A reasonable person subjected to similar working environment would believe Defendants' conduct was so severe and pervasive enough to have altered the terms and conditions of employment and render the working environment intimidating, hostile and abusive.

86. As a result of the hostile work environment, Plaintiff suffered a "tangible employment action" defined as a significant change in employment status, failure to promote,

reassignment with significantly different responsibilities, and/or a decision causing significant change to employment benefits.

87. Defendants failed to exercise reasonable care to prevent racial harassment in the work place by failing to establish an explicit policy against harassment in the workplace on the basis of race, failing to communicate the policy to employees and/or failing to provide a reasonable way for Plaintiff to make a claim of harassment to upper management and failing to take reasonable steps to promptly correct the harassing behavior raised by Plaintiff.

88. As a result of Defendants' violation of 1981, Plaintiff has suffered and continue to suffer damages, including but not limited to past and future wages, mental pain and suffering, humiliation, emotional distress, diminishment of career opportunities, and harm to business reputation.

**AS A SIXTH CAUSE OF ACTION FOR
RETALIATION UNDER 1981**

89. Plaintiff realleges and adopts, as if fully set forth herein, the allegations stated in the above numerated paragraphs.

90. Plaintiff engaged in protected activity when he complained about the discriminatory comments and conduct. As a result of his complaints, Defendants terminated Plaintiff's employment.

91. Specifically, Defendants claimed that Plaintiff was being terminated, in part, for using his personal e-mail to conduct work business. However, this reason was pre-textual, as Plaintiff's supervisor received and sent e-mails to Plaintiff's personal e-mail address. It was not until Plaintiff objected to his co-workers' racially motivated, unlawful comments, and Plaintiff filed his charge with the EEOC that he was terminated.

92. As a result of Defendants' violation of 1981, Plaintiff has suffered and continue to suffer damages, including but not limited to past and future wages, mental pain and suffering, humiliation, emotional distress, diminishment of career opportunities, and harm to business reputation.

**AS A SEVENTH CAUSE OF ACTION FOR
DISCRIMINATION UNDER FCRA**

93. Plaintiff realleges and adopts, as if fully set forth herein, the allegations stated in the above numerated paragraphs.

94. As a result of his race/ national origin, Defendants subjected and permitted its employees to expose Plaintiff to discrimination and unlawful discharge.

95. The FCRA prohibits Defendant Company from discriminating against Plaintiff because of his race/ national origin with regard to discharge, employee compensation, and other terms, conditions, and privileges of employment.

96. On a consistent basis throughout the course of his employment, Plaintiff's coworkers and supervisors made discriminatory comments about Plaintiff pertaining to his race/ national origin.

97. Defendants violated the FCRA by discriminating against Plaintiff and subjecting Plaintiff to an unlawful discriminatory and harassing environment based his race/ national origin, of which the Defendants were fully aware of as Plaintiff made Defendants aware of this conduct.

98. The discrimination directed at Plaintiff was sufficiently severe and pervasive so as to unreasonably interfere with Plaintiff's physical and/or psychological health, work performance and to create and intimidating, hostile and offensive working environment.

99. As a direct and proximate result of Defendants' intentional discriminatory conduct in violation of the FCRA, Plaintiff suffered and will continue to suffer damages including lost wages and benefits, severe emotional distress, mental anguish, suffering, loss of dignity, humiliation, embarrassment, loss of reputation, and other pecuniary and non-pecuniary losses.

100. Defendants' actions were knowing, intentional, willful, malicious, and in reckless disregard of Plaintiff's rights under the FCRA.

101. Conduct of Defendants and/or their agents deprived Plaintiff of his statutory rights guaranteed under state law.

102. Plaintiff has been damaged by the illegal conduct of Defendants.

**AS AN EIGHTH CAUSE OF ACTION FOR
RETALIATION UNDER FCRA**

103. Plaintiff realleges and adopts, as if fully set forth herein, the allegations stated in the above numerated paragraphs.

104. On or about October 5, 2018, without notice, Defendants wrongfully and unlawfully terminated Plaintiff. Defendants terminated Plaintiff because of his objection to the comments made by his coworkers and supervisor, and in retaliation for his filing complaints with the EEOC due to her objections to that unlawful behavior.

105. The termination occurred mere weeks after Plaintiff filed with the EEOC.

106. At all times relevant, Plaintiff acted in good faith and with the objective and subjective belief that violations by Defendants' employees of FCRA had occurred.

107. At all times material, Defendants allowed the discriminatory practices to continue in the work environment.

108. At all times relevant, the unlawful discrimination by Defendants' employees against Plaintiff in the terms and conditions of her employment because she opposed a practice made unlawful by FCRA which would not have occurred but for that opposition.

109. Defendants engaged in unlawful employment practice prohibited by the FCRA by retaliating against Plaintiff with respect to the terms, conditions or privileges of employment because of her opposition to the unlawful employment practices of Defendants.
110. At all times relevant, Defendants' employees acted intentionally and with reckless disregard of Plaintiff's rights protected by FCRA.
111. At all material times, the employer exhibiting discriminatory conduct against Plaintiff possessed the authority to affect the terms, conditions and privileges of Plaintiff's employment with Defendants.
112. As a direct and proximate result of Defendants' intentional retaliatory conduct in violation of the FCRA, Plaintiff suffered and will continue to suffer damages including lost wages and benefits, severe emotional distress, mental anguish, suffering, loss of dignity, humiliation, embarrassment, loss of reputation, and other pecuniary and non-pecuniary losses.
113. Defendants' actions were knowing, intentional, willful, malicious, and in reckless disregard of Plaintiff's rights under the FCRA.
114. Conduct of Defendants and/or its agents deprived Plaintiff of her statutory rights guaranteed under federal law.
115. Plaintiff has been damaged by the illegal conduct of Defendants.

JURY DEMAND

Plaintiff requests a jury trial on all issues to be tried.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants in an amount to be determined at the time of trial plus interest, including, but not limited to, all emotional

distress, back pay and front pay, liquidated damages, statutory damages, attorneys' fees, costs, and disbursements of action; and for such other relief as the Court deems just and proper.

Dated: January 15, 2020
Miami, Florida

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