

2. At all times pertinent, Plaintiffs' employer, pursuant to Title VII of the Civil Rights Act of 1964 (as amended), 42 U.S.C. sec 2000e-16 (et. seq), is the Cincinnati Field Office of the Federal Air Marshal Service, a division of TSA, under DHS, Janet Napolitano, Secretary.

JURISDICTION AND VENUE

3. This Court has original Jurisdiction in this action pursuant to 28 U.S.C. Sections 1331 and 1343 and 42 U.S.C. Section 2000e-5 and e-16, inasmuch as the matter in controversy is brought pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e et seq. and the regulations governing federal employees, 29 USC 621, seq., 29 C.F.R. §1614.407. This District possesses venue of this matter pursuant to 42 U.S.C. Section 2000e-5(f). The jurisdiction of this Court is invoked to secure protection and redress deprivation of rights guaranteed by federal law, which rights provide for injunctive relief and other relief for illegal employment discrimination. The amount in controversy in this action exceeds the jurisdictional limits of this Court.

4. Plaintiff filed an informal Equal Employment Opportunity ("EEO") complaint via certified mail on March 27, 2009 with the TSA Office of Civil Rights alleging violations of Title VII of the Civil Rights Act of 1964, including Retaliation for participating as a witness in a protected Title VII activity. On August 28, 2009, Plaintiff filed via certified mail his Formal Complaint for Retaliation with the TSA Office of Civil Rights. On September 15, 2009, TSA sent notice that Plaintiff's Complaint had been received for investigation by the TSA Office of Civil Rights.

5. On March 12, 2010, TSA completed its official investigation and Plaintiff requested a Final Agency Decision which was accepted on March 30, 2010. Pursuant to 29 C.F.R. Sec. 1614.107(a)(3) seq., Plaintiff has received no official notification or response from the TSA Office of Civil Rights regarding his original Complaint, although one hundred eighty (180) days have elapsed since Plaintiff's original EEO Civil Rights complaint was filed.

GENERAL FACTUAL ALLEGATIONS

6. Plaintiff began his tenure in the Cincinnati Field Office in November 2002 and has received no discipline during his tenure with the Field Office.

7. In February, 2007, Plaintiff was notified that he was to be a witness in FAM Nancy Leidner's highly contentious Sexual Harassment investigation. Plaintiff voluntarily submitted to an interview where he confirmed facts in the other FAM's sexual harassment allegations.¹

8. During the initial internal TSA sexual harassment investigation in 2007, Plaintiff was notified that rumors were circulating among fellow co-workers that Plaintiff had received a "striptease" performance from a Female FAM at a Local Family Restaurant in early 2005. Plaintiff was questioned about whether he received a striptease dance and denied such emphatically.

9. After giving his statement in the TSA Investigation of the female FAM sexual harassment claims and denying any inappropriate behavior of himself, Plaintiff began to receive minor incidents of retaliation.

¹ Eastern District of Covington Civil Action: NO. 07-CV-197-DLB

10. Plaintiff was later notified that he was named as an official witness in an official EEO investigation that was pending in Federal Court.

11. Cincinnati Field Office Supervisors have repeatedly failed to maintain the required confidentiality of EEO investigations.

12. During a meeting among his co-workers, Plaintiff's Supervisor, ASAC (Assistant Special Agent in Charge) violated EEO confidentiality requirements and announced that Plaintiff would be participating in a TSA EEO investigation and that he would have to give statements to investigators.

13. Plaintiff was also named publically as a witness in a FAM meeting by his his former ATSAC S.P. (Assistant to the Special Agent in Charge). Former ATSAC S.P. made multiple unsolicited and inappropriate statements to Plaintiff that he needed to give a deposition in FAM. Leidner's case.

14. Plaintiff was then subject to a repeated pattern of being pulled off flight status and coverage of airlines to answers the same questions about his role in the alleged "striptease" which he continued to deny ever occurred.

15. Plaintiff was required to meet with a Washington TSA attorney several times to discuss his testimony in FAM Leidner's case and was pressured to answers questions in an unfavorable about FAM Nancy Leidner.

16. On Tuesday, July 27, 2009, Plaintiff was in a meeting at Cincinnati Field Office with his fellow FAMs when he was publicly approached by ATSAC R.S. and informed that he had to meet with two TSA criminal investigators from Detroit Field Office.

17. During a three hour interview with TSA Criminal investigators, Plaintiff was not permitted to leave and received pressure from investigators to change his EEO testimony that he had given on behalf of Ms. Leidner.

18. During this July 27, 2009, interrogation, Plaintiff was informed that another witness in FAM Leidner's case had decided to alter her previously given sworn testimony about whether FAM Leidner had performed a "striptease" dance for Plaintiff at a Family restaurant. Plaintiff was then asked if he would like to recant his sworn testimony about FAM Leidner so it matched the changes the other witness gave in her new revised testimony.

19. During this July 27, 2009, interrogation, Plaintiff was threatened with criminal charges for giving his testimony in support of FAM Leidner and he was instructed to sign a statement prepared by the investigators about FAM Leidner.

20. During this July 27, 2009, interrogation, Plaintiff was threatened by TSA Criminal Investigators that they were going to go and meet Plaintiff's Wife to discuss the falsely alleged sexual relationship he had with a female FAM if he refused to change his testimony that he had given in FAM Leidner's EEO investigation.

21. On Friday, August, 21, 2009, while at the TSA Cincinnati Field Office, Plaintiff was once again called publicly into a meeting with TSA criminal investigators.

22. During this August 21, 2009, meeting, Plaintiff was repeatedly told to admit that he had a sexual relationship with FAM Leidner, which was not true.

23. During this August 21, 2009, meeting, Plaintiff was asked what FAM Leidner held against him so that he would continue to testify in support of her claims.

24. During this August 21, 2009, meeting, Plaintiff was also informed that he would be charged with disciplinary violations for allegedly breaking a non-disclosure agreement that he was previously forced to sign.

25. During this August 21, 2009, interrogation that lasted over an hour, Plaintiff was also asked what FAM Nancy Leidner promised him or held against him so that Plaintiff would testify on her behalf, and Plaintiff was again threatened with discipline, up to termination.

26. Plaintiff refused the threats of TSA investigators and testified truthfully in a deposition in FAM Nancy Leidner's lawsuit on November 17, 2009.

27. Since Plaintiff has given his deposition, Plaintiff has learned that he remains under active investigation for whether he received a "striptease" dance in the Spring of 2005 at local Family Restaurant from FAM Nancy Leidner.

28. After giving his deposition, Plaintiff was injured in an off duty accident.

29. Plaintiff was subjectively denied leave without pay time and was forced to use his accrued annual leave time while he was off work.

30. It is the standard pattern and practice for the Management at the TSA Cincinnati Field office to routinely retaliate against any FAM that has participated in an TSA EEO investigation as a participant or a witness by disciplining those FAMs or placing them under suspect, frivolous investigations in an attempt to discourage their continued participation in the EEO investigative process.

COUNT I
RETALIATION

31. Plaintiff incorporates as if fully restated all of the allegations previously written.

32. As herein alleged, the Defendant, by and through its officers, managing agents and/or its supervisors, illegally retaliated against Plaintiff by unjustly subjecting him to unjust scrutiny, false allegations of misconduct and unwelcome and derisive comments, denial of work accommodations, solely because he had participated as a corroborating witness in an EEOC investigation in February, 2008, of another FAM. Defendants had no legitimate reasons for any such act. Each said act of retaliation is in violation of Title VII of the Civil Rights Act of 1964, specifically, 42 USC 2000e-3.

31. In an effort to dissuade Plaintiff for providing testimony in support of another FAM's EEO case, Plaintiff has been threatened with discipline up to termination, placed under investigation and was directly threatened that TSA investigators would travel to his private residence to tell Plaintiff's Wife that he had an inappropriate sexual relationship with a Female co-worker if he did not change his truthful testimony.

32. The statements that TSA Investigators would contact Plaintiff's wife to discuss his relationship were issued to dissuade Plaintiff from continuing to participate as a supportive witness in a separate EEO investigation.

33. The placement of Plaintiff under an ongoing investigation into whether he received a striptease dance was an attempt to force Plaintiff to recant his truthful testimony in an ongoing EEO investigation.

34. Plaintiff is informed and believes, and based thereon alleges, that in addition to the practices enumerated above, the Defendants may have engaged in other discriminatory practices against him which are not yet fully known. At such time as such discriminatory practices become known, Plaintiff will seek leave of Court to amend this Complaint in that regard.

35. As a direct and proximate result of the Defendants willful, knowing, and intentional discrimination and retaliation against Plaintiff, Plaintiff has suffered and will continue to suffer pain, humiliation and emotional distress. Plaintiff has suffered and will continue to suffer a loss of earnings and other employment benefits and job opportunities. Plaintiff is thisby entitled to general and compensatory damages in amounts to be proven at trial.

36. As a further direct and proximate result of Defendant's violation of Title VII of the Civil Rights Act of 1964, as described, Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and conditions of the employment relationship with the Defendant and has thereby incurred and will continue to incur legal fees and costs, the full nature and extent of which are presently unknown to Plaintiff.

37. Plaintiff is informed and believes, and based thereon alleges, that the Defendant's conduct as described above was willful, wanton, malicious, and done in reckless disregard for the well-being of Plaintiff.

WHEREFORE, Plaintiff, Chad Szczubleski, demands judgment against the Defendant, in an amount which will compensate him for:

1. Violation of his rights under Title VII of the Civil Rights Act of 1964;
2. Compensatory damages including lost wages, past and future and/or impairment of power to earn money; emotional distress and humiliation, past and future; and past and any future medical expenses;
3. A permanent injunction against any future acts of retaliation against the Plaintiff by Cincinnati Field Office Management;

4. Trial by jury on all issues so triable;
5. Costs expended herein, including reasonable statutory attorneys' fees;
6. Pre-judgment and post-judgment Interest; and
7. Any and all other relief to which he may be entitled.

Respectfully submitted,

s/Shane C. Sidebottom
SHANE C. SIDEBOTTOM (# 89046)
WOLNITZEK & ROWEKAMP, PSC
502 Greenup Street
Covington, Kentucky 41011

(859) 491-4444

ssidebottom@wrblaw.com