

Filing # 83507891 E-Filed 01/17/2019 01:01:51 PM

IN THE CIRCUIT COURT OF THE  
15<sup>TH</sup> JUDICIAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY, FLORIDA

CASE NO.:

KESYORD PIERRE,

Plaintiff,

v.

ADDISON RESERVE MASTER  
PROPERTY OWNERS ASSOCIATION,  
INC. f/k/a ADDISON RESERVE  
COUNTRY CLUB, INC.,  
a Florida corporation,

Defendant.

\_\_\_\_\_ /

COMPLAINT

Plaintiff Kesyord Pierre ("Mr. Pierre") serves this Complaint against and sues Defendant Addison Reserve Master Property Owners Association, Inc. f/k/a Addison Reserve Country Club, Inc., a Florida corporation ("Defendant" or "Addison Reserve"), and states as follows:

JURISDICTIONAL ALLEGATIONS

1. This is an action for monetary damages in excess of \$15,000.00, exclusive of attorney fees and costs.
2. Plaintiff Kesyord Pierre is *sui juris* and was employed by Defendant in Palm Beach County, Florida, and is a resident of Palm Beach County, Florida.

3. Defendant Addison Reserve Master Property Owners Association, Inc. f/k/a Addison Reserve Country Club, Inc. has been and is a Florida corporation authorized to and conducting business in Palm Beach County, Florida, and is subject to the personal jurisdiction and venue of this Court.

4. Defendant was the employer of Plaintiff and/or a successor corporation of any of Plaintiff's prior employers and/or any prior corporation(s) were merged into Defendant.

5. Various material transactions and occurrences on which this action is based took place in Palm Beach County, Florida.

6. This Court has jurisdiction and venue over all causes of action including pursuant to §48.193; 47.011; 47.021; 47.041; 47.051; and/or 760.11, Fla. Stat.

**GENERAL ALLEGATIONS COMMON TO ALL COUNTS**

7. All conditions precedent to this action have been performed or waived.

8. Plaintiff's damages include, but are not limited to, lost income, lost benefits and/or diminished income potential, pain and suffering, mental anguish and psychological and emotional distress.

9. Mr. Pierre, who is African-American and of Haitian origin, began working as a server for Defendant in October 2013 as a food runner in Delray Beach, Florida.

10. Plaintiff was subjected to a relentless campaign of verbal abuse and/or harassment by white employee(s) of Defendant.

11. The verbal harassment was directed at Mr. Pierre by Defendants' white employee(s).

12. Defendant was on notice and/or knew or should have known that its employee(s) were harassing Mr. Pierre.

13. Defendant had direct knowledge of and/or participated in the improper conduct alleged in this Complaint.

14. During Plaintiff's employment with Defendant and on the premises of Defendant, Plaintiff was subjected to various improper acts of constant verbal, emotional and/or harassment directed towards them because they are black and/or on the basis of their national origin.

15. On numerous occasions, Defendant's white employee(s) perpetrated the following type of language/conduct directed towards, or in the presence of, Mr. Pierre on a frequent, mostly daily basis:

1. **Employees gave Mr. Pierre a plate of watermelon and fried chicken for his birthday;**
2. **"Black;"**
3. **"Nigger;"**
4. **"Niggers;"**
5. **"Monkey, get out of Addison;"**
6. **"Why are you even here, you don't speak English;"**
7. **Supervisor on a regular basis grabbed Mr. Pierre's nipple;**
8. **Supervisor would rub Mr. Pierre's head and say, "What's up with your nappy hair? You've gone bald."**
9. **"Fucking Haitian;"**
10. **"Who's the black ass guy;"**

11. **“You don’t even speak English;”**
12. **“All black people look alike;”**
13. **Referring to Mr. Pierre and another black employee, “You have the same black forehead and you look like brothers because of how black you are;”**
14. **Manager said Mr. Pierre and another black employee were “from the ghetto;”**
15. **“Black people think they are in power because Obama is a black President;”**
16. **“Black ass;”**
17. **“Boy;”**
18. **Manager told Mr. Pierre he went to Human Resources to interview a potential employee, who was white. The Human Resources employee told the manager, “that’s your guy;” and the manager said, “oh no, he can’t be” and he thought he was going to interview “a black fucking Haitian because they are so dumb it’s the only type of job they can do;”**
19. **Manager told Mr. Pierre he hired the white employee “with a higher pay rate than the motherfucking black Haitians;”**
20. **“You motherfucking Haitians need to stop talking Creole in the dining room;”**
21. **“You sound like you’re in the jungle;”**
22. **“Get your black ass over here, Key;”**
23. **Manager told Mr. Pierre they did him a favor by keeping him since they “already have too many black people and Haitians at Addison. As you can see, I fired some of them, and a nigger like you can’t be bold;”**
24. **“Macak/Macaque (Macaca);”**
25. **“Why don’t you speak English, you’re really ghetto;”**
26. **Manager said he got rid of most of the fucking black Haitians and the club members are happier and bring more people from overseas;**

27. Referring to an incident at the zoo with a gorilla, employee told Mr. Pierre "the gorilla looks like your uncle;"
28. Boy, you need to get yourself to work;"
29. "I'm tired of his black ass, he looks like another employee with a bunch of kids on Section 8;"
30. "Why did niggers have to make it here;"
31. "You motherfuckers are thieves;"
32. Managers/employees called Mr. Pierre "Kanye West, because all of you look alike;"
33. "Haitian voodoo;"
34. Watermelon jokes;
35. Fried chicken jokes;
36. "If you don't like it, you can quit;"
37. Supervisor pushed another black/Haitian employee and told him, "You're too old. Your black ass needs to go back to Haiti;"
38. Supervisor told another black/Haitian employee, "I'm going to kick your ass back to Haiti;"
37. "Dumb niggers;" and,
39. Directors/managers/employees constantly made racial remarks and jokes and used the term "nigger" on a regular basis.

16. The above is a mere summary of some of the more prevalent offensive, improper and degrading conduct Plaintiff was subjected to while employed by Defendant.

17. Plaintiff complained to management about the racial/national origin harassment numerous times but Defendant's management did nothing.

18. Mr. Pierre was terminated on or around June 2016 in retaliation for his complaints about the harassing/discriminatory conduct.

19. Much of the above-described behavior was done in the presence of other managers, supervisors, officers, employees, and/or other third parties, further degrading Plaintiffs.

20. Defendant's employees/agents, including managers were advised of/aware of its male employee(s)' propensity to engage in harassing conduct.

21. Defendant, through its agents, officers, and owners, at all material times had actual or constructive knowledge of the improper language, conduct, transactions, and occurrences by white employee(s) but took no remedial action or inadequate remedial action.

22. The improper actions of the white employee(s) would not have been possible were it not for the authority vested in them by Defendant and/or such authority facilitated the improper conduct.

23. The white employees were employees/agents of Defendant and all actions were taken by them at Defendant's place of business during normal working hours and were within the course and scope of or incident to their employment, and were done to further a purpose or interest of Defendant, and they were assisted in accomplishing their tortious conduct by the existence of the employer/employee or agency relation.

24. Defendant, through its owners/ officers/ managers/ supervisors/agents, had actual or constructive knowledge or notice of the actions described herein but Defendant

did not take remedial action and ratified and approved those actions by permitting them to continue and by facilitating the continuation of those actions.

25. Defendant's high ranking management level and/or policy-making employees had actual knowledge of and/or participated in the discriminatory conduct directed against Plaintiff.

26. Defendant's employees who terminated Plaintiff had the stature and authority to exercise control, discretion, and independent judgment over the hiring and firing of employees, including Plaintiff.

27. As managing agents of Defendant, their actions, impute direct liability for/to Defendant.

28. Plaintiff rejected and complained about the above described conduct.

29. Plaintiff found the above described conduct totally unwelcome and offensive.

30. The above described conduct occurred at Defendant's workplace or while conducting Defendant's business.

31. Plaintiff reported the male employee(s)' behavior to owners/officers/managers/supervisors of Defendant.

32. Plaintiff was an excellent employee who performed his job above Defendant's and industry standards.

33. Plaintiff suffered damages as a direct and proximate result of the conduct alleged in this Complaint.

**COUNT ONE**  
**VIOLATION OF THE FLORIDA CIVIL RIGHTS ACT OF 1992,**  
**SECTIONS 760.01-760.11, FLA. STAT.**  
**RACIAL/NATIONAL ORIGIN HARASSMENT/DISCRIMINATION**

34. Mr. Pierre restates and realleges Paragraphs 1 through 33, as if fully set forth herein.

35. Mr. Pierre, as a Black/Haitian employee, has belonged to a protected group within Section 760.10, Fla. Stat.

36. Defendant was/is an employer under Section 760.02, Fla. Stat.

37. During the course of his employment with Defendant, Mr. Pierre was repeatedly subjected to a racially hostile work environment and to unwelcome racial harassment/discrimination by Defendant Addison Reserve, and by employees and agents of Defendant Addison Reserve, who frequently committed offensive verbal acts or conduct toward Mr. Pierre, which Mr. Pierre at all times found offensive and to which Mr. Pierre repeatedly objected.

38. The harassment/discrimination suffered by Mr. Pierre was based on Mr. Pierre's race/national origin/color, and Mr. Pierre at all times rejected all racial overtures and objected to all offensive language and conduct.

39. The aforementioned harassment/discrimination based on Mr. Pierre's color/race/national origin was so pervasive that it affected a term, condition, or privilege of employment and created a hostile and abusive working environment for Mr. Pierre.



40. Defendant Addison Reserve knew, or in the exercise of reasonable care should have known, of the aforementioned racial harassment/discrimination, but failed to take prompt and effective remedial action.

41. The white employees committing racial harassment/discrimination toward Mr. Pierre were employees, agents, or servants of Defendant Addison Reserve.

42. Mr. Pierre was terminated because he is black/Haitian.

43. Mr. Pierre filed a timely complaint with the Florida Commission on Human Relations, and 180 days have passed since the filing of his charge without any findings.

44. A true and correct copy of FCHR documents is attached hereto as Plaintiff's Exhibit "A."

45. Mr. Pierre has retained legal counsel to represent him in this lawsuit and has agreed to pay a reasonable fee.

46. Mr. Pierre is entitled to attorney fees and costs pursuant to Section 760.11, Fla. Stat.

WHEREFORE, Plaintiff seeks his remedies against Defendant under Chapter 760, Fla. Stat., The Florida Civil Rights Act of 1992, as amended, including Sections 760.10 and 760.11, Fla. Stat., including, but not limited to: an order prohibiting the discriminatory practices of Defendant and providing affirmative relief from the effects of the practices, including back pay; compensatory damages, including but not limited to, damages for mental anguish, loss of dignity, and any other intangible injuries; damages resulting from lost earnings/wages and earning potential; back and front pay; lost benefits; pain and suffering; loss of capacity for the enjoyment of life; psychological and

emotional injuries; medical and psychological bills; costs; prejudgment interest; reasonable attorney fees and costs pursuant to Section 760.11(5), Fla. Stat; and, all other relief that the Court deems appropriate. Plaintiff demands a trial by jury.

**COUNT TWO**  
**VIOLATION OF THE FLORIDA CIVIL RIGHTS ACT OF 1992,**  
**SECTIONS 760.01-760.11, FLA. STAT.**  
**RETALIATION**

47. Mr. Pierre restates and realleges Paragraphs 1 through 33, as if fully set forth herein.

48. Mr. Pierre, as a Black/Haitian employee, has belonged to a protected group within Section 760.10, Fla. Stat.

49. Defendant Addison Reserve, was/is an employer under Section 760.02, Fla. Stat.

50. Plaintiff engaged in statutorily protected expression.

51. Plaintiff suffered an adverse employment action(s).

52. There was a causal connection between Plaintiff's participation in protected expression and the adverse action.

53. As a direct, legal, and/or proximate cause of the above alleged violations, Plaintiff has suffered damages.

54. Defendant Addison Reserve retaliated against Mr. Pierre because Mr. Pierre challenged, opposed and complained of the unlawful practices of Defendant Addison Reserve alleged in this Complaint.

55. Plaintiff was retaliated against with escalated harassment, reprimanded, disciplined and/or terminated from his employment with Defendant for pretextual reasons and in retaliation for his complaints regarding the racially hostile work environment, and in retaliation for his refusal to accede to harassment.

56. Mr. Pierre filed a timely complaint with the Florida Commission on Human Relations, and 180 days have passed since the filing of his charge without any findings.

57. A true and correct copy of FCHR documents are attached hereto as Plaintiff's Exhibit "A."

58. Mr. Pierre has retained legal counsel to represent him in this lawsuit and has agreed to pay a reasonable fee.

59. Mr. Pierre is entitled to attorney fees and costs pursuant to Section 760.11, Fla. Stat.

WHEREFORE, Plaintiff seeks his remedies against Defendant under Chapter 760, Fla. Stat., The Florida Civil Rights Act of 1992, as amended, including Sections 760.10 and 760.11, Fla. Stat., including, but not limited to: an order prohibiting the discriminatory practices of Defendant and providing affirmative relief from the effects of the practices, including back pay; compensatory damages, including but not limited to, damages for mental anguish, loss of dignity, and any other intangible injuries; damages resulting from lost earnings/wages and earning potential; back and front pay; lost benefits; pain and suffering; loss of capacity for the enjoyment of life; psychological and emotional injuries; medical and psychological bills; costs; prejudgment interest;

reasonable attorney fees and costs pursuant to Section 760.11(5), Fla. Stat; and, all other relief that the Court deems appropriate. Plaintiff demands a trial by jury.

**JURY DEMAND**

Plaintiff demands a trial by jury.

William M. Julien, P.A.  
Attorneys for Plaintiff  
Canyon Town Center - Suite 221  
8794 Boynton Beach Boulevard  
Boynton Beach, FL 33472  
Telephone: (561) 995-9990  
Facsimile: (561) 995-8103

BY:



PETER R. ULANOWICZ  
Florida Bar No.: 0012205  
WILLIAM M. JULIEN  
Florida Bar No.: 0003743  
Primary e-mail: [pulanowicz@attorneyjulien.com](mailto:pulanowicz@attorneyjulien.com),  
[wjulien@attorneyjulien.com](mailto:wjulien@attorneyjulien.com)  
Secondary e-mail: [opovedano@attorneyjulien.com](mailto:opovedano@attorneyjulien.com)

# Exhibit A

NOT A CERTIFIED COPY

# CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY

FEPA  
 EEOC

CHARGE NUMBER

Florida Commission on Human Relations

and EEOC

State or local Agency, if any

NAME(Indicate Mr., Ms., Mrs.)

Mr. Kesyard Pierre

HOME TELEPHONE (Include Area Code)

561-574-8795

STREET ADDRESS

CITY, STATE AND ZIP CODE

4200 Coquina Winds Way, Lake Worth, FL 33463

DATE OF BIRTH

2/26/77

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

Addison Reserve Country Club, Inc.

NUMBER OF EMPLOYEES, MEMBERS

15+

TELEPHONE (Include Area Code)

561-637-4004

STREET ADDRESS

CITY, STATE AND ZIP CODE

7201 Addison Reserve Blvd., Delray Beach, FL 33446

COUNTY

Palm Beach

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

Palm Beach

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

RACE     COLOR     SEX     RELIGION     AGE  
 RETALIATION     NATIONAL ORIGIN     DISABILITY     OTHER (Specify)

DATE DISCRIMINATION TOOK PLACE  
EARLIEST (ADEA/EPA)    LATEST (ALL)  
6/22/16

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

**I. STATEMENT OF PERSONAL HARM:**

I worked as a food runner.

I was discriminated against based on and because of my race/color/national origin (Black/Haitian) and/or disability/handicap(s) and/or my perceived/record of disability/handicap(s) which include depression and related conditions.

I was discriminated against, harassed and retaliated against by my manager(s)/employee(s). I had different terms and conditions of employment than other white employees. I was the victim of disparate impact/intent and/or treatment discrimination/harassment/retaliation based on being Black/Haitian. When I complained to management/superiors, I was retaliated against and terminated. I was subjected to a hostile environment of racially offensive comments, touchings and/or activities. When I requested accommodations for my handicap and/or complained I was denied and terminated.

**II. RESPONDENT'S REASON FOR PERSONAL HARM:**

I was not given a reason. Any reason was pretextual.

**III. DISCRIMINATION STATEMENT:**

I have been discriminated against/harassed and/or retaliated against, because of my race/color/national origin and/or handicap/disability(s) in violation of the Florida Civil Rights Act of 1992 as amended, §760.01 - 760.11, Fla. Stat.; Title VII of the Civil Rights Act of 1964, as amended; and, the Americans with Disabilities Act, 42 U.S.C. §12101, et. seq.(ADA) as amended (ADAAA).

I believe I have been discriminated against for the following reasons, including, but not limited to: I was discriminated against and harassed/degraded by white employees/manager(s) based on my race/color/national origin. When I complained I was retaliated against. I was

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

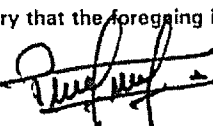
I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(Day, month, and year)

Date



Charging Party (Signature)