

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH CULP,

Plaintiff,

v.

CONSOL ENERGY,

Defendant.

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT

NOW COMES Plaintiff, Joseph Culp, by and through his attorney, Christi Wallace, Esquire, and files this Complaint alleging as follows:

I. Nature of the Action

1. Plaintiff bring this Complaint to recover damages under Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. §2000e alleging he was subjected to Race Discrimination because other Caucasian employees, in the same position as the Plaintiff, were granted preferential treatment while attending school while the Plaintiff was not.

II. Jurisdiction and Venue

2. This action arises under the Title VII, 42 U.S.C. §2000e. This Court has jurisdiction over Plaintiff’s discrimination claims pursuant to 28 U.S.C. § 1331.

3. This Court has supplemental jurisdiction over Plaintiff’s discrimination claims pursuant to 28 U.S.C. § 1367(a).

4. Plaintiff is a resident and citizen of Pennsylvania, a substantial part of the events or omissions giving rise to the claims occurred in Western Pennsylvania, and, therefore, this action is within the jurisdiction of the United States District Court for the Western District of Pennsylvania and the venue is proper pursuant to 28 U.S.C. § 1391(b).

III. Parties

5. Plaintiff, Joseph Culp (“Plaintiff”), is an adult individual residing at 869 3rd Avenue, Waynesburg, PA 15370.

6. Defendant, Consol Energy (“Defendant”), is a business with corporate headquarters located at 1000 Consol Energy Drive, Canonsburg, PA 15317-6506.

IV. Facts

7. Defendant employed the Plaintiff in August 2010 as a Manager.

8. Plaintiff is an African-American male with Mexican descent.

9. While Plaintiff was employed with Defendant, in 2012, Plaintiff began going to Penn State Fayette for an Associate Degree in Mining Technology in order to advance his career with the Defendant.

a. The additional schooling was job related and necessary to advance his career.

b. In May 2014, Plaintiff graduated from Penn State Fayette with his Associate Degree in Mining Technology.

10. Plaintiff is roughly one of twenty Managers who worked for the Defendant while simultaneously going to Penn State for an Associate’s Degree.

- a. All the other Managers are Caucasian and Plaintiff is the only African-American.

11. When Plaintiff first started going to school in Fall 2012, the Defendant would not accommodate the Plaintiff with his work schedule and class schedule.

- a. Defendant forced the Plaintiff to work the swing shift from 12AM-8AM.
- b. Plaintiff would then go to class from 10:15AM to 4:30PM.
- c. Plaintiff would then have to wake up for work at 10PM.
- d. Plaintiff was forced to do this rigorous schedule for months.
- e. However, none of the other Caucasian Managers were forced to do this.

12. Around September 2012, Plaintiff spoke with his Superintendent and was transferred from the West Virginia mine to the Pennsylvania (BMX) mine.

- a. As a result of this transfer, Plaintiff thought his work/class schedule would get better, but it didn't.
- b. Plaintiff was still being treated differently from the other Caucasian Managers who were going to school and working simultaneously.

13. Beginning in April 2013, Plaintiff would go to school Monday and Wednesdays.

- a. At the end of each semester, the Defendant would add up all the days Plaintiff missed to attend his classes ("missed days").
- b. Plaintiff was then forced to make up all the days he missed work in order to attend classes. Plaintiff had to make up all the "missed days" before he was able to earn any money for the days he worked.

c. Plaintiff would use all of his scheduled days off to work off his accrued missed days.

i. For every 28 days the Plaintiff worked, he got 6 days off.

ii. Because the Defendant was not accommodating with the Plaintiff's work/class schedule, the Plaintiff would use those 6 scheduled days off to offset his missed days of work.

d. Plaintiff even used all his vacation or personal days in order to offset his missed days.

14. The Defendant would allow the Plaintiff to attend his classes but he was forced to make up any missed days.

a. The other Caucasian Managers were not required to make up any days they missed to attend class.

15. Since Fall of 2012, Plaintiff had to make up over 200 missed days of work that he took in order to attend classes.

a. Plaintiff was required to make up all of the missed days and still work his regular hours. Sometimes Plaintiff would work doubles just to make up his accrued missed days.

b. Plaintiff is not paid for any of the missed days he makes up.

c. Therefore, every day that Plaintiff is required to make-up, he is losing out on \$450 (take home pay for each day) because if he did not have to make that day up, he could have worked and made \$450.

16. Several Caucasian Managers have specifically told the Plaintiff that they didn't have to make up the workdays they missed because of classes.

- a. The same Caucasian Managers told the Plaintiff that the Defendant would even pay for them to receive extra tutoring.

17. Plaintiff's Professors have also informed him that never has a Consol Manager had to use their vacation/personal days or had to make up missed days.

V. Allegations

Count I

Discrimination in Violation of Title VII

18. The preceding paragraphs are incorporated herein as if set forth at length.

19. Plaintiff is an African American male with Mexican descent and is therefore a member of a protected class under Title VII and the PHRA.

20. The Plaintiff was subjected to discriminatory treatment from the Defendant because of his Race.

21. While Plaintiff was employed with Defendant, Plaintiff was going to Penn State Fayette for an Associate Degree in Mining Technology in order to advance his career with the Defendant.

22. Plaintiff is roughly one of twenty Managers working for the Defendant while simultaneously going to Penn State for an Associate's Degree.

23. The Defendant gave preferential treatment to the Caucasian Managers in violation of Title VII.

- a. In the Fall of 2012, Defendant forced the Plaintiff to work the swing shift from 12AM-8AM. Plaintiff would then go to class from 10:15AM to 4:30PM. Plaintiff would then have to wake up for work at 10PM.

- i. None of the other Caucasian Managers were forced to work this rigorous schedule in order to attend classes.

- b. After Plaintiff was transferred to the Pennsylvania Mine, he was still being treated differently from the other Caucasian Managers who were going to school and work simultaneously.
- c. Beginning in April 2013, at the end of each semester, the Defendant would add up all the days Plaintiff missed to attend his classes.
 - i. Plaintiff was then forced to make up those missed days. Plaintiff had to make up all the missed days before he was able to earn any money for the days he worked.
 - ii. Plaintiff would use all of his scheduled days off to work off his accrued missed days.
 - iii. Plaintiff even used all his vacation or personal days in order to offset his missed days.
 - iv. The other Caucasian Managers were not required to make up any days they missed to attend class.
 - 1. Several Caucasian Managers have specifically told the Plaintiff that they didn't have to make up the workdays they missed because of classes.
- d. The Defendant even paid for the Caucasian Managers to receive extra tutoring.

Request for Relief

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against the Defendant for the following:

- a. Loss of wages for making up missed days in an amount exceeding \$90,000;
- b. Additional liquidated and punitive damages in excess of \$250,000;
- c. Plaintiff's legal fees in an amount exceeding \$25,000;
- d. Pre-judgment and continuing interest;
- e. Court costs; and
- f. Other such relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Christi Wallace

Pa ID: 313721

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