

COMMONWEALTH OF KENTUCKY
MADISON CIRCUIT COURT -- ____ DIVISION
CIVIL ACTION NO. _____

GARY HAYCRAFT

PLAINTIFF

vs.

**COMPLAINT
JURY TRIAL DEMANDED**

TOKICO (USA), INC.

DEFENDANT

Serve: 1400 Corporation
1400 Vine Center Tower
Lexington, KY 40507
(agent for service of process)

YASUO MURAYAMA

DEFENDANT

Serve: Yasuo Murayama
Tokico, Inc.
301 Mayde Road
Berea, KY 40403

TSUGUMICHI UHARA

DEFENDANT

Serve: Tsugumichi Uhara
321 Peachtree Drive
Berea, KY 40403

* * * * *

Plaintiff Gary Haycraft for his complaint against defendants Tokico (USA), Inc.,
Yasuo Murayama, and Tsugumichi Uhara states as follows:

I

Nature of the Action

1. This is an action pursuant to KRS 344 (the Kentucky Civil Rights Act) seeking lost wages and benefits, compensatory and punitive damages, costs, litigation expenses and attorney's fees for defendant's discriminatory discharge of plaintiff based

on his age, national origin and race and based on defendants' actions aiding, abetting, compelling and inciting unlawful employment practices.

II

Jurisdiction & Venue

2. This Court has jurisdiction over this case because the amount in controversy exceeds this Court's jurisdictional minimum pursuant to KRS 23A.010 and also pursuant to KRS 344.450. Venue is proper herein because plaintiff's claims arose in Madison County, Kentucky.

III

Parties

3. Plaintiff Gary Haycraft was born in and is a citizen of the United States of America. Mr. Haycraft is Caucasian and is over 40 years old.

4. Defendant Tokico (USA), Inc. is a Kentucky corporation whose principal place of business in 301 Mayde Road, Berea Industrial Park, Berea, KY 40403. Tokico's agent for service of process is 1400 Corporation, 1400 Vine Center Tower, Lexington, KY 40507.

5. Defendant Yasuo Murayama is a Kentucky resident who may be served at his place of employment at Tokico, Inc., 301 Mayde Road, Berea, KY 40403.

6. Defendant Tsugumichi Uhara is a Kentucky resident who may be served at 321 Peachtree Drive, Berea, KY 40403.

IV

Facts Giving Rise to the Lawsuit

7. Haycraft, at all times pertinent hereto, was the employee of defendant Tokico within the meaning of KRS 344.040.

8. Defendant Tokico, at all times pertinent hereto, was the employer of Haycraft within the meaning of KRS 344.040.

9. At all times pertinent hereto, defendants Murayama and Uhara were each a "person" within the meaning of KRS 344.280.

10. Haycraft was discharged from his employment by defendant Tokico on or about April 20, 2001.

11. At the time of his discharge, Haycraft was more than 40 years old.

12. Haycraft was qualified for his employment at the time he was discharged.

13. Haycraft's job performance up to the time he was discharged met defendant's legitimate expectations.

14. In recognition of Haycraft's job performance he was issued, on or about March 21, 2001, by defendant Tokico the performance evaluation attached hereto and marked exhibit 1.

15. Haycraft was replaced in defendant's workforce by a person under the age of 40 and/or by a substantially younger person.

16. A substantial and motivating factor but for which Haycraft would not have been discharged from his employment was his age.

17. Defendant's Japanese management personnel treated American employees differently and worse than Japanese employees.

18. Defendant's Japanese management personnel subjected American employees to physical intimidation, including slapping them on the face, and regularly

and frequently commented that American employees were lazy compared to Japanese employees.

19. Defendants Murayama and Uhara caused, perpetuated, aided, abetted, compelled and incited adoption by defendant Tokico discriminatory employment practices directed at Americans, who defendants regarded as inferior to Japanese.

20. The reason proffered Haycraft for his discharge was pretextual.

21. A substantial and motivating factor but for which Haycraft would not have been discharged from his employment was his national origin – American.

22. Alternatively, a substantial and motivating factor but for which Haycraft would not have been discharged from his employment was his race – Caucasian.

23. As a direct and proximate result of his unlawful and discriminatory discharge, Haycraft has suffered and will continue to suffer lost income and benefits, diminished future earning power and lost income in the future, embarrassment and humiliation, emotional distress and mental anguish.

24. As a direct and proximate result of the illegal and unlawful actions of defendants Murayama and Uhara, Haycraft has suffered and will continue to suffer lost income and benefits, diminished future earning power and lost income in the future, embarrassment and humiliation, emotional distress and mental anguish.

25. Defendants' actions taken against Haycraft were malicious and oppressive and done in gross negligence and/or deliberate indifference to his rights.

V

Causes of Action

Count 1 – Age Discrimination

26. Plaintiff incorporates herein paragraphs 1 through 25 hereof.

27. Defendant Tokico's discharge of Haycraft from employment based on his age violated KRS 344.040.

Count 2 – National Origin Discrimination

28. Plaintiff incorporates herein paragraphs 1 through 27 hereof.

29. Defendant Tokico's discharge of Haycraft from employment based on his national origin – American – violated KRS 344.040.

Count 3 – Race Discrimination

30. Plaintiff incorporates herein paragraphs 1 through 29 hereof.

31. Defendant Tokico's discharge of Haycraft from employment based on his race – Caucasian – violated KRS 344.040.

Count 4 – Aiding, Abetting, Inciting & Compelling Unlawful Employment Practices

32. Plaintiff incorporates herein paragraphs 1 through 31 hereof.

33. Defendant Murayama has aided, abetted, incited and compelled the unlawful employment practices of defendant Tokico and thereby caused plaintiff substantial injuries.

Count 5 – Aiding, Abetting, Inciting & Compelling Unlawful Employment Practices

34. Plaintiff incorporates herein paragraphs 1 through 33 hereof.

35. Defendant Uhara has aided, abetted, incited and compelled the unlawful employment practices of defendant Tokico and thereby caused plaintiff substantial injuries.

VI

Demand for Relief

WHEREFORE, plaintiff Gary Haycraft demands against defendants as follows:

- (1) That the Court enter a judgment awarding him a fair and reasonable sum of damages to be determined by the jury at trial and in excess of the court's jurisdictional minimum to compensate him for the injuries inflicted by defendants;
- (2) That the Court enter a judgment assessing punitive damages against defendants and payable to plaintiff to punish defendants for their conduct and to deter repetition of same;
- (3) That the Court enter an Order awarding him his costs, litigation expenses and attorney's fees in accordance with CR 54 and KRS 344.450;
- (4) that defendants answer and respond timely and fully to the interrogatories and requests for production of documents to each, which are attached hereto and marked exhibits A, B, and C; and,
- (5) That the Court grant him such other relief as warranted.

Demand for Trial by Jury

Pursuant to CR 38 plaintiff demands trial by jury of all issues herein so triable.

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