

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT – 8th DIVISION
CIVIL ACTION NO. 99-CI-3699

JAMES M. WELLS

PLAINTIFF

vs.

AMENDED COMPLAINT

COLUMBIA GAS OF KENTUCKY, INC.,

DEFENDANT

* * * * *

James M. Wells for his Amended Complaint against defendants Columbia Gas of Kentucky, Inc., Judith Christopher and Kathy Hardin states as follows:

I

Nature of the Action

1. This is an action pursuant to the Kentucky Civil Rights Act and the common law of Kentucky seeking back pay, front pay, lost income and benefits, compensatory and punitive damages, costs, litigation expenses and attorney's fees for defendants' unlawful employment practices, acts aiding those unlawful practices and tortious interference with contractual relationship.

II

Jurisdiction and Venue

2. Fayette Circuit Court has jurisdiction over this case pursuant to KRS 344.450 and KRS 23A.010. Venue is proper because the acts that gave rise to this case occurred in Fayette County.

III

Parties

3. James M. Wells is a citizen of the United States of America and presently resides in Clark County, Kentucky.

4. Columbia Gas of Kentucky, Inc. is a Kentucky corporation. Its agent for service of process is the CT Corporation System, Kentucky Home Life Building, Room 1102, Louisville, KY 40202.

5. Judith Christopher is a resident of Fayette County, Kentucky, living at 1841 Arundel Drive, Lexington, KY 40505.

6. Kathy Hardin is a resident of Fayette County, Kentucky, living at 94 Glass Avenue, Lexington, KY 40505.

IV

Facts Giving Rise to this Action and Amended Complaint

7. Wells was, at the time this case was filed, a 58 year old male. He began employment with defendant Columbia Gas in May, 1961. He remained employed by defendant Columbia Gas up to April 1, 1999.

8. At all times pertinent hereto, Columbia Gas was the employer of Wells within the meaning of KRS 344.040.

9. At all times pertinent hereto, Wells ably and satisfactorily performed his job duties for Columbia Gas.

10. Up to on or about February 16, 1999, Wells had a spotless record of fine service and work for Columbia Gas; he had received no formal disciplinary actions, reprimands or other like actions.

11. On or about February 16, 1999, Kathy Hardin, while knowing same to be false and untrue and for the specific purpose of interfering with Wells' employment

relationship with Columbia Gas, informed agents and employees of Columbia Gas that Wells had sexually harassed her.

12. Following her false report to Columbia Gas, Hardin, in her place of work at a Bob Evans Restaurant, bragged that she had been sexually harassed by a Columbia Gas serviceman, that she said the name of the serviceman, said that she had to throw the serviceman out of her house, that she had complained and got him fired, that the Columbia Gas man had been arrested and that she was going to sue Columbia Gas.

13. Columbia Gas was alerted to Hardin's false statements and she denied to Columbia Gas' agents that she made such statements. Columbia Gas contacted the LFUCG Division of Police and learned that no police officer had been dispatched to Hardin's residence as she had falsely claimed.

14. After being confronted by Columbia Gas with the false statements she had made at her work place, Hardin indicated that she wished to withdraw her false complaint against Wells.

15. On or about February 22, 1999, Judith Christopher, while knowing same to be false and untrue, informed agents and employees of Columbia Gas that Wells, at some point in the past, sexually harassed her.

16. Columbia Gas was advised by Wells of misconduct by Christopher that would be contrary to her false claims and Columbia Gas failed to adequately and fairly investigate the information that Wells provided it.

17. A substantial and motivating factor for Columbia Gas' failure to adequately and fairly investigate the information Wells provided in his defense and of Christopher's misconduct was gender bias.

18. Columbia Gas resolved to terminate Wells' employment based on the results and conduct of its investigation, which was unfair to Wells because of his male gender, stemming from Hardin's complaint that she wanted to withdraw.

19. A substantial and motivating factor but for which Columbia Gas would not have decided to terminate Wells' employment was his age within the meaning of KRS 344.040.

20. A substantial and motivating factor but for which Columbia Gas would not have decided to terminate Wells' employment was his male gender within the meaning of KRS 344.040.

21. Columbia Gas' reference to the information provided by Hardin and Christopher is pretext and offered to hide the real and actual motivations by it leading to its decision to terminate Wells' employment.

22. Christopher falsely informed Columbia Gas that Wells had sexually harassed her for the purpose of aiding and abetting an unlawful employment practice by Columbia Gas in violation of KRS 344.280.

23. Wells involuntarily resigned and retired his employment with Columbia Gas in the face of its determination to fire him for the above-described pretextual reasons.

24. Wells was constructively discharged from his employment with Columbia Gas.

25. A substantial and motivating factor for Wells' constructive discharge from employment was his age.

26. Wells was replaced in Columbia Gas's workforce by a substantially younger employee.

27. A substantial and motivating factor for Wells' constructive discharge from his employment was his male gender.

28. As a direct and proximate result of defendants unlawful and tortious actions, as above described, Wells has suffered loss of income, benefits, and salary, suffered embarrassment and humiliation, emotional distress and mental anguish.

29. Defendants' actions taken against Wells were malicious and oppressive and done in deliberate indifference to his rights.

V

CAUSES OF ACTION

Count 1 – Discharge from Employment Because of Age

30. Plaintiff incorporates herein paragraphs 1 through 29 hereof.

31. Wells' age was a substantial and motivating factor for his constructive discharge from employment by Columbia Gas in violation of KRS 344.040.

Count 2 – Aiding and Abetting Unlawful Employment Practice

32. Plaintiff incorporates herein paragraphs 1 through 31 hereof.

33. Christopher aided and abetted Columbia Gas's illegal termination of Wells' employment in violation of KRS 344.280 by falsely informing its agents that she had been sexually harassed by Wells.

Count 3 – Tortious Interference With Contractual Relationship

34. Plaintiff incorporates herein paragraphs 1 through 33 hereof.

35. Hardin tortiously interfered with Wells' contractual and employment relationship with Columbia Gas by falsely informing it that he had sexually harassed her.

Count 4 -- Discharge from Employment Because of Wells' Male Gender

36. Plaintiff incorporates herein paragraphs 1 through 35 hereof.

37. Wells' male gender was a substantial and motivating factor for his constructive discharge from employment by Columbia Gas in violation of KRS 344.040.

VI

DEMAND FOR RELIEF

WHEREFORE, plaintiff 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; and,

(4) 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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