

THOMAS E. PEREZ  
Assistant Attorney General  
JOHN M. GADZICHOWSKI  
Chief  
ESTHER LANDER  
Deputy Chief  
LOUIS WHITSETT  
Senior Trial Attorney  
United States Department of Justice  
Civil Rights Division  
Employment Litigation Section  
950 Pennsylvania Avenue, N.W.  
Patrick Henry Building, Room 4011  
Washington, D.C. 20530  
(202) 305-0942  
Attorneys for Plaintiff United States

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOWNSHIP OF GREEN BROOK, NEW JERSEY

Defendant.

Civil Action No. \_\_\_\_\_

Jury Trial Demanded

**COMPLAINT**

Plaintiff, United States of America, alleges:

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, *et seq.* ("Title VII").

2. This Court has jurisdiction over this action under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. §1345.

**JURISDICTION AND VENUE**

3. Defendant Township of Green Brook, New Jersey (“the Township”) is a corporate, governmental body, and a political subdivision of the State of New Jersey, established pursuant to the laws of the State of New Jersey.

4. The Township is a person within the meaning of 42 U.S.C. §2000e(a), and an employer within the meaning of 42 U.S.C. §2000e(b).

5. Anthony Rivera (“Rivera”) lives within this judicial district in Plainfield, New Jersey.

6. On or about June 23, 2008, Rivera filed a timely charge of discrimination and retaliation (Charge Number 846-2008-34166) against the Township with the Equal Employment Opportunity Commission (“EEOC”).

7. Pursuant to Section 706 of Title VII, 42 U.S.C. § 2000e-5, the EEOC investigated the charge of discrimination and retaliation filed by Rivera, issued a Determination that found reasonable cause to believe the Township violated Title VII with respect to Rivera, and unsuccessfully attempted to conciliate the charge.

8. All conditions precedent to the filing of suit have been performed or have occurred.

**CLAIM FOR RELIEF**

9. Since on or about May 26, 2006, Rivera, an African American, has worked for the Township as a Road Worker in its Department of Public Works (“DPW”).

10. From the time Rivera began working at the DPW until on or about July 31, 2009, Rivera’s immediate supervisor, DPW Foreman Victor Bradley (“Bradley”) openly and regularly used racial slurs to refer to Rivera, Rivera’s African-American coworker Steven Jones, and

African Americans generally, and frequently made racially offensive jokes and remarks in the presence of Rivera and Rivera's co-workers.

11. For example, Bradley regularly referred to Rivera and Jones using the word "nigger," including on or about May 26, 2006, Rivera's first day at work, when Bradley hollered out to Jones "What's up, nigger" in the presence of Rivera.

12. Throughout 2007, Bradley continued to use the word "nigger" to refer to Rivera and other African Americans, including immediately following a conversation when Rivera stated, in the presence of Bradley, that the term is racially offensive.

13. Bradley repeatedly told racially offensive "jokes" to and in the presence of Rivera, including but not limited to statements that Rivera should only have taken a half day off for the Martin Luther King, Jr. holiday because he was "only half black;" that black children are sad on Father's Day because they do not know who their fathers are; that black parents give their thirteen-year-old daughter for her fourteenth birthday "a baby shower;" and that if Bradley had a house party, Jones should wear a jockey suit and stand in front of Bradley's house with his arms stretched out holding a lantern, i.e., as a lawn jockey.

14. In addition to a constant stream of racial slurs and racial "jokes," Bradley subjected Rivera to racially disparate and adverse terms and conditions of employment compared to Rivera's white co-workers. For example, Bradley told Rivera and Jones in front of coworkers that he did not want "the blacks," Rivera and Jones, to ride together in the same work truck. In contrast, Bradley allowed whites on his work crew to ride together.

15. Bradley regularly singled out Rivera for the least desirable and most strenuous jobs and denied him proper tools to perform them, while permitting white co-workers appropriate tools to facilitate their work.

16. On October 10, 2007, Rivera complained to then Township Administrator Kathryn Kitchener (“Kitchener”) about Bradley’s racial harassment.

17. Following the complaint, Bradley continued to make racially offensive comments and to treat Rivera adversely compared to his white co-workers with respect to his terms and conditions of employment.

18. On February 22, 2008, Kitchener, based on information reported to her by Bradley, suspended Rivera for three days without pay for failing to respond to an early morning emergency snow call and notified Rivera that he would be terminated in the event of any future infraction.

19. Up until February 22, 2008, Rivera had never been written up or disciplined for any work infraction; his personnel record had been clean. White coworkers who had failed to respond, or failed to respond promptly, to emergency calls were not similarly disciplined by the Township.

20. In early 2009, Melanie Murano became Township Mayor and Kelly Cupit was hired as Township Administrator, replacing Ken Herrmann and Kitchener, respectively.

21. In September 2009, the Township held evidentiary hearings on Rivera’s allegations of racial harassment by Bradley.

22. On October 19, 2009, the Township determined that there was “just cause for discipline” and voted to terminate Bradley.

23. The Township has subjected Rivera to discrimination on the basis of his race in violation of Section 703(a) of Title VII, 42 U.S.C. §2000e-2(a), among other ways, by:

(a) creating and/or maintaining a hostile work environment based on race that adversely affected the terms, conditions, and privileges of Rivera’s employment; and

(b) failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment.

24. The Township has subjected Rivera to retaliation in violation of Section 704(a) of Title VII, 42 U.S.C. §2000e-3(a), among other ways, by:

(a) suspending Rivera from work without pay for opposing conduct that he reasonably and in good faith believed to be unlawful under Title VII; and

(b) failing or refusing to take appropriate action to remedy the effects of the retaliation against Rivera.

**PRAYER FOR RELIEF**

WHEREFORE, the United States prays that the Court grant the following relief:

(a) award compensatory damages to Rivera to fully compensate him for the pain and suffering caused by the Township's discriminatory and retaliatory conduct as alleged in this Complaint, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a;

(b) order the Township to make Rivera whole for the loss he suffered when he was wrongfully suspended without pay in February 2008;

(c) enjoin the Township from further discrimination and retaliation against Rivera in violation for Title VII;

(d) order the Township to take remedial steps to ensure a non-discriminatory and non-retaliatory workplace for all its employees and officials, including but not limited to adopting appropriate policies and providing adequate training to all employees and officials responsible for making determinations regarding complaints of discrimination and retaliation; and

(e) award such additional relief as justice may require, together with the United States' costs and disbursements in this action.

**JURY DEMAND**

The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

THOMAS E. PEREZ  
Assistant Attorney General  
Civil Rights Division

BY:

  
\_\_\_\_\_  
JOHN M. GADZICHOWSKI (WI Bar No. 1014294)  
Chief  
Employment Litigation Section

/s/ Esther Lander  
\_\_\_\_\_  
ESTHER LANDER (DC Bar No. 461316)  
Deputy Chief  
Esther.Tamburo@usdoj.gov

/s/ Louis Whitsett  
\_\_\_\_\_  
LOUIS WHITSETT (DC Bar No. 257626)  
Senior Trial Attorney  
Louis.Whitsett@usdoj.gov

U.S. Department of Justice  
Civil Rights Division  
Employment Litigation Section  
950 Pennsylvania Avenue, NW  
Patrick Henry Building, Room 4011  
Washington, DC 20530  
Telephone: (202) 305-0942  
Facsimile: (202) 514-1005

Attorneys for Plaintiff