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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
FT. MYERS DIVISION

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U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS, FLORIDA

\_\_\_\_\_)  
 UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CITY OF BONITA SPRINGS, FLORIDA, )  
 )  
 Defendant. )  
 )  
 \_\_\_\_\_)

Civil Action No. 2:08-cv-9360-FEM-UA-SPC

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.
3. Defendant City of Bonita Springs, Florida ("City") is a corporate, governmental body, and a political subdivision of the State of Florida, established pursuant to the laws of the State of Florida.
4. The City 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. Since on or about March 7, 2003, Joseph W. Johnson, an African-American, has worked for the City as a Senior Parks and Recreation Specialist at its recreational facility running the youth basketball program.

6. In the Spring of 2004, Johnson's immediate supervisor, Parks and Recreation Program Manager Jack Campbell (white), started using racial and ethnic slurs in the presence of Johnson when referring to African-American and Hispanic persons using the recreational facility. Campbell would refer to Hispanic persons who used the recreational facility as "dogs" or "burritos" and to African-American persons who used the recreational facility as "monkeys." On information and belief, Campbell would not use these slurs in the presence of the person to whom he was referring.

7. In June 2004, Johnson overheard a white coworker in the City's Parks and Recreation Department, Veronica Duff, refer to him when talking to two other white residents at the City's recreational facility as "just a nigger" who "has no business telling anyone what to do" or words to that effect. Johnson told Campbell about Duff's comments, but Campbell did not discipline Duff.

8. In November 2004, Johnson complained to Campbell about another white coworker, Terry Moore, wearing a T-shirt depicting the confederate flag while working at the front desk of the City's recreational facility where Moore was on duty to greet the public. Campbell told Moore not to wear the shirt while at work for the City. On information and belief, Moore wore the shirt at work on subsequent occasions; and when Johnson complained to Campbell again, Campbell refused to take any action.

9. On information and belief, from December 2004 through December 2005, one of Johnson's white coworkers, Cathy Dillon, regularly referred to Johnson as a "lazy nigger," a "fat nigger," and a "dumb nigger" in the presence of other white employees of the City, as well as in the presence of Campbell. Campbell laughed at these comments and Dillon was never

disciplined or reprimanded for making the comments. Dillon did not make these comments in the presence of Johnson, but a coworker of Johnson made him aware of the comments.

10. On information and belief, both Campbell and another white supervisor in the Parks and Recreation Department, Colin Smith, referred to Johnson as a “nigger” on multiple occasions. Campbell would refer to Johnson as a “nigger” approximately twice a month. Neither Campbell nor Smith made these comments in the presence of Johnson, but a coworker of Johnson made him aware of the comments.

11. In February 2006, Campbell called Johnson into a meeting to discuss allegations of a verbal confrontation between Johnson and Duff. Johnson asked to have a witness at the meeting. Campbell refused and indicated that if Johnson did not participate in the meeting without a witness, Campbell would suspend, and possibly terminate, Johnson. In response, Johnson requested a meeting with senior City management.

12. At the resulting February 14, 2006 meeting with City Attorney Audrey Vance and City Manager Gary Price, Johnson complained that Campbell’s attempt to discipline Johnson for a verbal confrontation with Duff, while never disciplining any white employees (including Duff) for their racial harassment of Johnson, was racially disparate treatment. The City overturned Campbell’s proposed disciplinary action, but did not address Johnson’s claim of racial harassment by white employees.

13. On May 1, 2006, Johnson came to work and found that the words “white power” had been scratched on the back side of the recreational facility building where Johnson normally parked. Johnson told Campbell about the “white power” graffiti. The City did not repaint the wall to cover up or remove the “white power” graffiti until approximately 45 days after Johnson

complained about it, *i.e.*, until on or about June 14, 2006.

14. On or about June 6, 2006, Johnson filed a charge against the City jointly with the Equal Employment Opportunity Commission (“EEOC”) and the local Equal Employment Opportunity agency, the Lee County, Florida Office of Equal Opportunity, alleging, *inter alia*, disparate treatment based on his race.

15. In January 2007, after the County EEO Office issued a Notice of Reasonable Cause Determination on Johnson’s charge that Johnson has been subjected to disparate treatment based on his race, the City conducted an internal investigation of Johnson’s allegations of race discrimination. During the City’s internal investigation, on January 9, 2007, the City suspended Campbell. On January 19, 2007, the City terminated Campbell. According to the City, it suspended and terminated Campbell for reasons other than Johnson’s allegations of race discrimination.

16. On or about August 24, 2007, pursuant to Section 706 of Title VII, 42 U.S.C. § 2000e-5, the EEOC issued a Determination finding reasonable cause to believe the City violated Title VII with respect to Johnson. After attempting unsuccessfully to conciliate the charge, the EEOC referred the matter to the United States Department of Justice.

17. The City has subjected Johnson to discrimination based on 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 Johnson’s employment; and
- (b) failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment.

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

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

(a) enjoin the City from subjecting Johnson to discrimination based on his race in violation of Title VII;

(b) award compensatory damages to Johnson to fully compensate him for the injuries caused by the City's racially discriminatory 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;

(d) enjoin the City from failing or refusing to remove from Johnson's personnel files and any other City files any negative references pertaining to Johnson's complaints of racial discrimination;

(e) enjoin the City from failing or refusing to take appropriate remedial steps to ensure a non-discriminatory workplace, including providing adequate training to all employees and officials responsible for making determinations regarding complaints of racial discrimination; and

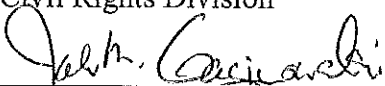
(f) award such additional relief as justice may require, together with the United States' costs and disbursements in this action.

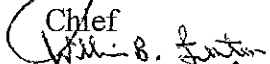

**JURY DEMAND**

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.

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