

NO. 11-CI- **11CI 07349**

JEFFERSON CIRCUIT COURT
DIVISION

REVEREND BILLY R. HOLLINS
2615 Oregon Avenue
Louisville, Kentucky 40210-2017

PLAINTIFF
JEFFERSON CIRCUIT COURT
DIVISION ONE (1)

v.

COMPLAINT

REVEREND KEVIN COSBY
4736 West Broadway
Louisville, KY 40211

DEFENDANT

SERVE: REVEREND KEVIN COSBY
4736 West Broadway
Louisville, KY 40211 *CM*

FILED IN CLERK'S OFFICE
DAVID L. NICHOLSON, CLERK
NOV 14 2011
BY *Jerry Lee Said*
DEPUTY CLERK

And

ST. STEPHEN BAPTIST CHURCH, INC.
1018 S. 15th Street
Louisville, Kentucky 40210
And/or
1018 S. 7th Street
Louisville, Kentucky 40203

DEFENDANT

SERVE: GORDON ROWE, *Registered Agent for*
St. Stephen Baptist Church, Inc.
455 S. 4th Street
Louisville, Kentucky 40202 *CM*

Comes Plaintiff, Reverend Billy R. Hollins, by counsel, and for his Complaint against
Defendants St. Stephen Baptist Church, Inc. and Reverend Kevin Cosby, states as follows:

I

PARTIES

1. Plaintiff Reverend Billy R. Hollins ("Plaintiff") was first employed as a Minister by Defendant St. Stephen Baptist Church, Inc. ("Defendant SSBC, Inc.") and Defendant Reverend Kevin Cosby ("Defendant Cosby") in February 2001.

2. Plaintiff resides in Louisville, Jefferson County, Kentucky, and was previously employed by Defendants in Kentucky until his termination by Defendants in August 2011.

3. Defendant St. Stephen Baptist Church, Inc. is a non-profit Kentucky Corporation doing business in Louisville, Jefferson County, Kentucky. Defendants employed Plaintiff in Louisville, Kentucky and in Jeffersonville, Indiana until Defendants' termination of Plaintiff.

4. Defendant Kevin Cosby is the Senior Pastor of Defendant St. Stephen Baptist Church, Inc. and resides in Louisville, Kentucky. Defendant Cosby was Plaintiff's direct supervisor, and all adverse employment actions were authorized and/or approved by Defendant Cosby.

II

JURISDICTION

5. Jurisdiction is proper in Jefferson Circuit Court because the parties engaged in a contract for employment in Louisville, Jefferson County, Kentucky, and because the violations of the law occurred in Louisville, Jefferson County, Kentucky.

III

FACTS

6. Plaintiff, who has more than twenty-five years of pastoral experience in Kentucky and Illinois, was appointed as the Associate Missionary of the Home Mission Board of The Southern Baptist Convention in which Defendant SSBC, Inc. holds a membership.

7. Plaintiff was hired by Defendants in February 2001 and was first assigned as Campus Pastor of the St. Stephen Baptist Church, Inc. Southern Indiana Campus. The Southern Indiana campus, through Plaintiff's efforts, grew in attendance from approximately 100 attendees per week to 800 attendees per week in seven (7) years.

8. In 2007, Plaintiff was removed as Campus Pastor of the Indiana campus, given a job title of Executive Assistant Pastor and a new job description, and was provided an office at the Kentucky campus of Defendant SSBC, Inc. Plaintiff was advised by Defendant Cosby that the reason for his reassignment was because the pastor of the Indiana campus should be a white man in order to appeal to white church members.

9. In 2009, Plaintiff met with Defendant Cosby to plan a Pastoral Succession Plan for Defendant SSBC, Inc., under which Plaintiff would serve as Interim Pastor in the event of the inability of Defendant Cosby to serve as pastor or in the event of his death.

10. In 2010, Plaintiff was directed by Defendant Cosby to visit new member prospects and to conduct visits to church parishioners upon request. An elderly member of Defendant SSBC, Inc. was residing in an assisted living facility and had requested a visit.

11. On October 30, 2010, Plaintiff left his office at Defendant SSBC, Inc. to make a pastoral care visit to the parishioner but was involved in a serious automobile accident causing, among other injuries, a serious concussion. Plaintiff received medical treatment in both

Kentucky and at the Cleveland Clinic in Cleveland, Ohio. Plaintiff's injury was a work-related injury pursuant to KRS Ch. 342 *et. seq.*

12. At approximately 5:30 p.m. on October 30, 2010, Plaintiff called Reverend Ken Jobst at St. Stephens Baptist Church, Inc. to notify him of his work-related accident. Reverend Jobst indicated that he would relay the information to the Senior Pastor.

13. On or about November 2, 2010, Plaintiff further reported the injury to church employee M. J. Smitzer, who was then serving as Human Resource Director.

14. On or about November 9, 2010, Plaintiff brought five (5) vials of medication to work and asked the Church Administrator, Cheri Mills, to relay the prescription information to the Senior Pastor.

15. On December 1, 2010, Plaintiff met with Defendant SSBC, Inc.'s new Human Resources Director, Pat Taylor, and Church Administrator Cheri Mills. These representatives of Defendants advised Plaintiff not to file a workers' compensation claim and informed Plaintiff that they refused to file Plaintiff's workers' compensation claim.

16. In early December 2010, M.J. Smitzer, who was then the former H.R. Director, provided Plaintiff with the name of Defendant SSBC Inc.'s workers' compensation insurance carrier and informed Plaintiff that the workers' compensation insurance information was contained on a poster in a locked room. Plaintiff had to report his own workers' compensation claim and, using the information contained on the posters, duly did so.

17. In August 2010 and September 2010, Plaintiff had been advised by Defendant Cosby that he was to receive an additional raise of \$75.00 per week. No additional payments were ever made, though Plaintiff was told in no uncertain terms that he would receive this raise, and though the raise was a term and condition of his employment.

18. In addition to Plaintiff's monetary wages, Plaintiff received \$1,250.00 per month as a housing allowance. After his work-related injury, Plaintiff received no payment of this allowance.

19. Defendants refused to return Plaintiff to work until he could return to work with no medication, even though Plaintiff was capable of working with the medication. Plaintiff's medication controlled the headaches that were a symptom of Plaintiff's work-related medical condition. Though other employees were allowed to work with medication, Plaintiff was not.

20. Defendants sent incorrect information to the workers' compensation insurance carrier, including a wage statement that was less than Plaintiff's actual salary per week and that did not include any additional monetary or housing allowance benefits received by Plaintiff or which should have been received by Plaintiff. As a result, the Temporary Total Disability payments to Plaintiff from the insurance company were less than they should have been.

21. On December 9, 2010, a representative of Defendants advised Plaintiff that he would need to cash in any unused vacation and sick-leave days and then continue on unpaid medical leave.

22. On December 13, 2010, Plaintiff was told by representatives of Defendants that upon his return to work, he would not have the same job prior to his injury, he would not have the same office prior to the injury, and he would not have the same salary prior to the injury. Plaintiff's lock to his office was then changed.

23. On June 13, 2011, even though Plaintiff continued to take medication for Post-Concussion Syndrome headaches, Plaintiff returned to work. Defendants had initially refused to allow Plaintiff to return to work with medication even though other employees had worked while taking medication.

24. Plaintiff was initially terminated by Defendants but was then advised that he would be returning to his original job. He was then terminated again without explanation.

25. Plaintiff was terminated in August 2011 because he filed a claim for workers' compensation and/or because he was perceived as having a disability, and his termination was motivated by retaliatory intent and discriminatory animus.

26. Defendants willfully failed to pay wages owed to Plaintiff.

FIRST CAUSE OF ACTION:
VIOLATION OF KRS 342.197; RETALIATION AND DISCRIMINATION

27. KRS 342.197 prohibits discrimination and retaliation against employees who have initiated workers' compensation proceedings. KRS 342.197 provides that Plaintiff shall have a civil cause of action and shall recover "actual damages sustained by him, together with the cost of a lawsuit, including a reasonable fee for his attorney".

28. Defendants have violated KRS 342.197 by discriminating against Plaintiff and retaliating against Plaintiff for initiating a workers' compensation claim and by terminating Plaintiff's employment and denying him his "wages" and other employment benefits because he initiated a workers' compensation claim.

SECOND CAUSE OF ACTION:
WAGE AND HOUR VIOLATIONS

29. KRS 337.010(1)(c) defines wages as:

"any compensation due to an employee by reason of his or her employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy."

30. Wages include not only monetary benefits but all forms of compensation agreed upon by employee and employer. Wages must be paid within 18-days of the day the wages are earned.

31. KRS 337.010(1)(d) defines employer as:

“any person, either individual, corporation, partnership, agency, or firm who employs an employee...”

32. Defendants have willfully failed to pay wages to Plaintiff in an amount exceeding the jurisdictional threshold of this Court.

THIRD CAUSE OF ACTION:
DISABILITY DISCRIMINATION

33. Defendants regarded Plaintiff as having an impairment that substantially limited one (1) or more of Plaintiff's major life activities, including but not limited to the major life activity of working.

34. Though Plaintiff suffered a work-related injury and was taking medication to relieve headaches resulting from this work-related injury, Plaintiff was eventually capable of working and performing the job duties and essential functions of his position while taking this medication.

35. The medication did not impair Plaintiff's ability to perform his job duties or essential functions of his position and did not cause Defendants any undue hardship.

36. Defendants, who regarded Plaintiff as having an impairment substantially affecting his ability to work, violated the Kentucky Civil Rights Act by refusing to reasonably accommodate Plaintiff, by refusing to allow Plaintiff to work while taking medication to relieve his headaches, and by committing adverse employment actions against the Plaintiff based on Plaintiff's perceived disability, including but not limited to adversely changing the terms and conditions of Plaintiff's employment.

37. Plaintiff suffered a loss of pay as well as other damages as a result of Defendants' adverse employment actions.

FOURTH CAUSE OF ACTION:
RACE DISCRIMINATION

37. Plaintiff is a member of a protected class.

38. The Kentucky Civil Rights Act prohibits discrimination on the basis of race.

Plaintiff sustained an adverse employment action because of his race.

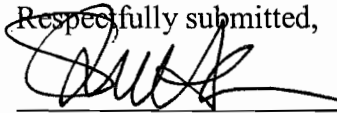
39. The reassignment of Plaintiff from the Southern Indiana campus to the Kentucky campus was a substantially adverse employment action and a discriminatory action based upon Plaintiff's race – Plaintiff was deliberately replaced with a “white” pastor for reasons unrelated to Plaintiff's work performance. In reassigning Plaintiff to a different job based on race, Defendants violated the Kentucky Civil Rights Act.

40. Plaintiff has damages in an amount in excess of the jurisdictional threshold of this Court.

WHEREFORE, counsel for Plaintiff Reverend Billy R. Hollins moves this Court for the following relief:

1. Trial by Jury;
2. Injunctive relief, including reinstatement;
3. Any and all damages permissible by law, including but not limited to loss of wages, damages for embarrassment and humiliation; punitive damages; liquidated damages; attorneys' fees and costs; and
4. For any and all other relief to which he may appear entitled.

Respectfully submitted,



Stuart E. Alexander salexander@tilfordlaw.com

TILFORD DOBBINS ALEXANDER, PLLC

401 West Main St., Ste. 1400

Louisville, Kentucky 40202

T: (502) 584-1000

F: (502) 584-2318

Counsel for Plaintiff Hollins