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STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

99 APR 27 PM 3:04

99 CVS 12504

SAMUEL LEE GORDON,

Plaintiff,

v.

ALLSTATE INSURANCE COMPANY,

Defendant.

MECKLENBURG COUNTY, C.S.C.

BY _____

COMPLAINT

COMES NOW the Plaintiff and files this claim pursuant to G.S. § 95-240 *et seq.*, and the public policy of North Carolina as contained in G.S. § 143-422.2, to recover money damages and injunctive relief for the wrongful acts of Defendant and sets forth as follows:

1. The Plaintiff, Samuel Lee Gordon, is a black male citizen and resident of Mecklenburg County, North Carolina.
2. Upon information and belief, the Defendant, Allstate Insurance Company, is a corporation authorized to do business and doing business in the State of North Carolina, and at all times relevant herein employed fifteen or more persons and is an employer as that term is defined by G.S. § 241.
3. Jurisdiction of this action is authorized in part pursuant to G.S. § 243. At all relevant times herein all actions occurred within Mecklenburg County, North Carolina.

FACTS

4. Plaintiff Gordon was hired by Defendant on June 16, 1997, as a supply systems technician or record center representative. In this position Plaintiff was required to work in a

warehouse in which paper records concerning customers are maintained for storage, reference and retrieval.

5. Since June, 1997, Plaintiff performed his job duties in a manner which met and/or exceeded the expectations of Defendant.

6. In April, 1998, Plaintiff applied for the position of Shipping Supervisor/Safety Trainer. Plaintiff met the minimum qualifications for this position. Despite his qualifications, Plaintiff was not selected for the position and a less qualified white male was selected for the position. Additionally, Plaintiff and other males were being assigned to perform jobs which required the lifting of boxes and the loading and unloading of trucks and other manual tasks while female employees were not assigned to such tasks although they were in the same job classification and were paid the same level of wages.

7. In May, 1998, Plaintiff told his immediate supervisor that he would file a formal complaint about unsafe working conditions with the U.S. and North Carolina Departments of Labor, Occupational Safety and Health Divisions if certain working conditions were not changed. On or about August 26, 1998, Plaintiff filed an internal grievance with Defendant in which he alleged that he had not been promoted into the Supervisor/ Safety Trainer position because of his race or because he had raised the aforementioned safety concerns with his immediate supervisor, and complained that there was disparate treatment between the male and female employees with respect to job assignments.

8. On or about September 7, 1998, Plaintiff filed in good faith a written complaint with the North Carolina Department of Labor pursuant to G.S. § 95-130 in which he complained about working in conditions of excessive heat and noise, toxic fumes, and improper ventilation.

The N.C. Department of Labor conducted an investigation of Plaintiff's complaint on or about September 23, 1998.

9. On or about October 1, 1998, Plaintiff filed a formal complaint with Defendant's Senior Vice President of Human Resources in which he alleged that he was being discriminated against because he had in good faith raised safety concerns with his immediate supervisor and had in good faith complained about disparate treatment between black and white employees and the male and female employees with respect to job assignments and promotions.

10. On or about October 15, 1998, Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission (hereinafter, the "EEOC") in which he alleged that he had been denied promotion because of his race and because he had complained about employment discrimination and had been treated differently because of his sex with respect to the terms and conditions of his employment. This charge was assigned Charge No. 140990069 by the EEOC.

11. Upon information and belief, on or about December 9, 1998, N.C. Department of Labor issued a notice of violation to Defendant as a result of Plaintiff's complaints.

12. On or about December 10, 1998, Plaintiff complained to Defendant officials through its "Resolution Line" that he was not being paid overtime wages and was not being compensated with compensatory time as were his white coworkers. On or about December 17, 1998, Plaintiff was contacted by Defendant's local Human Resources Manager to discuss the Resolution Line complaint.

13. On or about December 21, 1998, Plaintiff was discharged because of his race and the fact that he had complained to Defendant's managers about discriminatory treatment of black

males and had complained about workplace safety violations and the failure to pay overtime wages.

14. On or about December 29, 1998, Plaintiff filed a second charge of discrimination with the EEOC in which he alleged that he had been terminated because of his race and because he had complained about employment discrimination. This charge was assigned Charge No. 140990406 by the EEOC.

15. On or about December 20, 1998, Plaintiff filed a complaint with the North Carolina Department of Labor Workplace Retaliation Division (WORD) in which he claimed that he had been terminated in retaliation for filing a complaint against Defendant for workplace safety violations.

16. On or about January 29, 1999, the EEOC issued right-to-sue letters to Plaintiff with respect to his charges of discrimination.

17. On or about March 4, 1999, the North Carolina WORD office issued a right-to-sue letter to Plaintiff with respect to the retaliation complaint which he had filed with that office. All conditions precedent to bringing this action pursuant to G.S. § 95-243 have been met.

18. The discriminatory and retaliatory acts as alleged above were willfully and maliciously committed by Defendant or with reckless disregard of Plaintiff's rights.

19. The acts of Defendant proximately caused Plaintiff to suffer economic damage in the form of, but not limited to, lost wages, fringe benefits and bonuses and caused him humiliation, embarrassment and other emotional distress for which he incurred medical expenses for diagnosis and treatment.

FIRST CLAIM FOR RELIEF

20. Plaintiff incorporates by reference and realleges paragraphs 1 through 19. The termination of the employment of Plaintiff because of his race constitutes a wrongful discharge under North Carolina law in violation of G.S. § 143-422.2.

SECOND CLAIM FOR RELIEF

21. Plaintiff incorporates by reference and realleges paragraphs 1 through 19. The termination of the employment of Plaintiff because he in good faith complained about occupational safety problems and filed complaints with the North Carolina Labor Department constitutes a violation of G.S. § 95-241(a)(1)(b).

THIRD CLAIM FOR RELIEF

22. Plaintiff incorporates by reference and realleges paragraphs 1 through 19. The termination of the employment of Plaintiff because he complained about employment practices he in good faith believed to be racially or sexually discriminatory constitutes a wrongful discharge in violation of public policy under the laws and statutes of North Carolina.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays this Court for the following relief:

1. That Plaintiff have and recover from Defendant an amount in excess of Ten Thousand Dollars (\$10,000.00) as compensatory and actual damages;
2. That Plaintiff have and recover punitive and exemplary damages in excess of Ten Thousand Dollars (\$10,000.00);
3. That the Court issue a permanent injunction enjoining Defendant, its officers agents, successors, employees, and any others acting in concert with them from maintaining

personnel policies which discriminate or retaliate against employees because of their race or sex or because they have made good faith complaints about unsafe working conditions;

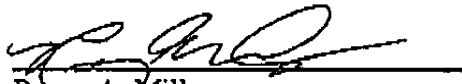
4. That Plaintiff be awarded his reasonable attorney fees and costs; and

5. That Plaintiff have such other and further relief as to the Court shall seem just and proper.

6. PLAINTIFF DEMANDS TRIAL BY JURY.

This the 28th day of April, 1999.

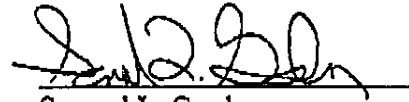
MURPHY, CHAPMAN & MILLER, P.A.


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Charlotte, N.C. 28202
Telephone: (704) 376-5706

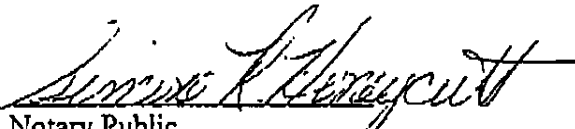
VERIFICATION

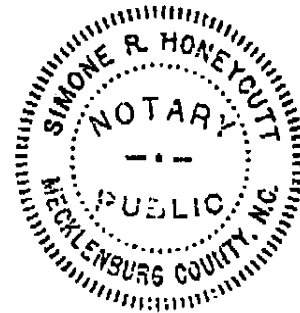
STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

SAMUEL L. GORDON, being first duly sworn, deposes and says that he is the Plaintiff herein; that he has read the foregoing Complaint and knows the contents thereof; that the same is true of his own knowledge, except those matters stated to be alleged upon information and belief, and as to those matters, he believes them to be true.


Samuel L. Gordon

Sworn to and subscribed
before me this 27th day
of April 1999.


Notary Public



My Commission Expires:
My Commission Expires July 6, 1999

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