

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
PLAINTIFF,

v.

DON'S SPECIALTY MEATS, INC.,
DEFENDANT.

CIVIL ACTION
No. 6:21-CV-03421

JURY DEMAND

COMPLAINT

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 ("Title VII") and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race and to provide appropriate relief to [REDACTED]. As alleged with greater particularity below, the defendant, Don's Specialty Meats, Inc., subjected [REDACTED] to a hostile work environment and constructively discharged [REDACTED] because of his race.

JURISDICTION & VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 451, § 1331, § 1337, § 1343, and § 1345. This action is authorized and instituted pursuant to Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3), and pursuant to Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed in the State of Louisiana and, therefore, within the jurisdiction and venue of the United States District Court for the Western District of Louisiana, Lafayette Division, pursuant to Title VII, 42 U.S.C. § 2000e-5(f)(3).

PARTIES

3. Plaintiff, the U.S. Equal Employment Opportunity Commission (the “Commission”), is the agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII and is expressly authorized to bring this action by Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Don’s Specialty Meats, Inc. has continuously been a corporation doing business in the State of Louisiana and has continuously had at least 15 employees.

5. At all relevant times, Don’s Specialty Meats, Inc. has continuously been an employer engaged in an industry affecting commerce under Title VII, 42 U.S.C. § 2000e(b), (g), and (h).

ADMINISTRATIVE PROCEDURES

6. More than 30 days prior to the institution of this action, [REDACTED] filed a charge of discrimination (“charge”) with the Commission alleging violations of Title VII by Don’s Specialty Meats, Inc.

7. On or about August 2, 2021, the Commission issued to Don’s Specialty Meats, Inc. a letter of determination (“determination”) finding reasonable cause to believe that Don’s Specialty Meats, Inc. violated Title VII and inviting it to join with the Commission in informal methods of conciliation to endeavor to eliminate the unlawful employment practices and provide appropriate relief.

8. The Commission engaged in communications with Don’s Specialty Meats, Inc. to provide the opportunity to remedy the discriminatory practices described in the determination.

9. On or about August 10, 2021, the Commission issued to Don's Specialty Meats, Inc. a notice of conciliation failure, advising that the Commission was unable to secure a conciliation agreement acceptable to the Commission.

10. All conditions precedent to the institution of this action have been fulfilled.

STATEMENT OF CLAIMS

11. Since at least 2018, Don's Specialty Meats, Inc. has engaged in unlawful employment practices in violation of Title VII, 42 U.S.C. § 2000e-2(a).

A. Don's Specialty Meats, Inc. prepares and sells meat products (including boudin, cracklings, chicken, pork, and beef), prepared foods, and other grocery items.

B. Don's Specialty Meats, Inc. has facilities in Scott, Louisiana, and Carencro, Louisiana.

C. Between 2018 and 2020, Don's Specialty Meats, Inc. employed [REDACTED] preparing food at the Scott facility and then later at the Carencro facility.

D. [REDACTED] is African American.

E. Don's Specialty Meats, Inc. always had at least 79 employees between 2018 and 2020. While [REDACTED] was at each facility, he was one of just two African American employees.

F. Throughout his employment, [REDACTED] was subjected to a hostile work environment because of race.

G. The general manager routinely referred to [REDACTED] as “Black boy,” “the Black boy,” or “little Black guy.” In addition, [REDACTED] was identified as “Black boy” on the schedule; non-African American employees were identified by name.

H. The general manager and other employees routinely used racial slurs in the presence of [REDACTED]. For example, the general manager said “there is a difference between being a [REDACTED] and being a [REDACTED],” that “once you are with a [REDACTED] you are always with a [REDACTED],” and that another employee’s African American child was a [REDACTED] baby.”

I. A manager told him that Don’s Specialty Meats, Inc. was hiring, but that applicants “just can’t be Black” and that the general manager “don’t want them to be Black.”

J. In addition to preparing food, [REDACTED] was required to pick up trash and debris on a public road. Non-African American employees were not required to do this. A manager told [REDACTED] that the general manager told the manager to have “the Black boy” do it.

K. On or about July 8, 2020, [REDACTED] supervisor repeatedly called him a “bitch ass [REDACTED]” in the presence of other employees. [REDACTED] immediately complained in person to several other managers. The supervisor, who was with [REDACTED] when he complained to the managers, continued to call him a “bitch ass [REDACTED]” in the presence of those managers. The managers did not tell the supervisor to stop using the slur and took no other corrective action. A manager then dismissed [REDACTED].

██████████—but not the supervisor—for the remainder of his shift. ██████████

██████████ subsequently complained in writing.

L. On or about July 9, 2020, the general manager told ██████████ ██████████ that he would not reprimand his supervisor, and in the presence of other employees, the general manager told ██████████ that “he loved ██████████], but [that he] was still a bitch ass ██████████.”

M. The harassment described herein was severe or pervasive and materially altered the terms or conditions of ██████████’s employment.

12. The working conditions at Don’s Specialty Meats, Inc. so intolerable that a reasonable employee in the circumstances would feel compelled to resign.

N. On or about July 10, 2020, ██████████ resigned.

O. Don’s Specialty Meats, Inc. purportedly “disciplined” the supervisor by prohibiting her from wearing her Don’s Specialty Meats, Inc. shirt for about a day. Don’s did not take any prompt, remedial action in regard to the harassment. Don’s Specialty Meats, Inc. did not otherwise discipline on any manager or supervisor.

13. The effect of Don’s Specialty Meats, Inc.’s unlawful employment practices complained of above has been to deprive ██████████ of equal employment opportunities and otherwise adversely affect his status as an employee because of his race in violation of Title VII.

14. The unlawful employment practices complained of above were intentional.

15. Don's Specialty Meats, Inc. acted with malice and/or reckless indifference to the federally protected rights of [REDACTED] when it engaged in the unlawful employment practices complained of above.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Don's Specialty Meats, Inc. its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with it, from discriminating against its applicants or employees because of race.

B. Order Don's Specialty Meats, Inc. to institute and carry out policies, practices, and programs that provide equal employment opportunities for applicants and employees who are African American and that eradicate the effects of its past and present unlawful employment practices.

C. Order Don's Specialty Meats, Inc. to make [REDACTED] whole, by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement and/or front pay.

D. Order Don's Specialty Meats, Inc. to post and keep posted the notices required by Title VII, 42 U.S.C. § 2000e-10(a).

E. Order Don's Specialty Meats, Inc. to make and preserve all records relevant to the determination of whether unlawful employment

practices have been or are being committed, in accordance with Title VII, 42 U.S.C. § 2000e-8(c).

F. Order Don's Specialty Meats, Inc. to make [REDACTED] whole by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, including job-search and medical expenses, in amounts to be determined at trial.

G. Order Don's Specialty Meats, Inc. to make [REDACTED] whole by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of above, including but not limited to emotional pain and suffering, inconvenience, and humiliation, in amounts to be determined at trial.

H. Order Don's Specialty Meats, Inc. to pay punitive damages for its malicious and/or reckless conduct, as described above, in amounts to be determined at trial.

I. Grant such further relief as the Court deems necessary and proper in the public interest.

J. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by this Complaint that are triable to a jury.

Respectfully submitted,

Rudy L. Sustaita
Regional Attorney
U.S. Equal Employment Opportunity
Commission

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COUNSEL FOR U.S. EQUAL
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REGISTERED AGENT FOR SERVICE OF PROCESS:

MARK COLE
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SCOTT, LA 70583

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorneys (Firm Name, Address, and Telephone Number)
Andrew B. Kingsley, 500 Poydras St., Suite 809, New Orleans, Louisiana, 70130, 504-635-2533

DEFENDANTS
DON'S SPECIALTY MEATS, INC.
County of Residence of First Listed Defendant Lafayette (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
[X] 1 U.S. Government Plaintiff
[] 2 U.S. Government Defendant
[] 3 Federal Question (U.S. Government Not a Party)
[] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State [] 1 [] 1
Citizen of Another State [] 2 [] 2
Citizen or Subject of a Foreign Country [] 3 [] 3
Incorporated or Principal Place of Business In This State [] 4 [] 4
Incorporated and Principal Place of Business In Another State [] 5 [] 5
Foreign Nation [] 6 [] 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Real Property, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)
[X] 1 Original Proceeding
[] 2 Removed from State Court
[] 3 Remanded from Appellate Court
[] 4 Reinstated or Reopened
[] 5 Transferred from Another District (specify)
[] 6 Multidistrict Litigation - Transfer
[] 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 2000e-2
Brief description of cause:
Discrimination on the basis of race.

VII. REQUESTED IN COMPLAINT:
[] CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE DOCKET NUMBER

DATE: September 24, 2021
SIGNATURE OF ATTORNEY OF RECORD: /s/ Andrew B. Kingsley

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. **(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 - United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 - Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

- V. **Origin.** Place an "X" in one of the seven boxes.
 - Original Proceedings. (1) Cases which originate in the United States district courts.
 - Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 - Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 - Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.

PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.

- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Louisiana

U.S. Equal Employment Opportunity Commission)

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Plaintiff(s)

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v.

)

Civil Action No. 6:21-CV-03421

Don's Specialty Meats, Inc.

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Defendant(s)

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SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Don's Specialty Meats, Inc.
c/o Mark Cole
730 I-10 South Frontage Road
Scott, LA 70583

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 6:21-CV-03421

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: