

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

LaShaun Curry,

Plaintiff,

v.

South Carolina State Election Commission,

Defendant.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

SUMMONS

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is served upon you, and to serve a copy of your answer to this Complaint upon the subscriber at the address shown below within thirty (30) days (thirty five (35) days if served by United States Mail) after service hereof, exclusive of the date of such service, and if you fail to answer the Complaint, judgment by default will be rendered against you for the relief demanded in the Complaint.

CROMER BABB PORTER & HICKS, LLC

BY: s/Ryan K. Hicks
Ryan K. Hicks (#100941)
1418 Laurel Street, Suite A
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Ryan@cbphlaw.com

Attorney for Plaintiff

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Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

LaShaun Curry,

Plaintiff,

vs.

South Carolina State Election Commission,

Defendant.

IN THE COURT OF COMMON PLEAS
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**COMPLAINT
(Jury Trial Demanded)**

EMPLOYMENT CASE

Plaintiff complaining of the Defendant herein would respectfully allege that:

PARTIES AND JURISDICTION

1. Plaintiff, LaShaun Curry (hereinafter "Plaintiff" or "Curry"), is a citizen and resident of the County of Richland, South Carolina and was formerly employed by Defendant South Carolina State Election Commission.
2. Defendant, South Carolina State Election Commission (hereinafter referred to as "Defendant" or "SCEC"), is a state agency that is responsible in "ensur[ing] every eligible citizen has the opportunity to register to vote and participate in fair and impartial elections with the assurance that every vote will count."
3. This action is brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, and the common law of the State of South Carolina.
4. The events giving rise to this action occurred in Richland County, the parties have sufficient connection to Richland County, and jurisdiction is proper.

FACTUAL ALLEGATIONS

5. Curry initially began her employment with Defendant in or around June 2019, when she was

hired as the Director of Training and Compliance. Curry remained employed until on or about May 11, 2021, when she was abruptly terminated by then Executive Director, Marci Andino (“Andino”) – a white female.

6. Curry performed her job in a competent, if not more than competent, manner.
7. At the time Curry interviewed and accepted the position, she was informed that she would be the Director of Training and would have one FTE (full-time employee) report to her; however, that employee went out on leave within a week of Curry’s start date and was later terminated by Defendant in or around November 2019.
8. Notwithstanding, upon beginning her employment, Curry was instructed she would serve as the Director of Training and Compliance and would now supervise six FTEs. Curry was further required to handle the job duties/responsibilities of her FTE she was planned to have supervised for several months before a replacement was hired.
9. Notably, Defendant had previously employed a ‘Director of Public Information and Training.’ That position had most recently been held by a white male, Chris Whitmire (hereinafter “Whitmire”) Whitmire was relieved of the training position duties upon Curry’s hire and was then styled the Director of Public Information.
10. Curry was not provided any adjusted compensation for these changes/additional job duties and responsibilities.
11. At or around the same time of Curry’s hire, Defendant also had a vacancy for a Director of Voter Services. Curry was informed that she was not qualified for this position because she had no elections experience.
12. Notwithstanding, in or around October 2019, Defendant hired Howie Knapp (“Knapp”), a white male, as the Director of Voter Services. Upon information and belief, Knapp also did not have elections experience.

13. Approximately eight months into her employment, Curry began having what she perceived to be hostile interactions with Andino. To wit:

- a. Being left out of group meetings and/or having to attend one-on-one meetings with Andino;
- b. Being forced to complete the work of her white counterparts, but allowing them to review/present it;
- c. Being forced to handle the duties/responsibilities of her subordinates, without an increase of compensation, when her white counterparts were not so required;
- d. Being prohibited from documenting poor performance and issue disciplinary action on one of Curry's direct reports – a white female. Rather, Andino mandated that Curry issue a “successful by default” rating and provide a 2% pay raise.
- e. Being steered to retain the “exceptional” rating of a white female subordinate, but lower the “exceptional” rating of an African American female employee with more experience;
- f. Being directed to require her pregnant African American subordinate to answer phones at the front desk instead of in her office, as per usual agency practice, during the pandemic as pregnancy was asserted to not be “high risk”;
- g. Being directed to excuse her white female subordinate from completing her duties, and further being subjected to completing the tasks on that employee's behalf because the employee did not want to return to the office with the rest of the team during the pandemic.

14. On or about May 20, 2020, Curry was informed, effective immediately, that she was being transferred over to the Richland County Election Commission (hereinafter “Richland County”) to assist in the absentee office for the primary election.

15. Thereafter, Curry learned that the State of South Carolina Legislative Staff attended the SCEC Commission meeting on May 20, 2020.
16. Curry was the only director-level employee of Defendant that was so transferred. Moreover, Curry was transferred despite Defendant's prior contention that she lacked elections experience and was not qualified for the Director of Voter Services position.
17. Upon information and belief, Curry is/was the only director-level employee so transferred in recent history of the SCEC.
18. Curry maintains this involuntary transfer constituted a demotion as it placed her not in a director role but now in a role carrying out the duties/responsibilities akin to that of her subordinates at Defendant.
19. On or about June 12, 2020, Curry was belittled and criticized by Andino for purportedly being "unavailable" at the Defendant main office. Curry was unavailable only because Andino had transferred her to Richland County.
20. In and or around June 2020, Curry was due to have her annual performance evaluation, though Andino claimed the review could not be completed because of Curry's transfer to Richland County. Furthermore, Curry was denied compensatory time for the hours worked in Richland County, a denial Andino attributed to her director-level status. Notably, Curry was successful in guiding the absentee office to a balanced review, the first for the Richland County office in many election cycles, and as such, Richland County requested that Curry serve as Interim Director of the office for the runoff election.
21. On or about July 20, 2020, Curry sent Andino a report detailing deficiencies at the Richland County office and recommended corrective measures that should be implemented by Richland County. That rather than responding substantively to Curry's report, Andino responded to Curry by requiring her to take direction from Whitmire, who had not, upon information and

- belief, ever worked out of a county election commission office. Thereafter, Andino denied Curry's request to submit the report to Richland County for the office to institute improvements prior to the general election.
22. On or about September 2, 2020, Andino sent Curry a hostile email wherein she criticized her performance.
23. On or about September 15, 2020, Curry submitted an Inquiry with the South Carolina Human Affairs Commission ("SCHAC") wherein she identified discriminatory and retaliatory treatment.
24. On or about October 1, 2020, Curry provided an email response to Andino outlining what she perceived to be discrimination and otherwise disparate treatment.
25. On or about October 8, 2020, Andino sent Curry another hostile email wherein she criticized her performance.
26. On or about October 12, 2020, Richland County formally requested of Andino that Curry return to assist with the general election in Richland County.
27. On or about October 19, 2020, Curry notified Andino, Knapp and SCEC staff of deficiencies arising within the Richland County office, but also statewide, including the repeated outage of the Voter Registration and Election Management System, which caused multiple delays and lines within county election commission offices, and that required SCEC intervention. Again, Curry was met with unwarranted hostilities and criticism by Andino; Andino denied that there was an issue until contacted by members of the Legislature.
28. On December 21, 2020, Andino issued Curry a written reprimand for purported "failure to maintain harmonious working relationships" and "insubordination."
29. Concurrently, Andino performed the planning stages of Curry's evaluation and directed Curry to develop a plan to audit all 46 county election commissions despite audits being the

responsibility of Knapp in his role as Director of Voter Services, while Curry had been instructed that administration, office and training procedure compliance audits were under her purview as Director of Training and Compliance.

30. On December 21, 2020, Curry sent a follow-up email to Andino and the Commissioners of the State Election Commission outlining her views of discrimination and otherwise disparate treatment, agency mismanagement, as well as retaliation in response to the reprimand. Curry further copied Knapp, who had since become the Acting Director of Administration, on this communication.
31. Curry also submitted another Inquiry with SCHAC and the Equal Employment Opportunity Commission (“EEOC”) on December 29, 2020.
32. Upon information and belief, in and or around December 2020, legislation was filed that would relieve Andino of her duties as Executive Director. Notwithstanding, Andino informed Curry that Andino wasn’t “going anywhere.”
33. On February 1, 2021, Curry submitted a draft plan to audit all 46 counties as directed by Andino in December 2020. Curry expressed concerns about SCEC capabilities in enacting the plan as well as a lack of coordination and standardization of practices across county election commissions. As per usual, Curry was met with rebuke and hostilities by Andino.
34. In and or around February 2021, Curry learned that the SCEC would be subject to oversight investigations by the South Carolina Senate and House of Representatives, respectively.
35. On February 10, 2021, Curry was issued a second written reprimand by Andino.
36. On February 16, 2021, Curry filed a Charge of Discrimination (Charge No.: 14C-2021-00001) with EEOC/SCHAC. In pertinent part, Curry alleged discrimination based upon race, sex, age, and retaliation.
37. On or about February 17, 2021, Curry provided Andino with another draft plan to

- administratively audit the 46 county election commissions, which was rebuked.
38. Following the filing of her first Charge, Curry was subjected to further discriminatory and retaliatory treatment to include Andino modifying Curry's work schedule and commenting that her employment was "unnecessary."
39. Andino also sought to give Curry a subpar annual evaluation in or around February 2021.
40. On March 3, 2021, Curry filed a second Charge (Charge No.: 14C-2021-00462) with EEOC/SCHAC. In pertinent part, Curry alleged further retaliation as a result of the filing of her initial Charge.
41. On May 4, 2021, Defendant, by and through its legal counsel, provided a position statement to the SCHAC Investigator denying the discrimination and retaliation allegations.
42. Upon information and belief, on or about May 7, 2021, Andino was informed by Governor McMaster's Office that she needed to resign her position as Executive Director. Andino provided notice the following week that she intended to resign as of December 2021.
43. On May 11, 2021, Curry was terminated, effective immediately, by Andino. The termination letter was signed by both Andino and Knapp.
44. On May 17, 2021, Curry filed a third Charge (Charge No.: 14C-2021-00678) with EEOC/SCHAC asserting retaliation based upon her termination.
45. In or around October 2021, Andino stepped down as Executive Director – approximately three (3) months earlier than planned.
46. Knapp has since been named Interim Executive Director.

Facts in furtherance of a pay disparity

47. Upon information and belief, at the time Curry was hired, two other Directors, a white female and a white male, respectively, made over \$80,000/year while Curry was paid \$69,289/year in her Director position.

48. Upon further information and belief, Knapp received a starting salary of approximately \$80,000/year – consistent with his white counterparts and far greater than Curry's salary.
49. Curry is further informed and believes that her white counterparts received cost-of-living and performance evaluation pay increases whereas she never received the same.

FOR A FIRST CAUSE OF ACTION
(Race Discrimination in Violation of Title VII)

50. Where not inconsistent herewith, the foregoing paragraphs are realleged.
51. Curry is a black female.
52. Defendant has subjected Curry to disparate treatment, including, but not limited to, failure to promote and disparate pay.
53. Not only was Curry passed over in favor of white candidates, Curry's pay was thousands less per year than her white counterparts.
54. Moreover, Curry was prohibited from disciplining white employees that reported to her.
55. Defendant's actions, as set forth herein, have adversely affected Curry's conditions of employment and deprive her of her statutory right to a workplace free of discrimination.
56. Defendant has caused Curry to suffer disparate treatment, failure to promote, and disparate pay. Curry's race, black, was the direct and proximate cause of the adverse employment actions and treatment taken by Defendant's agents and employees, acting within the course and scope of their duties, which violated the Civil Rights Act of 1964, for which the Defendant is liable.
57. Defendant has violated Curry's rights under Title VII of the Civil Rights Act and has directly and proximately caused her damages, for which it is liable, including: loss of salary and benefits, back pay, front pay, reduced income and retirement benefits, lost benefits, as well as mental, physical, and emotional suffering. Curry also requests pre-judgment interest and attorney's fees and costs of this action.

FOR A SECOND CAUSE OF ACTION
(Retaliation in Violation of Title VII)

58. Where not inconsistent herewith, the foregoing paragraphs are realleged.
59. Curry engaged in protected activity, to wit:
 - a. Her October 2020 email outlining discrimination and retaliation;
 - b. Her December 2020 email outlining discrimination and retaliation;
 - c. Her February 2021 Charge of Discrimination filed with the EEOC and/or SCHAC;
 - d. Her March 2021 Charge of Discrimination filed with the EEOC and/or SCHAC.
60. Defendant was fully aware of Curry's protected activity as evidenced by its Position Statement provided to the EEOC on or about May 4, 2021.
61. Defendant has subjected Curry to continued disparate treatment and retaliatory discharge.
62. These actions taken against Curry that have resulted in her damages are the result of the planned and concerted effort to retaliate against her for her complaints about Defendant.
63. After Curry complained about the unlawful treatment of herself in an attempt to redress the ongoing discrimination and disparate treatment, the retaliatory treatment intensified and resulted in not only Curry's termination.
64. Defendant is liable to Curry for retaliation against Curry for opposing discrimination as set forth herein. Curry is entitled to an award of actual damages, including, but not limited to, back pay, front pay, loss of benefits, reduced retirement, and damages for reputational harm and emotional distress. Curry further requests pre-judgment interest, and reasonable attorney's fees and costs of this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff LaShaun Curry prays for judgment against Defendant South Carolina State Election Commission for all actual and compensatory damages in an amount to be

determined by a jury. Curry also prays for pre-judgment interest, attorney's fees and costs of this action, and any other and further relief as this Court may deem just and proper from Defendant.

CROMER BABB PORTER & HICKS, LLC

BY: *s/Ryan K. Hicks*

Ryan K. Hicks (#100941)
1418 Laurel Street, Suite A
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Ryan@cbphlaw.com

Attorney for Plaintiff

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Columbia, South Carolina