

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

DENEICE HODGES

PLAINTIFF

v.

Civ No. 1:14-CV-229-SA-SAA

HIBBETT SPORTING GOODS, INC.

DEFENDANT

JURY TRIAL DEMANDED

AMENDED COMPLAINT

COMES NOW THE PLAINTIFF, by and through undersigned counsel, and brings this Civil Complaint against DEFENDANT Hibbett Sporting Goods, Inc. and its agents and subsidiaries, and in support thereof shows the following:

INTRODUCTION

1. This action is brought by the Plaintiff Deneice Hodges in order to redress a violation of her civil rights by Defendant Hibbett Sporting Goods, Inc.
2. Ms. Hodges application for employment at Hibbett's location in Pontotoc, Mississippi was denied when Hibbett, through its agents, told Ms. Hodges that she would have to be "more feminine" in order to work at Hibbett.
3. Hibbett also objected to Ms. Hodges hair, which is neatly locked and kept up, but which strikes some observers as stereotypical of black masculinity, and was described by Hibbett as "extreme." Mr. Hodges is a black lesbian.

4. This unlawful gender- and race-based stereotyping was undertaken pursuant to Hibbett's facially discriminatory company dress and grooming policy, which requires that “[h]airstyles for female employees must be neat and conservative in nature.” (emphasis added).
5. Hibbett's discriminatory failure to hire Ms. Hodges, and its maintenance and application of a discriminatory policy, are violations of federal law.

PARTIES

6. Plaintiff Deneice Hodges is an adult resident of Tupelo, Mississippi, and an applicant for employment at one of Defendants' stores in Pontotoc, Mississippi. Ms. Hodges is a black lesbian. Her manner of grooming and dressing herself is neat and professional. Her hair is kept in locks which are swept back in a tidy bundle behind her head. Many of her clothes were originally marketed for men. She speaks and carries herself with confidence and self-assurance. She strikes some observers as stereotypically masculine.
7. Defendant Hibbett Sporting Goods, Inc., is a Delaware corporation with headquarters in Birmingham, Alabama, which owns and operates stores in many places around the United States.
8. All of the acts and failures to act alleged herein were duly performed by and attributable to the Defendant, through its agents and employees. Said acts

and failures to act were within the scope of such agency and/or employment, and the Defendant participated in, approved and/or ratified the unlawful acts and omissions of others complained of herein.

JURISDICTION & VENUE

9. Jurisdiction is proper in this court under 28 U.S.C. § 1331 because this action arises under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*
10. Venue is proper in this court under 42 U.S.C. § 2000e-5(f)(3) because this is the judicial district in which Ms. Hodges would have worked if Hibbett had not unlawfully discriminated against her.

ADMINISTRATIVE EXHAUSTION

11. Ms. Hodges has exhausted her administrative remedies. She filed a timely administrative charge of discrimination against Hibbett with the U.S. Equal Employment Opportunity Commission (EEOC) within 180 days of the discriminatory act.
12. The EEOC issued a right-to-sue letter on September 22, 2014, and Ms. Hodges timely filed her original Complaint in this court.

FACTS

13. Some time in mid-2013, Ms. Hodges submitted a written application for

entry-level employment as a sales associate at the Hibbett store at 108 Highway 15 N., Pontotoc, MS 38863.

14. On or around the week of September 2, 2013, Ms. Hodges was interviewed by Hibbett for a sales associate position.

15. Ms. Hodges interviewed with the local Store Manager, Ms. Farren.

16. Ms. Farren stated at the interview that Ms. Hodges was well qualified and would be a good candidate for the job, but that she would have to check with her district manager about hiring her.

17. On Friday, September 13, 2013, Ms. Farren told Ms. Hodges by phone that her application was denied.

18. Ms. Farren represented that the decision was made by the District Manager, Mr. Blake.

19. Ms. Farren reported that Ms. Hodges would need to be “more feminine” to obtain a position. She reported that Mr. Blake said Ms. Hodges would have to cut her hair and change her appearance to look more feminine.

20. Ms. Hodges asked Ms. Farren how Mr. Blake knew what she looked like.

Ms. Farren answered that Mr. Blake watched a video recording of the interview.

21. Ms. Hodges said “I feel like that's not right, that he's discriminating against

me.” Ms. Farren answered “I feel the same.”

22. Ms. Farren further stated that, at the store in Starkville where she used to work, some women wore dreadlocks but that they were more feminine. She said she didn't have any problem with Ms. Hodges' candidacy for the position, but that Mr. Blake had said “no.”

23. Ms. Hodges said “Let him know I'm going to be filing something.”

24. Ms. Farren responded “Okay, you do what you have to do, Ms. Hodges, have a nice day.”

25. Hibbett maintains a company-wide dress-code and grooming policy. Among other things, the policy addresses the hairstyles of employees.

26. The policy contains two distinct, gender-specific policies about hairstyles.

27. These policies impose different requirements women than men.

28. Specifically, the policy for women states: “Hairstyles for female employees must be neat and conservative in nature. Extreme hair fashions are prohibited. Excessive hair colors such as, but not limited to, purple or green are also prohibited.” (emphasis added.)

29. The policy for men, by contrast, does not require hairstyles to be “conservative in nature.”

30. The policy for men states: “Men's hair must be neat and above the collar of

the shirt (no ponytails). Extreme hair fashions are prohibited. Excessive hair colors such as, but not limited to, purple or green are also prohibited.”

FIRST CLAIM FOR RELIEF

31. The Plaintiff herein incorporates all allegations set forth in all other sections of this Complaint.

32. Hibbett violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a)(1), in its failure to hire Ms. Hodges.

33. Specifically, when District Manager Mr. Blake applied stereotypes about properly “feminine” black women, his decision not to hire Ms. Hodges was unlawfully motivated by her race and sex.

34. Because of Hibbett's discriminatory actions, Ms. Hodges has suffered losses in compensation, earning capacity, humiliation, mental anguish, and emotional distress. As a result of those actions and consequent harms, Ms. Hodge has suffered such damages in an amount to be proved at trial.

35. Hibbett's unlawful actions were intentional, willful, malicious and/or done with reckless disregard for Ms. Hodge's rights.

36. Ms. Hodge's requests relief as described in the prayer for relief below.

SECOND CLAIM FOR RELIEF

37. The Plaintiff herein incorporates all allegations set forth in all other sections

of this Complaint.

38. Hibbett has violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a) by maintaining a national policy which discriminates on the basis of sex.
39. Hibbett's grooming policy expressly requires the hairstyles of female employees to be "conservative in nature," while no such requirement is imposed on the hairstyles of men.
40. The policy enforces discriminatory gender stereotypes.
41. In application, the policy reaches beyond hairstyles and regulates the manners, actions and deeply-held beliefs of female employees.
42. Women being "conservative in nature" is not a bona fide occupational qualification.
43. This expressly discriminatory policy was applied to Ms. Hodges, causing her losses in compensation, earning capacity, humiliation, mental anguish, and emotional distress. As a result of those actions and consequent harms, Ms. Hodge has suffered such damages in an amount to be proved at trial.
44. Hibbett's unlawful actions were intentional, willful, malicious and/or done with reckless disregard for Ms. Hodge's rights.
45. Ms. Hodge's requests relief as described in the prayer for relief below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

1. Enter a declaratory judgment that the practices and policies complained of herein are unlawful and violate Title VII of the Civil Rights Act of 1964;
2. Grant all injunctive relief necessary to bring Hibbett into compliance with the law;
3. Order Hibbett to remedy the unlawful failure to hire Ms. Hodges by immediately hiring her to a comparable position of employment at any one of a number of suitable Hibbett store locations, which will be listed by the Plaintiff at the appropriate time;
4. Order Hibbett to pay the wages, salary, employment benefits and other compensation denied or lost to Ms. Hodges by reason of Hibbett's unlawful actions, in an amount to be proven at trial;
5. Order Hibbett to pay Ms. Hodges consequential damages for harms flowing from Hibbett's unlawful conduct, in an amount to be proven at trial;
6. Order Hibbett to pay compensatory damages for Ms. Hodges' emotional pain and suffering, in an amount to be proven at trial;
7. Order Hibbett to pay exemplary and punitive damages;
8. Order Hibbett to pay attorney fees and costs of the action;

9. Order Hibbett to pay interest at the legal rate on such damages as appropriate, including pre- and post-judgment interest; and
10. Grant any further relief that the Court deems just and proper.

Dated: March 9, 2015

Respectfully submitted,



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