

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

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YVETTE BUTLER,

Index No. _____
Date Filed: _____

Plaintiff,

SUMMONS

COCA-COLA REFRESHMENTS
USA, INC.,

Plaintiff designates
County of Queens as the
place for trial based upon the
residence of the Defendants

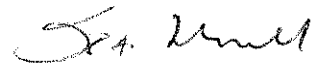
Defendant.

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To the above named defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Garden City, New York
January 20, 2012

THE LAW OFFICE OF STEVEN A MORELLI



STEVEN A. MORELLI, ESQ.
ERIC S. TILTON, ESQ.
Attorney(s) for Plaintiff
1461 Franklin Avenue
Garden City, New York 11530
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TO: Coca-Cola Refreshments USA Inc.,
5840 Borden Avenue
Maspeth, N.Y. 11378

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

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YVETTE BUTLER,

Index No.:

Plaintiff,

COMPLAINT

- against -

COCA-COLA REFRESHMENTS USA, INC.,

Defendant.
-----X

Plaintiff YVETTE BUTLER, by and through her attorneys, The Law Office of Steven A. Morelli, P.C., alleges, upon knowledge as to herself and her own actions and upon information and belief as to all other matters, as follows:

PRELIMINARY STATEMENT

1. Plaintiff Yvette Butler was employed from 2003 to 2008 as a mechanic at Coca-Cola's Maspeth production plant. Throughout her employment, Ms. Butler suffered from a hostile work environment of casual racism, sexual harassment, unfair work assignments, and discriminatory disciplinary actions. After Ms. Butler made complaints to managers and Human Resources about her mistreatment, Coca-Cola retaliated against her by forcing her to sign a last-chance agreement and then terminating her based on frivolous causes.
2. This is a civil action based upon the Defendant's violation of 42 U.S.C. § 1981, and contains any other cause of action that can be inferred from the facts set forth herein.

PARTIES

3. Plaintiff YVETTE BUTLER, a 46-year old African American female, at all relevant times, was and still is a resident and domiciliary of the County of Kings in the State of New York.
4. Defendant COCA-COLA REFRESHMENTS USA, INC., is a manufacturer, retailer, and distributor of non-alcoholic beverages and products, with branches located in New York State. Plaintiff was employed by Coca-Cola at its bottling plant location at 5840 Borden Avenue, Maspeth, Queens, New York.

FACTUAL ALLEGATIONS

5. Ms. Butler was employed by Coca-Cola as a production mechanic from February 2003 until her termination in January 2008.
6. Throughout her employment Ms. Butler was subjected to discrimination based on her race, ethnicity, and gender, in the form of unfavorable and dangerous work assignments, unfair discipline, and a hostile work environment of casual racism and harassment. Her complaints to managers and Human Resources went unanswered, and instead she faced retaliation and further discriminatory acts that culminated in her termination.

Harassment and Discrimination in Work Assignments

7. From the start of her employment, Ms. Butler was faced with suspicion and hostility for being the only female mechanic in the plant, and also the only mechanic of black American ethnicity¹. She frequently heard from co-workers questions such as, “why would you want to be a mechanic, you’re a female?” and “why would Coca-Cola pay a

¹ There were other black mechanics and supervisors, but all were of Caribbean ethnicity.

female instead of a male mechanic?” White supervisor Vito Cavarelli also said to her, “I don’t understand why they brought you in as a mechanic, you should’ve been brought in as an apprentice and paid less.” As a certified electrical technician, Ms. Butler actually had more education than most of the other mechanics at the plant, who only had high school diplomas. She also had experience working as a biomedical technician prior to working at Coca-Cola. Hence, Mr. Cavarelli’s comment was especially erroneous and insulting.

8. Ms. Butler faced discrimination from all of her superiors in the plant. At the start of her employment, these were the Caribbean-American manager of maintenance, Godfrey Stuart; white supervisors Vito Cavarelli and Antonio Abolencia; and Caribbean-American supervisor Ron Sampath.
9. When she started working at the plant, Ms. Butler’s supervisors did not allot her “cross training” time with other workers on the plant’s machines. This lack of training was evidently intended to keep her abilities limited. When she asked why she was denied proper training, supervisor Ron Sampath said, “you got the job, you should already know how to do this.” Ms. Butler had to sneak off after her shifts to learn how to operate and fix the various machines around the plant, which she was called upon to service regardless of her lack of proper training, to avoid danger when she did work on them. However, she observed that white male mechanics who were hired after her were given proper cross training on all of the machines.
10. Soon after she started working, Ms. Butler was faced with sexual harassment from manager Godfrey Stuart. Mr. Stuart persistently asked her on dates and made lewd jokes about “lubrication” as she worked on the machines. After Ms. Butler refused his requests

to go on a date, Mr. Stuart began retaliating against her. While Ms. Butler's first performance evaluation from Mr. Stuart was positive, after she refused his advances, he rated her second evaluation negatively, despite no change in Ms. Butler's diligent work. He also started to ask her to do personal favors outside of her job description, such as picking up prescription medicines for him at a pharmacy after work, which he never asked male employees to do. His hostile attitude and retaliation continued throughout Ms. Butler's employment.

11. Ms. Butler faced considerable discrimination in her work assignments. She was frequently assigned to dangerous tasks and jobs alone that were usually assigned to two or more workers, which made her work especially hazardous and difficult to perform. None of her male and non-black counterparts had to work alone on these jobs.
12. For example, once in 2004 Mr. Sampath ordered Ms. Butler to change the line 4 filler alone, which involved taking apart the entire machine. Because the task was difficult and potentially dangerous, it had always been done by several mechanics. In her case, however, Mr. Sampath purposefully reassigned a mechanic scheduled to work on that machine in order to make Ms. Butler perform the task by herself. After she finished, Ms. Butler complained about having to work alone on this dangerous job to plant director David Prestepino, but Mr. Prestepino only said, "you should be proud you did it alone."
13. Another time, in the summer of 2003, Ms. Butler asked Mr. Sampath about the proper procedure for connecting a chemical hose in a room full of flammable materials. Mr. Sampath instructed her to use a cigarette lighter to heat and soften up the hose and attach it to the connector. Fearing for her safety, Ms. Butler did not follow his instructions and instead found another way to fix the hose. Later, Ms. Butler confronted Mr. Sampath

about why he would ask her to use a lighter in a room full of flammable chemicals. Mr. Sampath responded by saying, "if you mention this to anyone I will deny everything." Ms. Butler was shocked by this answer and her supervisor's blatant disregard for her safety.

Hostile Work Environment

14. In addition to the unfair work assignments, Ms. Butler had to deal with racially and sexually charged ridicule and harassment throughout her employment, which was condoned by supervisors despite her complaints to management and Human Resources.
15. White co-worker Johnny Picca, who was favored by the managers, would frequently tell Ms. Butler that she should paint her nails red, and ask her, "What's under your hat? Are you a blonde, because you should be," implying that she was incompetent. On Martin Luther King, Jr. Day in 2007, Mr. Picca went up to Ms. Butler and yelled, "Why the hell are you working today, it's Martin Luther King day, didn't that man die for y'all?" When Ms. Butler asked Mr. Picca why he made such offensive remarks, he answered, "because I can, who's going to believe you, you're black-listed!" Unfortunately, Mr. Picca was likely correct in asserting that the supervisors would not take her side, since he was never reprimanded for these public outbursts.
16. In 2004, co-worker Abdul Saleem remarked to Ms. Butler, "your breasts are swollen and your attitude is really bitchy, what is it, that time of the month?" Ms. Butler informed her white supervisors Mr. Cavarelli and Mr. Abolencia about this offensive comment, but they only laughed and treated it as a joke.

17. In 2006, white co-worker Paul McCauley came to work wearing a Confederate flag on his head. Despite the obviously offensive nature of this symbol, he wore this flag on his head for several hours without reprimand or discipline from supervisors.
18. Ms. Butler also had to endure ethnocentric comments from other black co-workers. Andrew Walton, a mechanic of Jamaican background, often commented about the supposed failings of black Americans. He would say to Ms. Butler, “you’re lazy, your houses are always filthy,” and “black American women are usually on welfare, not working.” Mr. Walton would make these comments in front of supervisors and co-workers, but was never reprimanded.
19. In 2007, white co-worker Angela Parnelli was reading the posted schedule of work assignments during a staff meeting and loudly complained, “Why do I have to clean out the sewer? What am I, a nigger or something?” Despite all the managers being present at this meeting, she was never reprimanded. Later in 2007, Ms. Butler overheard Ms. Parnelli referring to her by the same epithet. Alleging that Ms. Butler had incorrectly set up a ladder, Ms. Parnelli said to a white supervisor, “that nigger is trying to kill me by taking screws out of the ladder!” Ms. Butler reported this incident to Human Resources, but no discipline or reprimand of any sort was issued for Ms. Parnelli.

Retaliation and Termination

20. Throughout the abuse and discrimination she suffered at Coca-Cola, Ms. Butler made numerous complaints to plant managers and Human Resources. However, instead of dealing fairly with her complaints, her managers increasingly retaliated against her by changing her work schedules and disciplining her for frivolous causes. This retaliation

led to forcing her to sign a “last chance agreement” regarding her attendance and to her final termination.

21. White plant director David Prestepino was initially friendly towards Ms. Butler, and helped her resolve her difficulties after she received her negative evaluation from manager Godfrey Stuart. However, this only invited retaliation from Mr. Stuart, who threatened to her, “If I really wanted you out of here, even David Prestepino couldn’t save you.” Indeed, because Ms. Butler would not endure her mistreatment silently, her supervisor Ron Sampath included her on a list of several employees that he wanted to get rid of because they were making complaints. Mr. Sampath once threatened to fire them all, saying he could “get some Mexicans to come here to do the job and pay them less, and they won’t complain.”
22. As the years passed and Ms. Butler reported more incidences of discrimination to Mr. Prestepino, he became less sympathetic and began to retaliate against her for her complaints. Starting in 2004, Ms. Butler began noticing that her work schedules would be changed and she would receive disciplinary actions every time she made a complaint to Mr. Prestepino or Human Resources. Her managers would make changes in her schedule without notifying her, and then blame her for coming in late when she was coming in at what she thought was the correct time.
23. Immediately after an April 2004 meeting with Mr. Prestepino, Ms. Butler was given a disciplinary warning and “counseling session” about her lateness, which she felt was directly in retaliation for her complaints about discrimination. In April 2005, right after she made complaints to management, Ms. Butler received two frivolous disciplinary actions, allegedly for taking a longer lunch break than allowed and for not punching in

properly. In the spring of 2006, she again received two disciplinary actions in February and April over her alleged attendance problems.

24. In 2004, Ms. Butler reported some of her complaints about her supervisors to Moniqua Brown, the maintenance department manager. Ms. Brown stated that should try to investigate some of the allegations, but no improvements resulted from her investigation. Later, when Ms. Brown was departing the branch, she said to Ms. Butler, "Good luck because you're going to need it. They don't like you and they are trying their best to fire you!" In the ensuing years, Ms. Brown's predictions would indeed come true.
25. From 2004 to 2006, Ms. Butler's schedule was changed frequently in retaliation for her complaints, which resulted in some of the lateness and absences the company would later use to terminate her. Also, Ms. Butler would frequently be asked to perform hazardous duties without the proper safety equipment. When she refused to do such work, she would be forced to leave early, resulting in more problems in her attendance record.
26. In the fall of 2006, Ms. Butler made several more complaints to Janelle Hardaway of Human Resources in her plant. The result was certainly not what she expected – instead of resolving her problems with discrimination, Ms. Hardaway changed the topic to Ms. Butler's attendance record. In November 2006, she demanded that Ms. Butler sign a "last chance agreement" wherein Ms. Butler would accept that any future attendance problems would result in her termination. Ms. Butler refused to sign this agreement for a week, during which Ms. Hardaway and other managers put extreme pressure on her to sign. Finally, on November 21, 2006, she signed the agreement. Her original complaints about discriminatory treatment were not resolved, but the company instead got what it needed to terminate her later.

27. During 2007, Ms. Butler was extremely careful not to exceed the 7% tardiness or absence limit for any quarter that would result in her termination. However, in the last quarter of the year, her managers set up a layoff in the month of December 2007, laying off all the workers starting with Ms. Butler and moving lower on the seniority list. During December, several workers with less seniority than Ms. Butler were called back, but she was not. The end result was that she had fewer total days of work that quarter, which meant that her four tardy days in October and November resulted in her exceeding the 7% tardiness limit. Ms. Butler believes the managers deliberately laid her off in December after calculating that her prior tardiness in October and November would be sufficient to result in her termination if she did not work in December.
28. On January 23, 2008, Ms. Butler received a termination notice, based on just four tardy days that resulted in a 9.1% absentee rate because she did not work in December. She is aware of numerous employees with worse attendance records who were not terminated, but in her case having only one quarter with tardiness exceeding 7% was enough for the company to terminate her.
29. Ms. Butler had an arbitration hearing over her termination on February 14, 2008. However, she was not properly represented by her union's attorney, who did not bring up many of the mitigating issues, including the fact that she was laid off in December 2007. The end result was that her termination was sustained by the arbitrator.

Damages

30. Throughout her employment, Ms. Butler suffered from emotional depression and anxiety from her mistreatment at the hands of supervisors and co-workers. Since her termination,

Coca-Cola also interfered with her receiving unemployment benefits. As a result, she and her three children were made homeless for 13 months because of lack of money to pay her rent. She has suffered tremendously from her termination, and fears returning to her field of work as a mechanic because of the discrimination she suffered while working for Coca-Cola.

CLAIMS FOR RELIEF

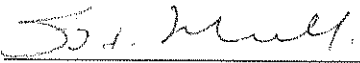
31. Plaintiff was forced to endure a hostile working environment throughout the tenure of her employment with Defendant and eventually terminated on the basis of her race, ethnicity, and good faith opposition to discriminatory practices in violation of 42 U.S.C. § 1981.

WHEREFORE, Plaintiff demands judgment against Defendant for any and all compensatory damages including lost compensation, front pay, back pay, emotional and psychological damages, liquidated damages as applicable, punitive damages as applicable, and any other damages permitted by law pursuant to the above-referenced causes of action. It is respectfully requested that the Court grant Plaintiff any other relief to which she is entitled, including but not limited to:

1. Awarding reasonable attorneys fees and costs and disbursements of this action; and
2. Granting such other and further relief that to the Court seems just and proper.

Dated: Garden City, New York
January 20, 2011

The Law Office of Steven A. Morelli, P.C.
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By: 

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ERIC S. TILTON