

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Docket No.: _____

2017 DEC -3 P 1:27

NATHANIEL ABRAHAM,
an individual,

Plaintiff,

v.

WOODS HOLE OCEANOGRAPHIC
INSTITUTION, a not-for-profit
organization, and MARK E. HAHN,
individually and in his official capacity
as a scientist at Woods Hole
Oceanographic Institution,

Defendants.

MAGISTRATE JUDGE JLA

**PLAINTIFF'S VERIFIED
COMPLAINT**

JURY TRIAL DEMANDED

07 CA 12237 DCJ

PLAINTIFF'S VERIFIED COMPLAINT

Plaintiff, NATHANIEL ABRAHAM, by his attorneys Denise G. Minor and Gibbs Law Firm, P.A., for his Verified Complaint against the Defendants, WOODS HOLE OCEANOGRAPHIC INSTITUTION and MARK E. HAHN, states:

A. Parties

1. Plaintiff, NATHANIEL ABRAHAM, is an individual who is a citizen of the Republic of India and a resident of Lynchburg, Commonwealth of Virginia.

2. Defendant, WOODS HOLE OCEANOGRAPHIC INSTITUTION, ("WHOI"), is a private, independent, not-for-profit research and educational institution located in Woods Hole, Massachusetts, is chartered under Chapter 180 of the General Laws of the Commonwealth of Massachusetts, is able to sue and be sued under ALM GL ch.180, § 6 (2007) and ALM GL

ch.156B, § 9 (2007) and whose agent for service of process is James M. Clark, President, 98 Water Street, Woods Hole, MA, 02543.

3. Defendant, MARK E. HAHN, (“Hahn”), an individual, is a citizen of the United States of America and a resident of the Commonwealth of Massachusetts, and may be served with process at Woods Hole Oceanographic Institution, Biology Department, Woods Hole, Massachusetts, 02543-1049.

B. Jurisdiction

4. This action raises federal questions under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* These claims are properly challenged pursuant to federal law, particularly 28 U.S.C. § 1331 and 42 U.S.C. § 2000e-5(f).

C. Venue

5. Venue is proper in the United States District Court for the District of Massachusetts under 28 U.S.C. 1391(b)(1) and (2) and 42 U.S.C. § 2000e-5(f)(3) because Defendants WHOI and Hahn are located and reside in this district and the unlawful employment practices alleged herein were committed within this district.

D. Exhaustion of Administrative Procedures

6. On June 20, 2006, Plaintiff filed a timely complaint with the Massachusetts Commission Against Discrimination (herein “MCAD”).

7. On April 26, 2007, MCAD issued the Plaintiff a letter stating there was insufficient probable cause to find that the Defendants engaged in unlawful discriminatory practices (a copy of which is attached and incorporated herein.).

E. Facts

8. Plaintiff, as a Bible-believing Christian, accepts the Holy Bible to be the Word of God and hence infallible.

9. As a Christian, the Plaintiff believes, pursuant to the teachings of the Holy Bible, that God created the Heavens and the Earth.

10. Plaintiff does not acknowledge evolution as an undisputed scientific fact, but rather as a scientific theory;

11. Plaintiff responded to a posting on Defendant Hahn's website for a postdoctoral position at WHOI requiring expertise in zebra fish developmental biology and toxicology.

12. While the job posting listed in detail the educational and professional qualifications needed, no reference to any unqualified acceptance by job applicants of the theory of evolution as scientific fact was mentioned.

13. Plaintiff applied and was hired by Defendants in March 2004, due to his exceptional qualifications as a zebrafish developmental biologist and specific expertise in programmed cell death, to work in the environmental toxicology lab of Defendant Hahn ("Hahn Lab") at WHOI.

14. The Defendants' Hahn lab is largely funded by federal grants from the National Institutes of Health ("NIH"), an agency in the United States Department of Health and Human Services.

15. There is no requirement in the NIH grant that grantees or their agents accept or endorse the theory of evolution as scientific fact.

16. Plaintiff's work with Defendants focused on zebrafish developmental biology, toxicology and programmed cell death areas of research which require no acceptance, or application of, the theory of evolution as scientific fact.

17. Plaintiff at all times, before his employment began while helping to design and construct the lab and during his employment, performed exemplary work and was often praised and commended by Defendant Hahn and other staff members for the quality of his research, commitment and scientific presentations.

18. After his employment commenced with Defendants Hahn and WHOI, in a passing conversation with Defendant Hahn, Plaintiff mentioned he was Christian and that his faith proscribes his personal acceptance and belief in the theory of evolution as scientific fact.

19. Shortly after this conversation, Defendants began to unlawfully impose on Plaintiff, as a condition of his remaining employed by Defendants, a requirement that he accept the theory of evolution as scientific fact.

20. Plaintiff assured Defendants that he was willing to analyze aspects of his research using evolutionary concepts if warranted (*as Defendant Hahn had himself done in his previous publications*), but his sincerely held religious belief did not allow him to accept the theory of evolution as scientific fact.

21. As noted previously, the focus of Plaintiff's work was to center around zebrafish developmental biology, toxicology and programmed cell death, not the theory of evolution or evolutionary principles.

22. Instead of agreeing to accommodate Plaintiff's religious needs, which would impose no undue hardship on any party or negatively impact the research performed by the Hahn Lab, Defendants continued to discriminate against Plaintiff due to his sincerely held Christian beliefs.

23. After continued religious discrimination, intimidation and unsuccessful attempts to force Plaintiff's resignation, Defendants fired Plaintiff.

24. As a result of the Defendants' actions, Plaintiff not only suffered severe economic losses to date but also future pecuniary losses, injury to professional reputation, emotional pain and suffering, inconvenience, mental anguish and other non-pecuniary losses.

F. Count One
Discrimination Under Title VII
42 U.S.C. § 2000e et seq.

25. Plaintiff incorporates the allegations contained within Paragraphs 1 through 24.

26. Plaintiff is a member of a protected class of employees under 42 U.S.C. § 2000e(f).

27. Defendants are employers under 42 U.S.C. § 2000e(b).

28. Plaintiff has a sincerely held religious belief that the Bible is the infallible Word of God and does not accept the theory of evolution as scientific fact.

29. Defendants intentionally discriminated against Plaintiff due to his sincerely held religious beliefs, in violation of Title VII, and subsequently fired him based upon his religious beliefs and Christian faith.

30. Plaintiff was fired even though acceptance of evolution as scientific fact rather than theory (in contravention of his sincerely held religious beliefs) was in no way a bona fide occupational qualification of employment, was not previously mentioned or implied as a requisite for hiring, and was never listed among necessary criteria for the advertised position by Defendants.

31. Defendants' actions were willing, intentional, and with malice or reckless indifference to Plaintiff's federally protected rights.

G. Damages

32. Plaintiff has suffered the following injuries as a direct and proximate result of the Defendants' discriminatory actions:

(a) Severe economic loss to date and future economic losses;

(b) Injury to professional reputation and future employment opportunities; and

(c) Mental anguish and emotional distress as a result of being unlawfully fired, losing his income, witnessing his wife almost lose their baby during pregnancy due to distress, being forced to send his wife home to India to stay with family members due to lack of earnings, and as a result missing the birth of his first born child.

H. Attorney Fees

33. Plaintiff is entitled to an award of attorney fees and costs under Title VII, 42 U.S.C. § 2000e-5(k).

I. Prayer for Relief

34. WHEREFORE, Plaintiff respectfully prays that this Court grant the following relief:

(a) Declare that Defendants' discriminatory actions, as described in this Complaint, violate Plaintiff's rights as guaranteed by federal law;

(b) Award compensatory damages to Plaintiff for all earnings, wages, back pay, loss of fringe benefits, loss of future earnings, future lost benefits, emotional distress damages and other benefits he would have received, but for the discriminatory practices of the Defendants:

(c) Award attorney fees, litigation expenses and costs to Plaintiff;

(d) Award punitive damages to Plaintiff; and

(e) Grant such other and further relief as this Court shall deem just and equitable.

JURY DEMAND

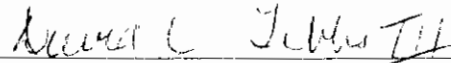
Plaintiff, NATHANIEL ABRAHAM, hereby demands a trial by jury on all the issues so triable pursuant to his rights under the Seventh Amendment to the United States Constitution in accordance with Federal Rule of Civil Procedure 38.

Respectfully submitted this 30th day of November, 2007.



Denise G. Minor, Esq.
MA Bar No. 567112
212 Putnam Hill Road
Sutton, MA 01590
Telephone: 508-713-3921
Facsimile: 508-868-8502
Email: dgminor@msn.com

AND



David C. Gibbs, III
Fla. Bar No. 0992062
GIBBS LAW FIRM, P.A.
5666 Seminole Blvd., Suite 2
Seminole, FL 33772
Telephone: 727-399-8300
Facsimile: 727-398-3907
Email: dgibbs@gibbsfirm.com

ATTORNEYS FOR PLAINTIFF

PLAINTIFF'S VERIFICATION

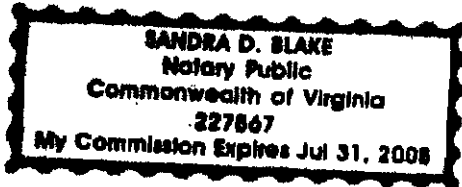
The undersigned, being first duly sworn, deposes and states that I am the Plaintiff herein, and have read the foregoing Verified Complaint filed on my behalf, which I declare the facts of to be true to the best of my knowledge, information and belief.

By: *Nathaniel Abraham*

Print Name: NATHANIEL ABRAHAM

The foregoing was sworn to, subscribed and acknowledged before me this 29 day of November, 2007 by Nathaniel Abraham who is personally known to me or who has produced a driver's license as identification and who did take an oath.

(NOTARY SEAL)



Sandra Blake
Notary Public
Print Name: Sandra Blake

My Commission Expires: 7/31/2008

The Commonwealth of Massachusetts
Commission Against Discrimination
One Ashburton Place, Room 601, Boston, MA 02108

APR 26 2007

Nathaniel Abraham
1411 Brookville Lane
Lynchburg, VA 24502

RE: Nathaniel Abraham v. Woods Hole Oceanographic Institute, Mark E. Hahn
MCAD DOCKET NO: 05BEM01451 (EEOC Charge No. 16C-2005-01743)

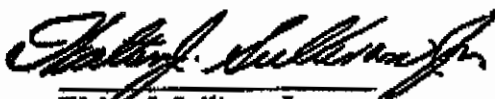
Dear Parties:

On January 11, 2007 a preliminary hearing was held regarding the above reference complaint to consider the Complainant's appeal of lack of probable cause finding issued in this Complaint on June 20, 2006.

Based upon information presented at the appeal hearing and a review of the evidence adduced in investigation, I have determined that the Lack of Probable Cause finding in this case is affirmed. This means that investigation and appeal evidence fails to establish sufficient evidence to determine that an unlawful act of discrimination has been committed.

All employment complaints where applicable, are dual filed with the U.S. Equal Employment Opportunity Commission (EEOC). Our finding will be forwarded to its Area Office, JFK Federal Building, Boston, MA 02203. The MCAD finding will be given substantial weight by the EEOC provided that such finding are in accordance with the requirements of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and or The Americans with disabilities Act of 1990.

Very truly yours,



Walter J. Sullivan, Jr.
Investigating Commissioner

cc: Robert M Hale, Esquire
Goodwin Procter, LLP
Exchange Place
Boston, MA 02109

J. Michael M Johnson, Esquire
Allaince Defense Fund
Louisiana Regional Service Center
401 Market Street, Suite 900
Shreveport, LA 71101