

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

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| <p>KARL TARTT AND CEDRIC JENNINGS, Individually and on behalf of all others similarly situated, Plaintiffs</p> <p>vs</p> <p>WILSON COUNTY, TENNESSEE, Defendant</p> | <p>Case No.</p> <p>Hon.</p> <p>JURY DEMAND</p> |
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COMPLAINT-CLASS ACTION

Plaintiffs, for their complaint against Defendant, state as follows;

JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 1331 to hear Plaintiff’s claims arising under the Constitution and laws of the United States and under 28 U.S.C. § 1343 to hear Plaintiff’s claims to recover damages and to secure equitable relief under any Act of Congress providing for the protection of civil rights.
2. This Court has supplemental jurisdiction over all state law claims alleged in this complaint under 28 U.S.C. § 1367 as there is a common nucleus of operative facts between the state and federal law claims.
3. Venue is appropriate in the Middle District of Tennessee under 28 U.S.C. § 1391(b)(2) as this is the judicial district in which a substantial part of the events or omissions giving rise to this claim occurred.

PARTIES

4. Plaintiff Karl Tartt is a citizen and resident of LaVergne, Rutherford County, Tennessee. Plaintiff is African American. Plaintiff was denied employment by Defendant because of his race.
5. Plaintiff Cedric Jennings is a citizen and resident of Murfreesboro, Rutherford County,

Tennessee. Plaintiff is African American. Plaintiff, during all relevant times and to this day is seeking full-time employment with benefits and would have applied for employment with Defendant had he ever known of any job openings.

6. Defendant Wilson County is a political subdivision of the State of Tennessee.

GENERAL ALLEGATIONS

7. Wilson County has a written policy against nepotism. On page 75 of the Wilson County Employee Handbook it states that the County “permits the employment of relatives” but provides “guidelines” to “reduce the possibility or perception of favoritism and avoid placing related staff in embarrassing positions. Related staff may not be assigned to positions where one relative may have the opportunity to check, process, review, approve, audit, or otherwise affect the work of another relative; Related staff may not be assigned to positions where one relative might influence the salary progress or promotion of another.” Despite this limited anti-nepotism policy, Wilson County government officials routinely violate the policy with no consequences and otherwise generally practice nepotism as a matter of course.
 - a. The Wilson County Finance Director, Ron Gilbert, during sworn testimony on May 12, 2009, admitted that Bob Dedman had his wife work for Mr. Dedman when Mr. Dedman was the Property Assessor. Mr. Gilbert also admitted to knowingly and intelligently violating the anti-nepotism policy by hiring his own granddaughter to work for him at the Finance Department. Although he admitted that the hiring of his granddaughter was not consistent with the County’s anti-nepotism policy, he testified that “there’s no real penalty for violating that particular policy.” The position into which Mr. Gilbert’s granddaughter was hired was not advertised.
 - b. Mr. Gilbert also hired an employee named Julie Jenkins, a White female who attends Mr. Gilbert’s church, and pays her considerably more per hour than almost any other employee in the Finance Department, including the one African American in the department that actually has more seniority on the job. The position into which Mr. Gilbert's church friend was hired was not advertised.

- c. Mr. Gilbert also employees the son of his secretary as an IT consultant. The position into which Mr. Gilbert's secretary's son was hired was not advertised.
- d. Mr. Gilbert also employed County Commissioner Randy Hall after Mr. Hall asked him for a job, even though Mr. Hall was completely unqualified to do the job he was given. The position into which Mr. Hall was hired was not advertised.
- e. In sworn testimony on May 14, 2009, Robert Dedman, the current Mayor of Wilson County, testified that the County did not have a nepotism policy. Mr. Dedman admitted to hiring his wife when he was the Property Assessor so that she could vest in the State's retirement system. Mr. Dedman also testified that he did not think that any of the department heads in Wilson County advertised job openings and that the County did not have a policy regarding whether or not job openings should be advertised. The position into which Mr. Dedman's wife was hired was not advertised.
- f. When asked to review the written nepotism policy in the County's employee handbook after testifying that the County did not have a nepotism policy, Mr. Dedman testified, "Well, there's plenty of department heads up there that hire their wives. So, would they be just as guilty? And their daughters and their sons. No more than that, you know." Mr. Dedman then went on to list several other department heads that hired their wives and daughters and stated that several County Commissioners have sons and daughters working for the county. Mr. Dedman also responded affirmatively when asked if was fair to say that hiring relatives by department heads in Wilson County was common even though he believed it was inappropriate. As County Mayor, Mr. Dedman has never done anything about the common violation of the County's own anti-nepotism policy.
- g. Danny Heron, a shift commander at WEMA, the Wilson County Emergency Management Agency, had his daughter working part-time, then full time on his shift. When his daughter was considered for hiring full-time, the only position open was under her father's shift so she was placed under her father in knowing violation of the County's anti-nepotism policy, and concurred to by the WEMA

Director, because there was no other open shift to put her into. Ultimately, another person had to be moved to another shift to accommodate Mr. Heron's daughter.

The position into which Mr. Heron's daughter was hired was not advertised.

- h. Another WEMA employee was hired directly after he "proved to be a good fellow" based on the recommendation of his son who was employed at WEMA at the time, according to former WEMA director Jerry McFarland. The position into which this person was hired was not advertised.
 - i. County Commissioner Kenny Reich has a son who is employed by the Sheriff's Department. The position into which Mr. Reich's son was hired was not advertised.
 - j. County Commissioner Don Franklin has his wife employed by the Wilson County school system.
 - k. County Commissioner Gilbert Graves has a son who works for the Sheriff's Department. The position into which Mr. Graves' son was hired was not advertised.
 - l. County Commissioner L.T. Jenkins has a son who works for the Sheriff's Department. The position into which Mr. Jenkins' son was hired was not advertised.
8. On at least one occasion, this common practice of nepotism resulted in a qualified, Black candidate being turned down for a job in favor of an unqualified, White relative of a Wilson County government official.
- a. On January 24, 2006, the Wilson County Commission, including Mayor Robert Dedman, voted to hire Stacy Swindell, the daughter of District 15 Commissioner Billy Swindell, despite a unanimous recommendation by the Judicial Committee that William Earl Coggins, an African American, be hired for the position.
 - b. Billy Swindell actively lobbied for his daughter with other County Commissioners.
 - c. William Earl Coggins had prior experience as a judicial commissioner for Wilson County and, at the time, served as a school resource officer for the Wilson County

Sheriff's Department at Lebanon High School.

- d. Stacy Swindell was, at the time, unemployed and had no prior experience as a judicial commissioner. According to a quote in The Lebanon Democrat, Stacy Swindell's father, County Commissioner Billy Swindell, defended his vote for his own daughter by saying "I think what happened is the kid needed a job real bad, and I did everything I could to help her. I didn't think she was the most qualified. I just think she needed a job and I think she's smart enough to do it and I think she'll do a good job. That's all.... I mean, if that's something a father's not supposed to do, I don't know what to do."
 - e. On April 16, 2006, Stacy Swindell was again hired by the Wilson County Commission to serve a full 4-year term as a judicial commissioner, the prior hiring being only to fill an unexpired term of another resigning judicial commissioner. On this date, again, the Judicial Committee unanimously recommended the hiring of Earl Coggins.
 - f. Earl Coggins attributed his defeat to Stacy Swindell as "good 'ole boy politics".
 - g. With the defeat of Mr. Coggins, not a single Wilson County judicial commissioner is anything other than Caucasian to this day.
9. Wilson County does not regularly post any job openings in county government. In fact, any such postings are on an entirely ad hoc basis based on the subjective decision of a department head. A thorough review of all purchase orders from 2003 to 2009, current as of June 2, 2009, for help wanted ads in newspapers revealed the following:
- a. Over a six year time period, there were only 10 job openings advertised in newspapers.
 - b. In 9 of the 10 instances in which a job was advertised in the newspaper, the advertisement was placed only in newspapers circulated exclusively within Wilson County.
 - c. Often times, if advertised at all, a job would be advertised either after it had already been filled or very shortly before the hiring decision would be made.
 - i. For example, a help wanted ad for the position of judicial commissioner

was ordered by purchase order dated March 26, 2006. This was after the January 24, 2006 hiring of Stacy Swindell by the County Commission and just two weeks before the hiring for a new four year term of Stacy Swindell on April 16, 2006.

- ii. A help wanted ad for the position of judicial commissioner was placed in the Lebanon Democrat on January 7-9, 2009 for a position that was filled by James Tuggle on February 1, 2009.
- d. Out of the 10 job openings advertised, only two were for management positions;
 - 1) Finance Director and 2) Road Superintendent.
 - i. The finance director candidate was required to be a Wilson County resident and at least one applicant turned down the position because he was not willing to relocate to Wilson County.
 - ii. The Road Superintendent was required to be a Wilson County resident. Also, the appointment of Mr. Steve Armistead as the Road Superintendent was a foregone conclusion. Although the position was advertised, only one other person applied.
- 10. Yet according to EEO-4 reports filed by the County for the fiscal years of June 2004 through June 2007, there were 145 people hired into positions at the county. If only 10 of those positions were ever advertised, and even then only advertised in Wilson County newspapers, then the other 135 positions must have been filled by referrals to friends, family, church members, and acquaintances of those existing County employees that knew of the job openings.
- 11. The requirement to be a Wilson County resident is made on an ad hoc and subjective basis and there is no county policy that lists which positions have this requirement or why.
- 12. According to Wilson County's Retention Policy, employment records, including "Advertisements Regarding Job Openings, Promotions, Training Programs or Overtime Work", must be retained for a period of "five years". "Applications, resumes or other replies to job advertisements, including temporary positions", must be retained for "five

years from date record was made or human resources action is taken, whichever is later.”
“Hiring records” must also be retained for “five years from date records are made or personnel action is taken, whichever is later.”

13. Job openings are usually learned about by “word of mouth”.
 - a. In a deposition on July 16, 2009, Mr. Armistead, the Road Superintendent, suggested that if his department advertised job openings, one would not believe “how many people starts through that door daily. And it could get caught up in the shuffle...” Mr. Armistead testified that they have never had to advertise job openings. “I mean, we could advertise, but we’ve never had to – we’ve never had to advertise because we have – we have good insurance... I’m telling you, you go down to the Road Department and say, ‘Hey, they’re taking applications.’”
 - b. Wilson County does not have a central Human Resources department and all job applications are purportedly kept on file within individual departments. But even within certain departments, job applications may be kept in several different offices rather than one central location, again, as testified to by Mr. Armistead.
 - c. According to the former Director of WEMA, Jerry McFarland, in a deposition taken in an unrelated discrimination case on July 16, 2009, “none of the positions at WEMA was ever advertised.” According to Mr. McFarlane, the hiring at WEMA is generally recommended by the battalion chiefs (all Caucasian males) and the Director then signs off on it.
 - d. Consistent with the practice of hiring friends and family, even Mr. McFarland hired an old Caucasian Army buddy of his named Gary Nokes at \$30/hour without advertising the position as open.
14. Even if the African American community learns of a job opening within Wilson County government by “word of mouth”, the prevailing opinion within the community is: don’t bother - they won’t hire you anyway. Wilson County has the reputation of not hiring African Americans.
15. According to the EEO-4 form filed by Wilson County with the Equal Employment Opportunity Commission for the fiscal year 2007, out of more than 415 employees in

Wilson County government, there are only 29 who are African American, 19 full-time and 10 other than full-time. This equates to a ration of 7.4% African American for full-time employees and 6.3% for other-than-full-time employees.

- a. Out of the 19 full-time African American employees, 9 are employed in service/maintenance, 9 in administrative support and only one works as an Official or Administrator.
 - b. Out of the 19 full-time African American employees, only 4 are paid \$33,000 per year or more.
 - c. In positions of Official or Administrator, there is only one African American compared with 38 Caucasians, a ration of 2.6%. 28 of the Caucasian officials or administrators make as much as or more than the one African American.
 - d. Out of 95 new hires in that same reporting time period, only 10 were African American. Out of the 10, 6 were hired by the Sheriff's Department in entry level positions paying \$13.00/hour, one of the lowest hourly rates paid in that department. The other 4 were hired in administrative support or service/administrative positions.
16. According to a payroll report issued on May 8, 2009 for the purpose of compiling information for the 2009 EEO-4 report;
- a. The highest concentration of African American workers, as a percent of total employees in any given department, is in the Building Maintenance Department which employs janitors;
 - b. Out of more than 106 employees in the Wilson County Emergency Management Department, which operates ambulances and fire services, there is only 1 African American, a ration of 0.9%.
 - c. Out of 36 employees in the Solid Waste Department, which includes Animal Control and the County Landfill, there is only 1 African American who works part-time and is paid at the lowest rate within that department, a ration of 2.8%. That one African American was hired on March 3, 2009.
 - d. There are no African American court officers out of 15 employees.

- e. There are no African American employees employed as probation officers.
 - f. There are no African American judicial commissioners.
 - g. There are no African Americans employed in the Trustee's Office.
 - h. There is only 1 African American employed in the Circuit Court Clerk's office out of 33 employees, a ratio of 3%.
 - i. There is only 1 African American employed in the Finance Department out of 14 employees and she is the third lowest paid in the department.
 - j. At the Ward Agricultural Center, there are 3 African American employees out of 21, making \$7.80, \$7.62, and \$9.06 per hour respectively, among the lowest paid in that department.
17. The use of derogatory or disrespectful terms to refer to minorities is widespread within Wilson County government, even among the top echelons of the government.
- a. During a deposition on May 14, 2009 in an unrelated case dealing with sexual discrimination, Mayor Robert Dedman, on his own and unsolicited, told a joke during a break in testimony that contained the word "nigger" in it, and then laughed. In later questioning, Mr. Dedman testified that he had heard the joke for the last 50-60 years and would still hear it but it was not his place to tell others not to repeat the joke when he would hear it again. He could not explain what prompted him to repeat the joke during a break in his deposition.
 - b. During a Finance Committee meeting on April 16, 2007, Mayor Dedman publicly disclosed the name of a female in the Finance Department that had filed a complaint of sexual harassment by a co-worker and referred to her as "little lady".
 - c. Ron Gilbert, the Finance Director, during his deposition on May 14, 2009, in another case dealing with discrimination, referred to his salary negotiations with the Finance Committee as being "jew'd down from what I had asked for." Mr. Gilbert explained that "jew'd down" means "talked down".
 - d. County Commissioner Randy Hall testified at his deposition on August 18, 2009 regarding another discrimination case that interoffice personality conflicts in the Finance Department were just "a bunch ... [of] women up there... Ladies tend to

gossip and talk, you know. Guys tend to go outside and duke it out and get it over with.” This is an example of gender-based stereotyping.

- e. Steve Armistead, the Road Superintendent, during his deposition on August 18, 2009 during an unrelated discrimination case, referred to an employee of the Finance Department whose name he could not recall as “the little black girl”. When asked to explain that term, Mr. Armistead said “little” was “just my description of ... how I perceive her to be.” Mr. Armistead has not referred to any men that he did not help raise as “little boy” and could not explain why he would use that term for a female employee of the county. He would also call his own secretary “little girl” but would not call his Assistant Road Superintendent “little boy” because “I don’t think he would accept that too well.”
- f. County Commissioner Annette Stafford, the only African American on the County Commission, in her deposition in an unrelated discrimination case on July 14, 2009, testified that Mayor Dedman has called her “little lady” or “girl”. She testified that she is offended by that and when she tells the Mayor that, he responds by saying he did not mean anything by it. She has been referred to as “girl” by other County Commissioners as well. Commissioner Stafford just dismissed the use of “girl” and “little lady” by the Mayor and others as just the way his “age group” communicates. She also testified that if she knew of the Mayor telling a joke with the word “nigger” in it she would be offended.
- g. Sociologists call the use of terms like “sugar”, “honey”, “little girl”, etc. when referring to grown women as “benevolent sexism”. Sociologists also recognize that individuals that have discriminatory animus towards one “out group”, such as women or Jews, most likely also have discriminatory animus towards other “out groups”, such as African Americans.
- h. The Director of the Wilson County Solid Waste Department, Bill Arnold, repeatedly referred to females who were employed under him as his “harem”, his “sumo wrestling team”, and would touch female employees on their buttocks. He also addressed women by names such as “sug” (short for “sugar”), “honey”, etc.

and would regularly hug female employees. He would also refer to Hispanics in derogatory terms.

- i. Lori Alexander, a White former employee of the Finance Department, was asked by the Assistant Director, Sharon Lackey, if her family was offended by her marrying a Black man. Ms. Alexander's children were referred to by others in the office as "mixed".
18. On April 22, 2008, Paige Heriges, a White female, who was working as the Animal Control Officer for Wilson County under the direction of Bill Arnold, Director of the Wilson County Solid Waste Department, was terminated from her job without reason but shortly after refusing to remain silent about illegal activity occurring in her department and after being subjected to sexual harassment by her supervisor, Bill Arnold.
19. On or about June, 2008, after Paige Heriges had been terminated, Bill Arnold, a White male, personally offered the job of Animal Control Officer to Josh Greer, a White male, who at the time was serving as the Animal Control Officer for the City of Lebanon, Tennessee. Bill Arnold also asked Josh Greer if he knew of anyone that would be interested in the job.
20. After Josh Greer turned down the offer to switch from Animal Control Officer for the City of Lebanon to Animal Control Officer for Wilson County and Bill Arnold could not find any other White males interested in the job by "word of mouth", the Wilson County Solid Waste Department ordered a help wanted ad to be placed in local newspapers for Animal Control Officer and Heavy Equipment Operator. The order was made through a purchase order sent to the Finance Department on August 19, 2008 and filled out and signed by Cindy Lynch, a supervisor at the Solid Waste Department.
21. On or about the middle to latter part of December, 2008, Plaintiff Karl Tartt went to the Wilson County landfill to apply for the job of Animal Control Officer. As he approached the trailer-office located at the landfill, he was greeted by Solid Waste Department employee Heather Scott, who is also the niece of Cynthia Lynch, the Assistant Solid Waste Department Director, who is the sister of the County Attorney, Mike Jennings.
22. When Plaintiff Karl Tartt asked if this was the location to apply for a job without

specifying which job he was interested in, Heather Scott asked if he was wanting to apply for the position of Animal Control, indicating that the position was still open. Mr. Tartt was given a job application, told to fill it out and bring it back and that she (Ms. Scott) would give it to “the boss”, Bill Arnold, who was not there at the time.

23. Mr. Tartt asked Heather Scott if he did not get a job would they keep his application on file. She responded, “I believe so.” Mr. Tartt proceeded to fill out the job application in his car and when he completed it he went back in to the office and handed it to another employee since Heather Scott had left.
24. After not hearing anything about his job application for several weeks, Mr. Tartt called the Landfill on the morning of January 15, 2009. Heather Scott answered the telephone. When Mr. Tartt asked about the status of his job application, Ms. Scott told him that the “lady that takes care of that is not here right now” (meaning Cindy Lynch) but told Mr. Tartt that she would tell Cindy Lynch that he had called. When Mr. Tartt asked for a good time that he could call Ms. Lynch, Ms. Scott told him that Cindy Lynch would not be back until the following Monday or Tuesday. Although Ms. Scott offered to have Cindy Lynch call Mr. Tartt, Ms. Scott never asked for Mr. Tartt’s telephone number where he could be reached.
25. After not receiving a return call, Mr. Tartt again called the Landfill on the morning of January 20, 2009. Again, Heather Scott answered the phone. Mr. Tartt asked to speak with Cindy Lynch and Ms. Scott asked him for his name and put him on hold. Moments later, she returned and told Mr. Tartt that Cindy Lynch was not there and offered to take a message. When Mr. Tartt explained that he was calling to check the status of his job application, Ms. Scott responded that “I don’t know anything about those so I’ll let her know you called.” Like before, Ms. Scott never asked Mr. Tartt for a number where he could be reached.
26. That same afternoon, on January 20, 2009, Mr. Tartt called the Landfill again. Like before, Heather Scott answered the phone. This time, Mr. Tartt asked to speak with Mr. Arnold. Ms. Scott asked him for his name and when Mr. Tartt gave his name and explained that he was calling about the status of a job application, Ms. Scott immediately

- told him that Mr. Arnold was on another line and offered to take a message.
27. Instead, Mr. Tartt asked to hold and wait for Mr. Arnold to get off the phone. He was put on hold and moments later Cindy Lynch, who Ms. Scott earlier said was not in the office, picked up the phone and asked Mr. Tartt if she could help him.
 28. Mr. Tartt explained that he had called several times trying to find out the status of his job application. Ms. Lynch asked Mr. Tartt what position he had applied for and he responded that he had applied for Animal Control. Ms. Lynch responded that they did not have any positions open with animal control and that, although they accept applications at all times, they “don’t have any positions open at the present time.” Mr. Tartt explained that at the time he filled out his application there was a position open and asked if it had been filled. Ms. Lynch asked him how long ago he had filled out his application because the position of Animal Control had been filled “six months ago”.
 29. “Six months ago” means the position of Animal Control was filled on July 21, 2008, 29 days before the request for a help wanted ad for Animal Control and Heavy Equipment Operator had been requested by Cindy Lynch herself.
 30. Mr. Tartt confirmed that it was the landfill where he filled out and submitted the job application and Cindy Lynch again repeated that “the last position we filled was back about six, seven months ago. We haven’t had anything open since then.”
 31. “Seven months ago” means the position of Animal Control was filled on June 20, 2008, 60 days before the request for a help wanted ad for Animal Control and Heavy Equipment Operator had been requested by Cindy Lynch herself.
 32. When Mr. Tartt asked her if she could check to make sure they still had his application on file Ms. Lynch told him she could not check because the job applications were kept in a separate office so, “there’s no way I can check.” Nonetheless, Ms. Lynch offered to check if his application was on file later. But she never asked Mr. Tartt for a number where he could be reached in case she could not find his application.
 33. In fact, not only had the positions of Animal Control Officer and Heavy Equipment Operator been advertised as open in August, 2008, one to two months after Ms. Lynch was telling Mr. Tartt that the positions had been filled and the position was open at the

time Mr. Tartt asked Heather Scott for an application in December, 2008, but also, according to a Wilson County payroll report generated on May 8, 2009, from the period of June 20, 2008 to January 20, 2009, the period Ms. Lynch told Mr. Tartt that they had not had “anything open”, the Wilson County Solid Waste Department had hired four more employees, all White males.

34. None of the positions into which the four White males had been hired were ever advertised in any newspapers at all.
35. Even though Mr. Tartt had been assured by two people at the landfill that his application would be kept on file in case another position came open, according to the payroll report, another individual was hired in the Solid Waste Department on April 27, 2009, also a White male. Mr. Tartt was never considered for that position even though he had his application in since December, 2008.
36. Mr. Tartt never received a call from anyone in Wilson County government regarding his job application.
37. In fact, Mr. Tartt’s job application was thrown into the trash.
38. On August 14, 2009, Karl Tartt filed a charge of discrimination with the Equal Employment Opportunity Commission.
39. On September 11, 2009, the Wilson County Attorney, Mike Jennings, who is the brother of Cindy Lynch, told The Lebanon Democrat, a Wilson County newspaper, that they were having a hard time finding a record of Mr. Tartt ever having applied for a job. “We don’t know anything about him”, Mr. Jennings said.
40. Even though Mr. Tartt had spoken with Heather Scott in person and several times on the phone about a job, had personally hand-delivered his job application to a second employee at the landfill, and had spoken on the telephone with Cindy Lynch about a job, Mr. Jennings still claimed that “[w]e don’t have any record of him. We don’t know who this is. We are trying to find out.”
41. The efforts at covering up the Animal Control Officer situation goes to the very top of Wilson County government:
 - a. In a deposition of Mayor Robert Dedman taken in an unrelated discrimination

case on May 14, 2009, he was asked if the County had an Animal Control Officer. Mr. Dedman testified under oath that the County had an Animal Control Officer but he did not know his name.

- b. On July 23, 2009, an individual telephoned Mayor Dedman at his office and asked him directly who was the Animal Control Officer and the Mayor answered without hesitation "Bill Arnold".
- c. In a second deposition of Mayor Dedman, taken on August 19, 2009, he testified under oath that the Animal Control Officer was Bill Arnold. Under further questioning, the Mayor changed his answer and testified that he did not know who the Animal Control Officer was.
- d. On July 14, 2009, in an unrelated discrimination case, County Commissioner Heather Scott, who is the Chairperson of the Wilson County Animal Control Studies Committee of the County Commission, testified that she did not know who the Animal Control Officer was.
- e. On August 18, 2009, in an unrelated discrimination case, County Commissioner Gary Keith testified that he did not know who the Animal Control Officer was.
- f. On August 18, 2009, in an unrelated discrimination case, County Commissioner Randy Hall testified that he did not know who the Animal Control Officer was.
- g. On July 2, 2009, in an unrelated discrimination case, County Commissioner Paul Abercrombie testified that he did not know who the Animal Control Officer was.
- h. On July 2, 2009, in an unrelated discrimination case, County Commissioner Jim Emberton testified that he believed Bill Arnold was filling both the position of Director of Solid Waste and Animal Control Officer. Mr. Emberton testified that he remembered a controversy over the previous year's budget because Bill Arnold effectively got a raise by assuming the position of Animal Control himself in addition to Director of Solid Waste.

COUNT 1

(42 U.S.C. § 1983 & 1981 - Wilson County)

- 42. Plaintiffs are members of a protected group, that is, African American.

43. The County Mayor and other decision makers within Wilson County, acting under color of law, developed and maintained policies or customs exhibiting deliberate and intentional violation of Plaintiffs' statutory and constitutional rights and those of others similarly situated, which caused the violation of Plaintiffs' rights.
44. It was the policy and custom of Wilson County, through its decision and policy-makers and supervisors, to intentionally discriminate against African Americans in hiring, pay, and promotion.
45. Defendant's discriminatory conduct abridged a right enumerated in 42 U.S.C. 1981, that is, the right to make and enter into employment contracts.
46. Defendant's discriminatory conduct also abridged the equal protection clause of the 14th Amendment to the U.S. Constitution.
47. As a direct result of Defendant's discriminatory employment practices, Plaintiffs have experienced damages, including loss of wages and other employment benefits.

COUNT 2

(THRA-Disparate Treatment-Wilson County)

48. The conduct of Defendant described in this complaint constitutes unlawful discriminatory practices in violation of the Tennessee Human Rights Act, T.C.A. §§ 4- 21-101 *et seq.*
49. The conduct of Defendant, as described herein, constitutes "discriminatory practices" as defined by the Tennessee Human Rights Act, T.C.A. § 4-21-102(4), and is in violation of sections 401(a)(1) and 401(a)(2) of the Tennessee Human Rights Act:
50. The plaintiffs were racially discriminated against in hiring.
51. As a direct result of Defendant's discriminatory employment practices, Plaintiffs and others similarly situated experienced damages, including loss of wages and other employment benefits.

COUNT 3

(THRA-Disparate Impact-Wilson County)

52. The conduct of Defendant described in this complaint had a disparate impact on the basis of race and therefore was in violation of the Tennessee Human Rights Act, T.C.A. §§ 4- 21-101 *et seq.* This conduct includes but is not limited to:

- a. Implementing a subjective hiring system where all White supervisors and department heads made the decisions of who to hire or who to consider for recommendation of hiring;
 - b. Implementing a hiring system where job openings are advertised on an ad hoc basis per the subjective decision of all White department heads and supervisors and then only in local newspapers and usually after the hiring decision has already been made;
 - c. Implementing a hiring system where certain jobs have a requirement of Wilson County residency based on the subjective and ad hoc decision of a White supervisor, department head or other government official;
 - d. Implementing a hiring system where job openings are not advertised at all;
 - e. Implementing a hiring system where job openings are first offered by White incumbent employees, supervisors, and department heads, by “word of mouth”, to friends, family, fellow church members, and acquaintances;
 - f. Implementing a hiring system that is decentralized and controlled by the subjective whims of individual, White supervisors and department heads.
53. The conduct was not job related nor a business necessity.
54. Defendant refused and still refuses to adopt available alternative employment practices that have less of a disparate impact against African Americans.
55. As a direct result of Defendant’s discriminatory employment practices, Plaintiffs and others similarly situated experienced damages, including loss of wages and other employment benefits.

CLASS ACTION ALLEGATIONS

56. The named plaintiffs bring this action on their own and, pursuant to Rule 23(a), (b)(2) and, alternatively, (b)(3) of the Federal Rules of Civil Procedure, on behalf of
- a. all African Americans that have been discriminated against because of their race by Defendant Wilson County in hiring or have suffered a disparate impact in employment opportunities because of Wilson County’s employment practices.
57. The class is so numerous that joinder of all members is impracticable. There are

thousands of African Americans in Wilson County and contiguous counties, like Plaintiff Cedric Jennings, that would have sought jobs with Wilson County if they had known the jobs were available. Also, thousands have been discouraged from applying because of the reputation that Wilson County has for not hiring African Americans. More thousands have likely been turned away because of their race as Plaintiff Karl Tarrt was.

- a. In the Nashville Economic Region, as defined by the Nashville Chamber of Commerce, the African American population is 16.3%. Out of a total population of 1.25 million working age people, this equates to an African American population of more than 200,000.
 - b. Since Wilson County does not retain applications, even in violation of their own retention policy, the benchmark representing the applicant pool will be difficult if not impossible to ascertain. Notwithstanding, with a regional unemployment rate of 10%, this equates to over 20,000 African Americans in the Nashville Economic Region that are unemployed, presumably looking for employment, and willing and able to commute to Wilson County for a job.
 - c. Census studies also show that thousands of residents from contiguous counties commute to Wilson County for jobs, including from Davidson County which has an African American population of 16.5% and from which the highest number of out-of-county commuters commute into Wilson County for employment.
58. There are questions of law and fact common to the class:
- a. Whether Defendant deliberately and intentionally discriminated against African Americans by refusing them employment because of their race;
 - b. Whether Defendant deliberately and intentionally discriminated in hiring against African Americans through a subjective system of hiring that was based on cronyism, nepotism and favoritism and “word of mouth” communication of job openings from Caucasian holders of employment information to Caucasian family, friends and acquaintances and refusal to advertise job openings.
 - c. Whether Defendant maintained a subjective system of hiring that was based on cronyism, nepotism and favoritism and “word of mouth” communication of job

openings from Caucasian holders of employment information to Caucasian family, friends and acquaintances and refusal to advertise job openings and whether, even if this may not have been discriminatory on its face, it had a disparate impact on the hiring and employment of African Americans.

- d. Whether any of these actions violated the equal protection clause of the 14 Amendment to the U.S. Constitution or 42 U.S.C. 1981.
59. The claims of the named plaintiffs are typical of the claims of the class.
- a. Plaintiff Karl Tartt, an African American, applied for a job that was advertised as open and was, in fact, open at the time he applied, and he was denied the job because of his race. Then, to ensure that he would not be considered for any job openings, his job application was deliberately destroyed. Plaintiff Tartt was and is actively seeking employment with benefits, is not a resident of Wilson County, and never knew that there were other job openings in Wilson County government.
 - b. Plaintiff Cedric Jennings, an African American, was and is actively seeking employment, especially employment with benefits, is not a resident of Wilson County and never knew that there were any job openings in Wilson County government.
 - c. Karl Tartt was intentionally denied employment because of his race. He also suffered from the disparate impact that Wilson County's hiring practices have on African Americans in Wilson County and contiguous counties.
 - d. Cedric Jennings suffered from the disparate impact that Wilson County's hiring practices have on African Americans in Wilson County and contiguous counties.
60. The named plaintiffs will fairly and adequately protect the interests of the class. Plaintiffs intend to prosecute this action vigorously in order to secure remedies for all of the class members and have no conflict of interest with other putative class members.
61. Proposed class counsel has been lead counsel, co-lead counsel, or local counsel in almost a dozen class and collective action cases and is qualified, experienced, and able to litigate class action cases, especially cases dealing with civil rights.
62. This action is appropriately maintained as a class action under F.R.C.P. 23(b)(2) because

Defendant has acted on grounds generally applicable to the class and Plaintiffs are seeking final class-wide structural, injunctive or declaratory relief with respect to the class as a whole which would equally benefit each class member.

- a. Specifically, Plaintiffs seek a permanent injunction preventing Defendant Wilson County from discriminating in the hiring and employment of African Americans and for remedial measures that will prevent Defendant from discriminating in the future including, but not limited to;
 - i. The formation of a centralized human resources department where all job applications may be received after full and open advertising of the job opening and where supervisors and department heads must hire without knowledge of the applicant's race;
 - ii. Actual implementation of the county's retention policy as to applicants and job opening applications;
 - iii. Elimination of policies of nepotism, cronyism and favoritism;
 - iv. Training on forms of discrimination, investigation of discrimination complaints and remedies for instances of discrimination;
 - v. Implementation of county policy regarding progressive discipline for those found to be guilty of discrimination.
 - b. Additionally, Plaintiffs only seek equitable damages such as back pay and front pay and compensatory damages that do not predominate or enure to the benefit of the class as a whole.
63. Alternatively, this action is appropriately maintained as a hybrid class action under F.R.C.P. 23(b)(2) for the injunctive relief sought and under F.R.C.P. 23(b)(3) for the compensatory damages sought because the questions of law and fact common to class members predominate over any questions affecting only individual members and class treatment is superior to other available methods for fairly and efficiently adjudicating this controversy.

RELIEF SOUGHT

Therefore, Plaintiffs, for themselves and all others similarly situated, ask for the

following relief:

1. A jury to try this cause;
2. Compensatory damages under the Tennessee Human Rights Act and 42 U.S.C. 1981 that enure to the benefit of the class as a whole;
3. Alternatively, compensatory damages ascertained through a Stage II Rule 23(b)(3) process;
4. Attorneys' fees and cost of the litigation as allowed by law;
5. Injunctive relief;
6. Such other relief as this Court deems proper.

Respectfully submitted,

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