

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

**Civil Action No.: 17-CV-02362-STV**

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,**

Plaintiff,

**EGAN J. WOODARD,**

Applicant for Intervention,

v.

**A&E TIRE, INC.,**

Defendant.

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**COMPLAINT IN INTERVENTION**

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**I. NATURE OF THE ACTION**

This is an action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. (“Title VII”), and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Egan Joseph Woodward (“Woodward”), who was adversely affected by such practices.

As alleged with greater particularity below, Woodward alleges that Defendant, A&E Tire, Inc. (“A&E” or “A&E Tire”) engaged in unlawful discrimination against Woodward, a transgender male, when it failed to hire Woodward because of his sex.

## **II. JURISDICTION AND VENUE**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1),(3), and 706(g) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1), (3), and (g), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. Venue is proper within this District pursuant to 28 U.S.C. § 1391.

3. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the District of Colorado.

4. Woodward timely filed a Charge of Discrimination with the Equal Employment Opportunity Commission on or about August 1, 2014 for sex discrimination..

5. Based on evidence adduced during the EEOC's investigation, the EEOC issued a determination finding reasonable cause. In that determination, the EEOC informed Defendant that it had reasonable cause to believe Defendant had violated Title VII in that Defendant failed to hire Charging Party because of his sex, male, and/or transgender status.

6. All conditions precedent to the institution of this lawsuit have been fulfilled.

## **III. PARTIES**

7. Woodward, is a transgender male, and was, at all relevant times hereto, a resident of the State of Colorado.

8. At all relevant times hereto, Defendant A&E Tire, a Denver corporation, has continuously been doing business in the State of Colorado and has continuously had at least 15 employees.

9. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce under Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

#### **IV. GENERAL ALLEGATIONS**

10. On or about May 15, 2014, Defendant posted an ad for a managerial administrative and dispatch position online.

11. On or about May 16, 2014, Woodward completed an application for this managerial position at an A&E Tire store.

12. Woodward also gave Defendant a copy of his resume.

13. That very same day, just after Woodward completed the application, Manager Derrick Haight interviewed him in person.

14. During the interview, Woodward was wearing traditional male attire (black dress pants and a black and gold striped shirt).

15. Woodward also had a goatee.

16. During the interview, Haight did not realize Woodward was a transgender male.

17. Haight interviewed Woodward for about 45 minutes.

18. Woodward and Haight got along well during the interview.

19. Haight and Woodward discussed that they had similar backgrounds.

20. In the same vein, Haight told Woodward that Haight was a good old boy from Nebraska.

21. Both Haight and Woodward grew up in mid-west states.

22. Haight and Woodward also spoke about annual salary.

23. When asked by Haight what his salary goals were, Woodward suggested an annual salary of \$25,000.00.

24. Haight responded that he could pay \$30,000.00 or \$32,000.00.

25. At the end of the interview, Haight told Woodward that Woodward had the job so long as he could pass all of the screening process, which included a drug test and criminal background check.

26. After the interview, Haight asked Woodward to take a tour of A&E's premises.

27. Haight and Woodward drove to various locations in Haight's vehicle.

28. When Haight introduced Woodward to the other A&E employees, he introduced Woodward to them as their new manager.

29. Haight also drove Woodward across the street to a building Defendant recently purchased to serve as A&E's new service offices.

30. The building was still under construction.

31. Haight asked Woodward to go home and sketch what Woodward wanted the offices to look like, since that's where they would all soon be working.

32. After completing the tour, Haight reiterated to Woodward that Haight wanted Woodward in the position, and that as long as Woodward passed the various screenings, the position was his.

33. Haight then told Woodward that hopefully Woodward could in come in later that week to complete the drug test.

34. Before he left A&E Tire that day, Defendant also asked Woodward to complete a “screening consent form” providing Defendant with authorization to complete a background check and providing certain other personal information.

35. In response to a question on the form asking for other names, Woodward provided his former name, the one assigned to him at birth, which is typically associated with the female sex.

36. In response to a question asking him to identify his sex, Woodward stated he was female.

37. Woodward also provided his assigned name at birth on the second page of his application.

38. Approximately an hour after Woodward left A&E Tire, Haight called Woodward and told him, “I see on your drug test that you checked female.”

39. Woodward confirmed that this was no mistake.

40. Haight abruptly hung up after stating, “Oh, that’s all I need.”

41. Woodward attempted multiple times over the next three weeks to follow up with Defendant about completing his background screenings and starting employment.

42. On June 10, 2014, Woodward finally managed to speak with Haight.

43. On June 10, 2014, Haight informed Woodward that Defendant was giving the position to a different applicant.

44. The selected applicant, Stephen Montes, did not apply for the position with Defendant until May 21, 2014.

45. Defendant did not interview Montes until June 6, 2014.

46. Montes began employment on or about June 10, 2014.

47. Montes began employment about three weeks after Defendant failed to hire Woodward after offering Woodward the job.

### **CLAIM FOR RELIEF**

#### **Disparate Treatment/Failure to Hire Because of Sex-42 U.S.C. § 2000e-2(a)**

48. Woodward incorporates by reference the allegations set forth above in Paragraphs 1 through 47.

49. Defendant is an employer as that term is defined under Title VII.

50. On or about May 16, 2014, Defendant engaged in unlawful employment practices in violation of Section 2000e-2(a) of Title VII, by refusing to hire Woodward because of his sex.

51. Defendant willfully and intentionally subjected Woodward to sex discrimination.

52. Defendant's decision not to hire Woodward was predicated on unlawful sex-based considerations, specifically that he is a transgender male and/or because Woodward did not conform to the Defendant's sex- or gender-based preferences, expectations, or stereotypes.

53. The effect of the practices complained of above has been to deprive Woodward of equal employment opportunities and otherwise adversely affect his status as an employee because of his sex.

54. The unlawful employment practices complained of in the forgoing paragraphs were intentional.

55. The unlawful employment practices complained of in the forgoing paragraphs were done with malice or with reckless indifference to Woodward's federally protected rights.

56. As a direct and proximate result of the foregoing actions and conduct of Defendant, Woodard has suffered, and will continue to suffer, damages including but not limited to loss of front and back wages, earnings, benefits, insurance premiums, health care costs, diminution of future earning capacity, non-economic damages such as, but not limited to, mental anguish, inconvenience, attorney fees, costs and expenses, and other damages to be determined at trial. Woodward claims compensatory damages for these losses and injuries under § 102 of the Civil Rights Act of 1991, 42 U.S.C §1981a.

**PRAYER FOR RELIEF**

WHEREFORE, Woodward respectfully requests that this Court enter judgment in his favor and against Defendant, and award him damages for back pay, front pay and benefits, personal humiliation, severe emotional pain, inconvenience, mental anguish, future pecuniary loss and loss of enjoyment of life, punitive damages, penalties, costs, interest and expert fees, attorney's fees, and such other and further relief as this Court deems proper.

Respectfully submitted this 13th day of November, 2017.

Bachus & Schanker, LLC.

*s/ Sara A. Green*

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