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**JUL 02 2007**

**JAMES N. HATTEN, Clerk**  
By. *[Signature]*  
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Chrisula W. Davillier )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Imperial Capital Bank )  
 )  
 )  
Defendant. )  
 )

CIVIL ACTION FILE

NO. **1:07-CV-1549**

JURY TRIAL DEMANDED

**RWS**

**COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES**

COMES NOW Chrisula W. Davillier, Plaintiff herein, and hereby files this Complaint for Injunctive Relief and Damages, showing the court the following:

**Jurisdiction and Venue**

1.

This is an action arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. and 42 U.S.C. § 1981. The jurisdiction of the Court is conferred pursuant to 28 U.S.C. §§ 1331, 1343(a)(4). Jurisdiction over Plaintiff's state law causes of action is conferred by 28 U.S.C. § 1367.

2.

Venue is proper in this Court.

### **The Parties**

3.

Chrisula W. Davillier, (hereinafter "Plaintiff") is a black female and was at all times herein a citizen and resident of the State of Georgia and entitled to bring actions of this kind and nature.

4.

Defendant Imperial Capital Bank (hereinafter referred to as "ICB") is a entity doing business in the Northern District of Georgia, and is an "employer" within the meaning of Title VII of the Civil Rights Act of 1964.

### **Facts**

5.

Plaintiff was employed at ICB, from March, 2004 until she was terminated on September 19, 2006.

6.

Plaintiff's work performance was always exemplary. She received numerous awards for her work, was selected as "Employee of the Quarter", and was consistently rated as "exceeds expectations" (4 out 5) on her annual performance evaluations.

Plaintiff, however observed that her white supervisor, Susan Cusick, was discriminating against other African

American employees and applicants. Further, she observed that employees of ICB were not following procedures, in violation of federal banking laws and regulations, as well as ICB procedures.

7.

By letter of April 19, 2006, she complained to Thomas Hobbs, 1st VP for Human Resources, of this discrimination and violation of laws and regulations, and ICB procedures. Shortly thereafter she was retaliated against by Cusick, who fabricated issues with Plaintiff's performance.

Plaintiff reported the retaliation to Hobbs but it continued unabated. Plaintiff then filed EEOC Charge of Discrimination, 410-2006-02939, on August 21, 2006, against ICB and supervisor Cusick. The EEOC is required to send such a charge to the company within 10 days.

By letter of September 7, 2006 Ms. Davillier was suspended without pay for an incident that allegedly occurred the day before. In fact, the alleged violation was a fabrication made up by Cusick in retaliation for Plaintiff's charge of discrimination.

8.

The suspension letter, signed by Brian Benson, Chief Lending Officer of ICB, said "we are disquieted by the unique timing of your insubordination act and the receipt of your EEOC charge."

On September 19, 2006 Plaintiff was discharged by Cusick.

9.

Because of the discrimination, retaliation, and other acts by ICB and its management, Plaintiff has endured pain and suffering.

10.

Ms. Davillier has received a right to sue letter from the EEOC and hereby files this complaint within 90 days of receipt thereof.

**Count One: Race Discrimination**

11.

Plaintiff realleges and incorporates herein all preceding paragraphs of this Complaint.

12.

ICB's actions, through its employees, constitute unlawful discrimination in the terms and conditions of Plaintiff's employment on the basis of her race, in violation of Title VII of the Civil Rights Act of 1964, as amended by the Civil

Rights Act of 1991, 42 U.S.C. 2000e, et seq., and 42 U.S.C. § 1981.

13.

As a direct and proximate result of Defendant's violation of Title VII and 42 U.S.C. § 1981, Plaintiff has been damaged and is entitled to the relief set forth in her Prayer for Relief.

**Count Two: Retaliation**

14.

Plaintiff realleges and incorporates herein all preceding paragraphs of this Complaint.

15.

ICB, through its employees, unlawfully retaliated against Plaintiff by, among other actions, discriminating against her and terminating her employment, as a result of her attempts to exercise her federally protected rights. This is in violation of Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. 2000e, et seq. and 42 U.S.C. § 1981.

16.

As a direct and proximate result of Defendant's violation of Title VII and 42 U.S.C. § 1981, Plaintiff has been damaged

and is entitled to the relief set forth in her Prayer for Relief.

**Count Three: Intentional Infliction of Emotional Distress**

17.

Plaintiff realleges and incorporates herein all preceding paragraphs of this Complaint.

18.

ICB's actions as outlined above, by and through its employees, constitute intentional infliction of emotional distress so as to entitle Plaintiff to damages, including punitive, against Defendant.

As a direct and proximate result of Defendant's intentional infliction of emotional distress on Plaintiff, she has been damaged and is entitled to the relief set forth in the Prayer for Relief.

**Count Four: Negligent Hiring and Retention**

19.

Plaintiff realleges and incorporates herein all preceding paragraphs of this Complaint.

20.

Defendant had notice of, knew or reasonably should have known Cusick had discriminated against African-American employees and applicants. Its negligence in hiring Cusick and

failure to terminate Cusick's employment before she could discriminate against Plaintiff and African-American employees and applicants constitutes negligent hiring and retention as defined by Georgia law.

21.

As a direct and proximate result of Defendant's negligent hiring and retention of Cusick, Plaintiff has been damaged and is entitled to the relief set forth in the Prayer for Relief.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays:

(a) for trial by jury;

(b) that Plaintiff recover from Defendant back pay, benefits, and interest due and payable;

(c) that Plaintiff recover from Defendant front pay and benefits, or, in lieu of recovering her front pay and benefits, that Plaintiff be reinstated to an appropriate position;

(d) that Plaintiff recover from Defendant an amount of damages to compensate her for the emotional pain and suffering Plaintiff has endured as a result of Defendant's discriminatory, retaliatory, and tortious acts;

(e) that Plaintiff recover from Defendant punitive damages under state law, under Title VII, and under 42 U.S.C. 1981a(a)(1) in an amount sufficient to punish Defendant for

its actions and to deter Defendant from discriminating and retaliating against its employees in the future;

(f) that Plaintiff be granted special damages including medical bills;

(g) that Plaintiff be granted declaratory relief;

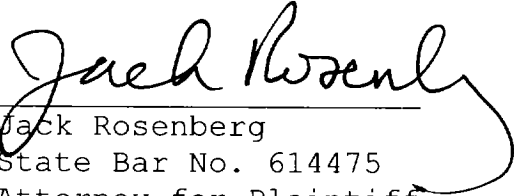
(h) that Plaintiff be awarded injunctive relief to prevent Defendant from engaging in such discriminatory, retaliatory, and tortious conduct in the future;

(i) that Plaintiff recover from Defendant her costs incurred in bringing this action, including her attorney's fees and expenses of litigation;

(j) that Plaintiff be awarded prejudgment interest;

(k) that Plaintiff have such other and further relief as the Court deems necessary.

Respectfully submitted this second day of July, 2007.

  
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