

**U.S. District Court
Southern District of Florida (West Palm Beach)
CIVIL DOCKET FOR CASE #: 9:11-cv-80755-DMM**

Hammond v. The Weitz Company
Assigned to: Judge Donald M. Middlebrooks
Referred to: Magistrate Judge Dave Lee Brannon
Cause: 42:1983 Civil Rights (Employment Discrimination)

Date Filed: 06/30/2011
Jury Demand: Plaintiff
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Plaintiff**Bruce Hammond**

represented by **Bruce Hammond**
974 N.W. 3 Street
Florida City, FL 33034
305-498-4529
PRO SE

V.

Defendant**The Weitz Company**

represented by **Kathryn L. McHale**
Adams Coogler Watson Merkel Barry
&Kellner
1555 Palm Beach Lakes Boulevard
Suite 1600
West Palm Beach, FL 33402-2069
561-478-4500X109
Fax: 561-684-7346
Email: kmchale@acwmlaw.com
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/30/2011	<u>1</u>	COMPLAINT against The Weitz Company. Filing fee \$ 350.00, filed by Bruce Hammond. (Attachments: # <u>1</u> Civil Cover Sheet)(jua) (Entered: 06/30/2011)
06/30/2011	<u>2</u>	Judge Assignment to Judge Donald M. Middlebrooks (jua) (Entered: 06/30/2011)
06/30/2011	<u>3</u>	Clerks Notice of Receipt of Filing Fee received on 6/30/2011 in the amount of \$ 350.00, receipt number FLS100021266 (yha) (Entered: 06/30/2011)
06/30/2011	<u>4</u>	Summons Issued as to The Weitz Company. (yha) (Entered: 06/30/2011)
08/08/2011	<u>5</u>	SCHEDULING ORDER: (Jury Trial set for 3/26/2012 09:00 AM in West Palm Beach Division before Judge Donald M. Middlebrooks., Calendar Call set for 3/21/2012 01:15 PM in West Palm Beach Division before Judge Donald M. Middlebrooks.), ORDER REFERRING CASE to Magistrate Judge Linnea R Johnson for Pre-Trial. Signed by Judge Donald M. Middlebrooks on 8/8/2011. (ots) (Entered: 08/09/2011)
08/12/2011	<u>6</u>	MOTION for Leave to File Amended Complaint and/or Motion for Extension by Bruce Hammond. (jua) (Entered: 08/12/2011)
08/16/2011	<u>7</u>	ORDER AND NOTICE OF (Telephonic Scheduling Conference set for 8/30/2011 at 11:30 AM in West Palm Beach Division before Magistrate Judge Linnea R. Johnson.) Signed by Magistrate Judge Linnea R. Johnson on 8/16/2011. (sa) (Entered: 08/16/2011)
08/25/2011	<u>8</u>	ORDER granting <u>6</u> Motion for Leave to File. <i>Clerks Notice: Filer must separately re-file the amended pleading pursuant to Local Rule 15.1, unless otherwise ordered by the Judge.</i> Signed by Judge Donald M. Middlebrooks on 8/25/2011. (ots) (Entered: 08/30/2011)

08/30/2011	<u>9</u>	Minute Entry for proceedings held before Magistrate Judge Linnea R. Johnson: Telephonic Scheduling Conference held on 8/30/2011. (sa) (Entered: 08/30/2011)
08/30/2011	<u>10</u>	ORDER OF INSTRUCTIONS TO PRO SE LITIGANT. Signed by Magistrate Judge Linnea R. Johnson on 8/30/2011. (sa) (Entered: 08/30/2011)
08/30/2011	<u>11</u>	PRETRIAL SCHEDULING ORDER: Amended Pleadings due by 10/11/2011. Discovery due by 1/3/2012. Joinder of Parties due by 10/11/2011. Motions due by 1/17/2012. Pretrial Stipulation due by 2/27/2012. Signed by Magistrate Judge Linnea R. Johnson on 8/30/2011. (sa) (Entered: 08/30/2011)
11/07/2011	<u>12</u>	Defendant's MOTION to Quash <i>Service of Process and Memorandum of Law</i> by The Weitz Company. (McHale, Kathryn). Added MOTION to Dismiss on 11/9/2011 (lk). (Entered: 11/07/2011)
11/07/2011	<u>13</u>	Clerks Notice to Filer re <u>12</u> Defendant's MOTION to Quash <i>Service of Process and/or Motion to Dismiss and Memorandum of Law</i> . Motion with Multiple Reliefs Filed as One Relief ; ERROR – The Filer selected only one relief event and failed to select the additional corresponding events for each relief requested in the motion. The docket entry was corrected by the Clerk. It is not necessary to refile this document but future filings must comply with the instructions in the CM/ECF Attorney User's Manual. (lk) (Entered: 11/09/2011)
12/01/2011	<u>14</u>	NOTICE of Change of Address by Bruce Hammond (System updated) (jua) (Entered: 12/01/2011)
12/15/2011	<u>15</u>	ORDER TO SHOW CAUSE Show Cause Response due by 1/6/2011.. Signed by Judge Donald M. Middlebrooks on 12/15/2011. (ots) (Entered: 12/16/2011)
01/06/2012	<u>16</u>	Alias Summons Issued as to The Weitz Company. (ar2) (Entered: 01/06/2012)
01/18/2012	<u>17</u>	SUMMONS (Affidavit) Returned Executed on <u>1</u> Complaint The Weitz Company served on 1/9/2012, answer due 1/30/2012. (jua) (Entered: 01/18/2012)
01/18/2012	<u>18</u>	MOTION to Proceed With the Process of Law by Bruce Hammond. (See DE <u>17</u> for image)(jua) (Entered: 01/18/2012)
01/27/2012	<u>19</u>	Defendant's MOTION to Strike <i>and Memorandum of Law</i> by The Weitz Company. Responses due by 2/13/2012 (McHale, Kathryn) (Entered: 01/27/2012)
01/27/2012	<u>20</u>	Defendant's MOTION to Dismiss <u>1</u> Complaint, <u>17</u> Summons Returned Executed <i>Memorandum of Law</i> by The Weitz Company. Responses due by 2/13/2012 (McHale, Kathryn) (Entered: 01/27/2012)
01/27/2012	<u>21</u>	ORDER denying <u>12</u> Motion to Quash; denying <u>12</u> Motion to Dismiss. Signed by Judge Donald M. Middlebrooks on 1/27/2012. (ots) (Entered: 01/27/2012)
02/22/2012	<u>22</u>	ORDER TO SHOW CAUSE re DE <u>19</u> & <u>20</u> Show Cause Response due by 3/5/2012.. Signed by Judge Donald M. Middlebrooks on 2/22/2012. (ots) (Entered: 02/23/2012)
03/06/2012	<u>23</u>	RESPONSE to Motion re <u>20</u> Defendant's MOTION to Dismiss <u>1</u> Complaint, <u>17</u> Summons Returned Executed <i>Memorandum of Law</i> with attachments filed by Bruce Hammond. Replies due by 3/16/2012. (cqs) (Entered: 03/06/2012)
03/12/2012	<u>24</u>	ORDER denying as moot <u>19</u> Motion to Strike ; granting <u>20</u> Motion to Dismiss. Signed by Judge Donald M. Middlebrooks on 3/12/2012. (ots) (Entered: 03/12/2012)
03/22/2012	<u>25</u>	ACKNOWLEDGMENT OF SERVICE Executed (cbr) (Entered: 03/22/2012)
03/30/2012	<u>26</u>	SUMMONS (Affidavit) Returned Executed on <u>1</u> Complaint The Weitz Company served on 3/30/2012, answer due 4/20/2012. (cbr) (Entered: 03/30/2012)
04/02/2012	<u>27</u>	AMENDED COMPLAINT against The Weitz Company, filed by Bruce Hammond.(cbr) (Entered: 04/03/2012)
04/10/2012	<u>28</u>	ORDER REFERRING CASE to Magistrate Judge Dave Lee Brannon for Pretrial Proceedings, SCHEDULING ORDER: (Jury Trial set for 11/19/2012 09:00 AM before Judge Donald M. Middlebrooks., Calendar Call set for 11/14/2012 01:15

		PM before Judge Donald M. Middlebrooks.). Signed by Judge Donald M. Middlebrooks on 4/10/2012. (ots) (Entered: 04/10/2012)
04/19/2012	<u>29</u>	Defendant's MOTION to Dismiss <u>27</u> Amended Complaint by The Weitz Company. Responses due by 5/7/2012 (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B)(McHale, Kathryn) (Entered: 04/19/2012)
04/26/2012	<u>30</u>	PRETRIAL SCHEDULING ORDER: Amended Pleadings due by 6/4/2012. Discovery due by 8/27/2012. Joinder of Parties due by 6/4/2012. Motions due by 9/10/2012. Joint Pretrial Stipulation due by 10/22/2012. Signed by Magistrate Judge Dave Lee Brannon on 4/26/2012. (kza) (Entered: 04/26/2012)
04/26/2012	<u>31</u>	ORDER OF REFERRAL TO MEDIATION. Signed by Magistrate Judge Dave Lee Brannon on 4/26/2012. (kza) (Entered: 04/26/2012)
05/11/2012	<u>32</u>	MOTION for Extension of Time to File Response as to <u>29</u> Defendant's MOTION to Dismiss <u>27</u> Amended Complaint by Bruce Hammond. (cbr) (Entered: 05/11/2012)
05/17/2012	<u>33</u>	MOTION for Extension of Time to File Response as to <u>29</u> Defendant's MOTION to Dismiss <u>27</u> Amended Complaint by Bruce Hammond. (cbr) (Entered: 05/17/2012)
05/22/2012	<u>34</u>	ORDER REOPENING CASE. Signed by Judge Donald M. Middlebrooks on 5/22/2012. (lk) (Entered: 05/23/2012)
05/23/2012	<u>35</u>	ORDER granting <u>32</u> Motion for Extension of Time to File Response/Reply re <u>29</u> Defendant's MOTION to Dismiss <u>27</u> Amended Complaint ; Denying as moot <u>33</u> Motion for Extension of Time to File Response/Reply re <u>29</u> Defendant's MOTION to Dismiss <u>27</u> Amended Complaint. Responses due by 6/8/2012. Signed by Judge Donald M. Middlebrooks on 5/22/2012. (lk) (Entered: 05/23/2012)
06/04/2012	<u>36</u>	Notice of Mediation Hearing before Mediator, Karen Evans of Litigation Resolution, Inc. filed by Litigation Resolution, Inc.. Mediation Hearing set for 8/21/2012 10:00 AM (Evans, Karen) (Entered: 06/04/2012)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 11-80755-CV-MIDDLEBROOKS/JOHNSON

**The attached hand-written
document
has been scanned and is
also available in the
SUPPLEMENTAL
PAPER FILE**

(Rev. 10/2002) General Document

UNITED STATES DISTRICT COURT

Southern District of Florida

Case Number: EEOC Charge # 510-2009-05284

FILED by LJA D.C.
JUN 30 2011
STEVEN M. LARIMORE
CLERK U.S. DIST. CT
S. D. of FLA. - MIAMI

Bruce Hammond

Plaintiff(s)

v.

The Weitz Company

Defendant(s)

EEOC Form 161- US Equal Employment Opportunity Commission- Dismissal and Notice of Rights
(TITLE OF DOCUMENT)

I, Bruce Hammond plaintiff or defendant, in the above styled cause,
was harassed on several occasions by different employees/supervisors during
my employment at the Weitz Company. Also, I was mistreated as well and
laid off. To date I have been unable maintain a decent living standard without
substantial employment for 2 years.

(Rev. 10/2002) General Document

Lined area for text entry, currently blank.

Certificate of Service

I Bruce Hammond, certify that on this date _____ a true copy of the foregoing document was mailed to: _____ name(s) and address(es)

By:

Bruce Hammond
Printed or typed name of Filer

[Signature]
Signature of Filer

Florida Bar Number
561-616-9306 + cell# 305-498-4529
Phone Number

Hammond1999@gmail.com
E-mail address

4561 Palm Brooke Circle
Street Address

Facsimile Number

West Palm Beach, FL 33417
City, State, Zip Code

EEOC Form 181 (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Bruce Hammond
4561 Palm Brooke Circle
West Palm Beach, FL 33417

From: Miami District Office
2 South Biscayne Blvd
Suite 2700
Miami, FL 33131

Empty checkbox

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

Table with 3 columns: EEOC Charge No., EEOC Representative, Telephone No.
Row 1: 510-2009-05284, Latoya Allen, Investigator, (305) 808-1813

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- List of reasons for closing file with checkboxes:
- The facts alleged in the charge fail to state a claim...
- Your allegations did not involve a disability...
- The Respondent employs less than the required number...
- Your charge was not timely filed...
- [X] The EEOC issues the following determination...
- The EEOC has adopted the findings of the state or local...
- Other (briefly state)

- NOTICE OF SUIT RIGHTS -
(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

Signature of Delner Franklin-Thomas

Delner Franklin-Thomas, Acting District Director

MAR 31 2011

EEOC Miami District Office (Date Mailed)

Enclosures(s)

cc: Respondent Representative

The Weitz Company
c/o Kathryn McHale, Esq.
ADAMS, COOGLER, WATSON
1555 Palm Beach Lakes Blvd., Suite 1600
West Palm Beach, FL 33401

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10 – not 12/1/10** -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice **and** within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

JS 44 (Rev. 2/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases**

JUN 30 2011
 CLERK U.S. DIST. CT.
 OF FLA. - MIAMI

I. (a) PLAINTIFFS Bruce Hammond **DEFENDANTS** The Weitz Company

(b) County of Residence of First Listed Plaintiff Palm Beach County County of Residence of First Listed Defendant Palm Beach County
 (EXCEPT IN U.S. PLAINTIFF CASES) (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name, Address, and Telephone Number)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.

Attorneys (If Known) The Weitz Company
 c/o Kathryn McHale, Esq.
 ADAMS, COOPER, WATSON

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

Citizen of This State	<input checked="" type="checkbox"/> PTF	<input type="checkbox"/> DEF	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF	<input type="checkbox"/> DEF
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Re-filed- (see VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S). (See instructions second page):

a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE _____ DOCKET NUMBER _____

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): 29 CFR 71601.7(A)

LENGTH OF TRIAL via _____ days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____ **CHECK YES only if demanded in complaint: JURY DEMAND:** Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE SIGNATURE OF ATTORNEY OF RECORD _____ DATE _____

FOR OFFICE USE ONLY

AMOUNT _____ RECEIPT # _____ IFP _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 11-80755-CV- MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,
Plaintiff(s)

vs.

THE WEITZ COMPANY,
Defendant(s).



ORDER REFERRING CASE AND SETTING TRIAL DATE

PLEASE TAKE NOTICE that the above-entitled cause is hereby set for Trial before the Honorable Donald M. Middlebrooks, United States District Judge, at United States District Court at 701 Clematis Street, Second Floor, Courtroom 7, West Palm Beach, Florida, **during the two-week trial period commencing March 26, 2012 at 9:00 a.m.**, or as soon thereafter as the case may be called. PLEASE TAKE FURTHER NOTICE that a **Status Conference/Calendar Call will be held on Wednesday, March 21, 2012 at 1:15 p.m.** **ALL COUNSEL MUST BE PRESENT.**

The Court notes that this is an extended trial schedule.

1. JURY TRIALS

On or before the date of the Status Conference, counsel shall submit proposed jury instructions with the substantive charges and defenses, verdict forms, and motions in limine, if any. Jury instructions shall be filed with the Clerk and a copy shall be submitted in **WordPerfect format** directly to middlebrooks@flsd.uscourts.gov. To the extent these instructions are based upon the Eleventh Circuit Pattern Jury Instructions, counsel shall indicate the appropriate 2005 Eleventh Circuit Pattern Jury Instruction upon which their instruction is modeled. All other instructions shall

include citations to relevant supporting case law.

2. BENCH TRIALS

In cases tried before the Court, each party shall file at least ONE WEEK prior to the beginning of the trial calendar, the proposed Findings of Fact and Conclusions of Law. An additional copy shall be sent in WordPerfect format to the chambers e-mail account listed above.

Prior to **any** trial, counsel shall submit to the Court a typed list of proposed witnesses and/or exhibits. All exhibits shall be pre-labeled in accordance with the proposed exhibit list. Exhibit labels must include the case number. It is further

ORDERED AND ADJUDGED PURSUANT to 28 U.S.C. § 636 (b)(1)(A) and the Magistrate Judge Rules of the Local Rules of the Southern District of Florida, the above-captioned cause is hereby referred to **United States Magistrate Judge Linnea R. Johnson** to conduct a Scheduling Conference, pursuant to Local Rule 16.1.B, for the purpose of setting pre-trial deadline dates, and for determining possible consent to the jurisdiction of the Magistrate Judge for trial. All counsel of record will be required to attend this conference which will be noticed by Magistrate Judge Johnson. Copies of any and all filings related to such scheduling conference, including proposed orders, must be sent directly to Judge Johnson at johnson@flsd.uscourts.gov.

Further, any request to modify the above-set trial date must be made prior to the Scheduling Conference. The foregoing does not preclude consideration of a prompt motion to modify the trial date for good cause shown by a party joined in the litigation after the Scheduling Conference has occurred.

The parties are directed , in accordance with CM/ECF procedures, as follows:

COURTESY COPIES: Notwithstanding the implementation of CM/ECF, all parties shall deliver a courtesy copy to the Intake Section of the Clerk's Office all motions exceeding

twenty-five pages. This copy shall be bound and any attachments and/or appendices must be indexed with tabs.

PROPOSED ORDERS: Pursuant to the CM/ECF Administrative Procedures, counsel shall send proposed orders in WordPerfect format for ALL motions directly to middlebrooks@flsd.uscourts.gov.¹

DONE AND ORDERED, in Chambers, at West Palm Beach, Florida, this 8th day of August, 2011.



DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Honorable Linnea R. Johnson
All Counsel of Record

¹ This does not apply to orders relating to Judge Johnson's scheduling conference discussed above.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80755-CIV-MIDDLEBROOKS/JOHNSON

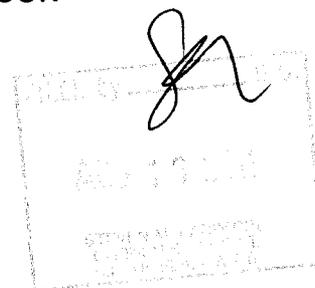
BRUCE HAMMOND,

Plaintiff,

vs.

THE WEITZ COMPANY,

Defendant.



ORDER AND NOTICE OF TELEPHONIC SCHEDULING CONFERENCE

THIS CAUSE is before the Court on the Order of Reference dated August 8, 2011, referring this cause to the undersigned for the purpose of conducting a Scheduling Conference pursuant to Local Rule 16.1.B. of the Southern District of Florida. Pursuant thereto, this Court notices a Telephonic Scheduling Conference before the Honorable Linnea R. Johnson at **11:30 A.M. on August 30, 2011.**¹ Attendance is mandatory. Failure to attend may result in sanctions. Because of the expedited nature of this hearing, the parties are relieved of L.R.16.1.B.2's requirement of preparing and submitting a Conference Report and Order prior to the Scheduling Conference. The parties are advised that a Pretrial Scheduling Order will be entered by this Court following the Scheduling Conference, and that it will be the duty of counsel to comply with the timetable set forth therein in order to insure an expeditious resolution of this cause. The parties may consent to a specially set trial before the undersigned Magistrate Judge, pursuant to 28 U.S.C. § 636(c).

Pursuant to Local Rule 16.1.B.3., counsel for plaintiff, or plaintiff if proceeding pro se,

¹ 48 hours prior to the Scheduling Conference, Counsel(s) for the Plaintiff shall contact the Court at 561-803-3412 and provide the phone number(s) to which the parties wish to be contacted on the day of the conference and shall also be responsible for conferencing in opposing counsel.

shall be responsible for giving notice of the requirements of Local Rule 16.1.B. to each defendant or counsel for each defendant, as soon as possible after service of process on the respective defendant(s). Accordingly, the Court shall require plaintiff's counsel to also provide notice of this Order and its requirements to all defendants to ensure timely compliance therewith.

In addition to the requirements of Local Rule 16.1., the Court will also discuss the following matters with counsel at the Scheduling Conference:

- a. the likelihood of settlement, the appropriateness of court-ordered mediation for this case, and the scheduling of such mediation;
- b. the parties' consent to a specially-set trial before the undersigned magistrate judge; and
- c. pretrial procedures with respect to the filing and disposition of motions, compliance with the local rules and related matters.

The Court anticipates that this Scheduling Conference will not exceed 10-15 minutes.

Do not telephone Chambers with questions. Any questions may be addressed at the Scheduling Conference.

DONE AND ORDERED in Chambers, at West Palm Beach, Florida, this 16th day of August, 2011.



LINNEA R. JOHNSON
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
The Honorable Donald M. Middlebrooks
All Counsel of Record
Pro Se Plaintiff-Bruce Hammond
4561 Palm Brooke Circle, West Palm Beach, FL. 33417

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 11-80755-CIV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiff,

v.

THE WEITZ COMPANY, a
Florida corporation,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO FILE
AMENDED COMPLAINT AND/OR MOTION FOR EXTENSION (DE 6)**

THIS CAUSE is before the Court on Plaintiff Bruce Hammond's ("Plaintiff" or "Hammond") Motion for Leave to File Amended Complaint and/or Motion for Extension ("Motion") (DE 29), filed on August 12, 2011. Defendant The Weitz Company ("Defendant" or "Weitz") has not responded to Plaintiff's Motion. I have reviewed the record and am advised in the premises. For the reasons stated below, Plaintiff's Motion shall be **GRANTED**.

I. BACKGROUND

Plaintiff's Complaint alleges that while he worked for Defendant, he was harassed on several occasions by different employees/supervisors, mistreated, and then laid off. (DE 1 at 2). In his Motion, Plaintiff asserts that he filed the Complaint on June 30, 2011 without the assistance of counsel in order to preserve the action since the statute of limitations was about to run. (DE 6 at 1). Because Plaintiff has been unsuccessful in obtaining representation in the matter, Plaintiff seeks

leave to amend his Complaint and a thirty (30) day extension to do so. (*Id.*). Although the cause has been set for trial on March 26, 2012, no further action in this matter has occurred.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 15(a) governs the amendment of pleadings before trial. Under Rule 15(a), a party may amend its pleading once as a matter of course within twenty-one (21) days after serving it, or (21) days after service of a responsive pleading or motion to dismiss. FED. R. CIV. P. 15(a)(1). After this grace period lapses, subsequent amendments require either the opposing party's written consent or the court's leave. FED. R. CIV. P. 15(a)(2).

The decision of whether or not to grant leave to amend is committed to the sound discretion of the district court. *See Shipner v. Eastern Air Lines, Inc.*, 868 F.2d 401, 406-07 (11th Cir. 1989) (internal citations omitted). However, "Rule 15(a) severely restricts the district court's freedom, directing that leave to amend shall be freely given when justice so requires." *Id.* at 407. "This policy of Rule 15(a) of liberally permitting amendments to facilitate determinations of claims on the merits circumscribes the exercise of the district court's discretion; thus, unless a substantial reason exists to deny leave to amend, the discretion of the district court is not broad enough to permit denial." *Id.*

Substantial reasons for denying a motion to amend a pleading include, but are not limited to, undue delay, bad faith or dilatory motive on the party of the movant, repeated failures to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, or futility of amendment. *See McKinley v. Kaplan*, 177 F.3d 1253, 1258 (11th Cir. 1999) (quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962)).

III. DISCUSSION

Upon a review of Plaintiff's Motion and the record in this matter, I find that no "substantial reason" exists to deny Plaintiff's Motion for an extension to file an amended complaint. *McKinley*, 177 F.3d at 1258.

First, this case is still in the early stages. The Pretrial Scheduling Order has not even been entered yet by the Court. Plaintiff's Motion is therefore not unreasonably tardy, nor is Defendant likely to be prejudiced by allowing Plaintiff to amend the Complaint.

Second, the Court does not discern any bad faith or dilatory motive on the part of Plaintiff, who is proceeding *pro se*, nor has Plaintiff repeatedly failed to cure deficiencies in his pleadings given the opportunity.

IV. CONCLUSION

Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff's Motion for Leave to File Amended Complaint and/or Motion for Extension (DE 6) is **GRANTED**. Plaintiff shall file his Amended Complaint on or before **September 12, 2011**.

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this 25 day of August, 2011.

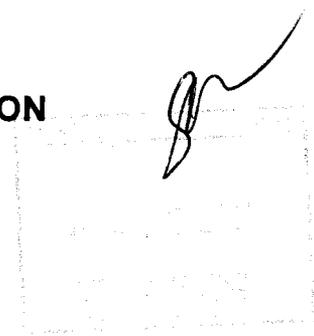


DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record;
Bruce Hammond, *pro se*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 11-80755-CIV-MIDDLEBROOKS/JOHNSON



BRUCE HAMMOND,

Plaintiff,

vs.

THE WEITZ COMPANY,

Defendant.

_____ /

PRETRIAL SCHEDULING ORDER

THIS CAUSE is before the Court following a Scheduling Conference that took place before the undersigned United States Magistrate Judge on August 30, 2011. In accordance with said Scheduling Conference and pursuant to S.D. Fla. L.R. 16.1B., it is hereby **ORDERED AND ADJUDGED** as follows:

1. **Pretrial Conference:** Pretrial discovery shall be conducted in accordance with S.D. Fla. L.R. 16.1 and 26.1 and the Federal Rules of Civil Procedure. No Pretrial Conference shall be held in this action, unless the parties so request or the Court determines, sua sponte, that a pretrial conference is necessary. Should a pretrial conference be set, the compliance deadlines as set forth in the remainder of this Order shall remain unaltered. This Court has advised the parties of the opportunity to consent to a specially set trial before the undersigned United States Magistrate

Judge pursuant to 28 U.S.C. §636(c). A fully executed consent form should be filed within thirty (30) days from the date of the within Order to ensure a firm trial date before the undersigned if so requested by all parties. Presently, Judge Middlebrooks has this case set for trial during the two-week trial period commencing March 26, 2012.

2. Pretrial Stipulation: Counsel must meet at least forty-five (45) days prior to the beginning of the trial calendar to confer on the preparation of a pretrial stipulation. The Joint Pretrial Stipulation must be filed on or before the date set forth below and shall conform to S.D. Fla. L.R. 16.1E. The Court will not accept unilateral pretrial stipulations, and will strike *sua sponte* any such submissions. Should any of the parties fail to cooperate in the preparation of the joint pretrial stipulation, all other parties shall file a certification with the Court stating the circumstances. Upon receipt of such certification, the Court will issue an order requiring the non-cooperating party or parties to show cause why such party or parties (and their respective attorneys) should not be held in contempt for failure to comply with the Court's order. The pretrial disclosures and objections required under Fed. R. Civ. P. 26(a)(3) should be served, but **not** filed with the Clerk's Office, as the same information is required to be attached to the parties' pretrial stipulation.

3. Cases Tried Before A Jury: In cases tried before a jury, the parties shall submit at least ONE WEEK prior to the beginning of the trial calendar, A SINGLE JOINT SET of proposed jury instructions and verdict form, though the parties need not

agree on the proposed language of each or any instruction or question on the verdict form. Where the parties do agree on a proposed instruction or question, that instruction or question shall be set forth in Times New Roman 14 point typeface. Instructions and questions proposed only by the plaintiff(s) to which the defendant(s) object shall be italicized. Instructions and questions proposed only by defendant(s) to which plaintiff(s) object shall be bold-faced. Each jury instruction shall be typed on a separate page and, except for Eleventh Circuit Pattern instructions clearly identified as such, must be supported by citations of authority. In preparing the requested jury instructions, the parties shall utilize as a guide the Pattern Jury Instructions for Civil Cases approved by the Eleventh Circuit, including the directions to counsel contained therein. A copy of the proposed jury instructions and verdict form shall be delivered to the chambers of the Honorable Donald M. Middlebrooks at the time of filing, together with a 3.5" computer diskette compatible with Corel Word Perfect version 8.0 or higher.

4. Cases Tried Before The Court: In cases tried before the Court, each party shall file at least ONE WEEK prior to the beginning of the trial calendar, the original and one copy of the proposed Findings of Fact and Conclusions of Law in hard copy form and on 3.5" computer diskette compatible with Corel Word Perfect version 8.0 or higher. Proposed Conclusions of Law must be supported by citations of authority.

5. Exhibits: All exhibits must be pre-marked. A typewritten exhibit list setting forth the number, or letter, and description of each exhibit must be submitted at the

time of trial. The parties shall submit said exhibit list on Form AO 187, which is available from the Clerk's office.

6. **Motions For Continuance:** A Motion for Continuance shall not stay the requirement for the filing of a Pretrial Stipulation and, unless an emergency situation arises, a Motion for Continuance will not be considered unless it is filed at least twenty (20) days prior to the date on which the trial calendar is scheduled to commence.

7. **Pretrial Motions:** Any party filing a pretrial motion shall submit a proposed order granting the motion with sufficient copies for each party.

8. **Mediation:** Pursuant to Fed. R. Civ. P. 16 and S.D. Fla. L.R. 16.2, this case is referred to mediation as follows:

a. The mediation shall be completed no later than sixty (60) days before the scheduled trial date. The parties shall not agree to continue the mediation without prior approval of the Court.

b. The parties shall, within fifteen (15) days of the within order, agree upon a mediator and advise the Clerk of the Court of their choice. The parties are encouraged to avail themselves of the services of any mediator on the List of Certified Mediators, a copy of which can be obtained in the office of the Clerk of this Court, but may select any other mediator. If there is no agreement, Plaintiff's counsel shall promptly notify the Clerk in writing and the Clerk shall designate a mediator from the List of Certified Mediators, which designation shall be made on a blind rotation basis.

c. Plaintiff's counsel shall be responsible for coordinating the mediation

conference date and location agreeable to the mediator and all counsel of record. Plaintiff's counsel shall also be responsible for completing the form order referred to in S.D. Fla. L.R. 16.2H as "ORDER SCHEDULING MEDIATION" and for submitting same to the Court.

d. At the mediation conference, the appearance of counsel and representatives of each party with full authority to enter into a full and complete compromise and settlement is mandatory. If insurance is involved, an adjustor with authority up to the policy limits or the most recent demand, whichever is lower, shall attend.

e. All discussions, representations and statements made at the mediation conference shall be confidential and privileged.

f. At least ten (10) days prior to the mediation date, all parties shall present to the mediator a brief written summary of the case identifying the issues to be resolved. Copies of these summaries shall be served on all other parties.

g. The Court may impose sanctions against parties and/or counsel who do not comply with the attendance or settlement authority requirements set forth herein or who otherwise violate the terms of this Order. The mediator shall report any non-attendance and may recommend imposition of sanctions by the Court for non-attendance.

h. The mediator shall be compensated in accordance with the standing order of the Court entered pursuant to S.D. Fla. L.R. 16.2B6, or on such basis as may

be agreed to in writing by the parties and the mediator selected by the parties. The cost of mediation shall be shared equally by the parties unless otherwise ordered by the Court. All payments shall be remitted to the mediator within thirty (30) days of the date of the bill. If the parties must cancel the mediation, notice of cancellation must be given to the mediator at least two (2) full business days in advance of the scheduled mediation or the parties will be required to pay the mediator's fee for one hour.

i. If a full or partial settlement is reached in this case, counsel shall promptly notify the Court of the settlement in accordance with S.D. Fla. L.R. 16.2F2, by filing of a notice of settlement signed by counsel of record within ten (10) days of the mediation conference. Thereafter, the parties shall forthwith submit an appropriate pleading concluding the case.

j. Within five (5) days following the mediation conference, the mediator shall file a Mediation Report indicating whether or not all required parties were present. The report shall also indicate whether or not the case settled (in full or in part), was continued, or whether the mediator declared an impasse.

k. If mediation is not conducted, the case may be stricken from the trial calender and other sanctions may be imposed.

9. Noncompliance With This Order: Non-compliance with any provision of this Order may subject the offending party to sanctions or dismissal. It is the duty of all counsel to enforce the timetable set forth herein in order to ensure an expeditious resolution of this cause.

10. **Pretrial Timetable:** The following timetable shall govern the pretrial procedure in this case. This schedule shall not be modified absent compelling circumstances. Any requests for modification of this timetable shall be submitted in motion form and be directed to the attention of the Honorable Donald M. Middlebrooks.

Oct. 11, 2011 Joinder of Additional Parties and Amend Pleadings.

Nov. 7, 2011 Plaintiff shall furnish opposing counsel with a written list containing the names and addresses of all expert witnesses intended to be called at trial and only those expert witnesses listed shall be permitted to testify. Within the fourteen day period following this disclosure (on or before Nov. 21, 2011), the plaintiff shall make its experts available for deposition by the defendant. The experts' depositions may be conducted without further order from the Court.

Nov. 21, 2011 Defendant shall furnish opposing counsel with a written list containing the names and addresses of all expert witnesses intended to be called at trial and only those expert witnesses listed shall be permitted to testify. Within the fourteen day period following this disclosure (on or before Dec. 5, 2011), the defendant shall make its experts available for deposition by the plaintiff. The experts' depositions may be conducted without further order from the Court.

Note: These provisions pertaining to expert witnesses do not apply to treating physicians, psychologists or other health providers.

Dec. 5, 2011 Parties shall furnish opposing counsel with a written list containing the names and addresses of all witnesses intended to be called at trial and only those witnesses listed shall be permitted to testify.

Dec. 12, 2011 Parties shall furnish opposing counsel with summaries of their expert witnesses' anticipated testimony or written expert reports in accordance with S.D. Fla. L.R. 16.1.K.

Jan. 3, 2012 All discovery must be completed.

- Jan. 17, 2012 All Pretrial Motions and Memoranda of Law must be filed.
- Feb. 27, 2012 Joint Pretrial Stipulation must be filed. Designations of deposition testimony must be made.
- Mar. 12, 2012 Objections to designations of deposition testimony must be filed. PLEASE NOTE that late designations will not be admissible absent truly exigent circumstances.
- Mar. 19, 2012 Jury Instructions or Proposed Findings of Fact and Conclusions of Law.

11. **Settlement:** If the case is settled, counsel are directed to inform the Court promptly by calling the chambers of the Honorable Donald M. Middlebrooks at (561) 514-3720 and to submit an appropriate Order for Dismissal, pursuant to Fed. R. Civ. P. 41(a)(1). Such Order must be filed within ten (10) days of notification of settlement to the Court. The parties shall attend all hearings and abide by all time requirements unless and until an order of dismissal is filed.

DATED this 30th day of August, 2011.



LINNEA R. JOHNSON
UNITED STATES MAGISTRATE JUDGE

cc: Honorable Donald M. Middlebrooks
All Counsel of Record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

**NOTICE OF RIGHT TO CONSENT TO DISPOSITION OF A CIVIL CASE
BY A UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of 28 U.S.C. §636©), you are hereby notified that the full-time United States Magistrate Judges of this District Court, in addition to their other duties, may, upon the consent of all the parties in a civil case, conduct any and all proceedings in a civil case, including a jury or non jury trial, and order the entry of a final judgment. Moreover, upon consent, the Magistrate Judge may rule on case dispositive motion(s). Copies of appropriate consent forms for these purposes are attached and are also available from the Clerk of the Court.

You should be aware that your decision to consent or not to consent to the referral of your case to a United States Magistrate Judge for disposition is your decision and yours alone after consulting with your lawyer, that your lawyer cannot make this decision for you, that this decision is entirely voluntary on your part and should be communicated solely to the Clerk of the District Court. You should be aware that you have a right to trial by a United States District Judge. Only if all parties to the case consent to the reference to a Magistrate Judge will either a District Judge or Magistrate Judge be informed of your decision. Once consent is given by the parties it cannot be waived. Only the District court may, for good cause shown on its own motion, or under extraordinary circumstances shown by a party, vacate a reference of a civil matter to a Magistrate Judge. Appeals in rulings from consent cases are decided by the Eleventh Circuit Court of Appeals.

All counsel are directed to review this notice with their client(s) before the execution of any written consent to trial before U. S. Magistrate Judge.

UNITED STATES DISTRICT OF FLORIDA
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80755-CIV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiff,

vs.

THE WEITZ COMPANY,

Defendant.

**NOTICE, CONSENT, AND ORDER OF REFERENCE -
EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE**

**Notice of Availability of a United States Magistrate Judge
to Exercise Jurisdiction**

In accordance with the provisions of 28 U.S.C. §636(c), and Fed.R.Civ.P. 73, you are notified that a United States Magistrate Judge of this District Court is available to conduct any or all proceedings in this case including a jury or nonjury trial, and to order the entry of a final judgment. Exercise of this jurisdiction by a Magistrate Judge is, however, permitted only if all parties voluntarily consent.

You may, without adverse substantive consequences, withhold your consent, but this will prevent the Court's jurisdiction from being exercised by a Magistrate Judge. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any Magistrate Judge or to the District Judge to whom the case has been assigned.

An appeal from a judgment entered by a Magistrate Judge shall be taken directly to the United States Court of Appeals for this judicial circuit in the same manner as a appeal from any other judgment of this District Court.

**Consent to the Exercise of Jurisdiction by
a United States Magistrate Judge**

In accordance with provisions of 28 U.S.C. §636(c) and Fed.R.Civ.P. 73, the parties in this case consent to have a United States Magistrate Judge conduct any and all proceedings in this case, including the trial, order the entry of a final judgment and conduct all post-judgment proceedings.

Party Represented	Signatures	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Order of Reference

IT IS ORDERED that this case be referred to _____,
United States Magistrate Judge, to conduct all proceedings and order the entry of judgment in accordance
with 28 U.S.C. §636 (c) and Fed.R.Civ.P. 73.

Date United States District Judge

NOTE: SEND ORIGINAL FORM TO THE CLERK OF COURT AND A COPY TO THE DISTRICT JUDGE.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80755-CIV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiff,

v.

THE WEITZ COMPANY, a
Florida corporation,

Defendant.

ORDER TO SHOW CAUSE

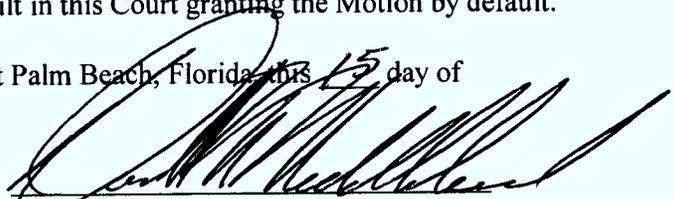
THIS CAUSE comes before the Court *sua sponte*. Defendant filed a Motion to Quash Service of Process and Motion to Dismiss (“Motion”) (DE 12) on November 7, 2011. Plaintiff was required to file a response to the motion, but has not yet done so. Southern District of Florida Local Rule 7.1(c) states:

Each party opposing a motion shall serve an opposing memorandum of law not later than fourteen (14) days after service of the motion as computed in the Federal Rules of Civil Procedure. Failure to do so *may be deemed sufficient cause for granting the motion by default.*

S.D. Fla. L.R. 7.1(c) (emphasis added). Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff shall, by **January 6, 2011**, file a Response to Defendant’s Motion (DE 12). Failure to do so may result in this Court granting the Motion by default.

DONE AND ORDERED at Chambers in West Palm Beach, Florida this 15 day of
December, 2011.


DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record;
Bruce Hammond, *pro se*
974 N.W. 3 Street
Florida City, FL 33034

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80755-CV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiffs,

vs.

THE WEITZ COMPANY,

Defendant.

DEFENDANT'S MOTION TO STRIKE
AND MEMORANDUM OF LAW

COMES NOW, the Defendant, THE WEITZ COMPANY, by and through the undersigned, files this Motion to Strike and Memorandum of Law and in support thereof states as follows:

INTRODUCTION

1. On or about March 31, 2011, the Plaintiff's case was dismissed by the U.S. Equal Employment Opportunity Commission, and he received a Notice of Suit Rights designating a ninety (90) day deadline to file suit. On the 90th day, Plaintiff filed a "Complaint".
2. On or about June 30, 2011, the Plaintiff filed a one-sentence, conclusory Complaint alleging he was harassed while employed by the Defendant. At that time, the Summons was not served upon the Defendant or on the undersigned as indicated by the Summons.
3. On or about August 12, 2011, the Plaintiff filed a Motion for Leave to File an Amended Complaint. Said Motion was not received by the undersigned on that date or at any other

Hammond, Bruce v. The Weitz Company LLC
Case No. 11-80755-CV-MIDDLEBROOKS/JOHNSON

subsequent time. Nonetheless, this Court entered an Order permitting the Plaintiff to file an Amended Complaint *on or before September 12, 2011*.

4. On or about November 7, 2011, the Defendant filed a Motion to Quash Service of Process and/or Motion to Dismiss based upon the Plaintiff's insufficient service. This Court allotted the Plaintiff until January 6, 2012, to file a Response to Defendant's Motion (See Order to Show Good Cause attached hereto as Exhibit "A"). The Plaintiff failed to file an appropriate response purporting to show good cause.

5. Instead, on or about January 6, 2012, the Plaintiff filed an Amended one-sentence Complaint with the Summons served upon the undersigned on January 9, 2012. The Amended Complaint was, once again, conclusory. Moreover, service was untimely as it did not fall within the one hundred twenty (120) days after filing of the original Complaint pursuant to Fed. R. Civ. P. 4(m). Additionally, the Amended Complaint was filed subsequent to this Court's deadline of September 12, 2011. The Complaint fails to state a cause of action for which relief may be granted.

6. For the reasons stated herein, the action at issue must be dismissed with prejudice.

MEMORANDUM OF LAW

Federal Rule of Civil Procedure 4(m) states, in pertinent part, the following: "If a defendant is not served within 120 days after the Complaint is filed, the Court - on motion or on its own after notice to the plaintiff - must dismiss the action without prejudice against that defendant or order that service be made within a specified time." Here, the Defendant was not in fact served within 120

Hammond, Bruce v. The Weitz Company LLC
Case No. 11-80755-CV-MIDDLEBROOKS/JOHNSON

days pursuant to the Rule. This mishap by the Plaintiff was brought to the Court's attention in its Motion to Quash Service of Service and/or Motion to Dismiss. In response, the Court ordered the Plaintiff to show good cause by January 6, 2012, yet Plaintiff failed to abide by same.

Conclusion

The Court should dismiss the Complaint for failure to serve the Complaint within the required number of days pursuant to the Federal Rules of Civil Procedure.

WHEREFORE, the Court should grant the foregoing Motion supported by the grounds indicated in the Motion.

I HEREBY CERTIFY that on this 27th day of January, 2012, I electronically filed the foregoing with the Clerk of the Southern District Court by using the CM/ECF system. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participant: Bruce Hammond, 974 NW 3rd Street, Florida City, FL 33034

ADAMS | COOGLER
1555 Palm Beach Lakes Blvd., Suite 1600
West Palm Beach, FL 33401
Telephone: (561) 478-4500
E-Mail: KMcHale@adamscoogler.com
Attorney for Defendant, THE WEITZ COMPANY

By: 

KATHRYN L. MCHALE, ESQUIRE
Florida Bar # 948063

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80755-CIV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiff,

v.

THE WEITZ COMPANY, a
Florida corporation,

Defendant.

ORDER TO SHOW CAUSE

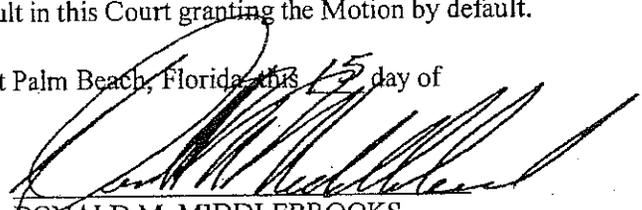
THIS CAUSE comes before the Court *sua sponte*. Defendant filed a Motion to Quash Service of Process and Motion to Dismiss ("Motion") (DE 12) on November 7, 2011. Plaintiff was required to file a response to the motion, but has not yet done so. Southern District of Florida Local Rule 7.1(c) states:

Each party opposing a motion shall serve an opposing memorandum of law not later than fourteen (14) days after service of the motion as computed in the Federal Rules of Civil Procedure. Failure to do so *may be deemed sufficient cause for granting the motion by default.*

S.D. Fla. L.R. 7.1(c) (emphasis added). Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff shall, by **January 6, 2011**, file a Response to Defendant's Motion (DE 12). Failure to do so may result in this Court granting the Motion by default.

DONE AND ORDERED at Chambers in West Palm Beach, Florida, this 15 day of
December, 2011.


DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record;
Bruce Hammond, *pro se*
974 N.W. 3 Street
Florida City, FL 33034



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80755-CV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiffs,

vs.

THE WEITZ COMPANY,

Defendant.

**DEFENDANT'S MOTION TO DISMISS AND/OR
MOTION FOR MORE DEFINITE STATEMENT AND MEMORANDUM OF LAW**

COMES NOW, the Defendant, THE WEITZ COMPANY, by and through the undersigned, files this Motion to Dismiss and/or Motion for More Definite Statement and Memorandum of Law and in support thereof states as follows:

INTRODUCTION

1. On or about March 31, 2011, the Plaintiff's case was dismissed by the U.S. Equal Employment Opportunity Commission, and he received a Notice of Suit Rights designating a ninety (90) day deadline to file suit. On the 90th day, Plaintiff filed a "Complaint".
2. On or about June 30, 2011, the Plaintiff filed a one-sentence, conclusory Complaint alleging he was harassed while employed by the Defendant. At that time, the Summons was not served upon the Defendant or on the undersigned as indicated by the Summons.
3. On or about August 12, 2011, the Plaintiff filed a Motion for Leave to File an Amended Complaint. Said Motion was not received by the undersigned on that date or at any other

Hammond, Bruce v. The Weitz Company LLC
Case No. 11-80755-CV-MIDDLEBROOKS/JOHNSON

subsequent time. Nonetheless, this Court entered an Order permitting the Plaintiff to file an Amended Complaint *on or before September 12, 2011*.

4. On or about November 7, 2011, the Defendant filed a Motion to Quash Service of Process and/or Motion to Dismiss based upon the Plaintiff's insufficient service. This Court allotted the Plaintiff until January 6, 2012, to file a Response to Defendant's Motion (See Order to Show Good Cause attached hereto as Exhibit "A"). The Plaintiff failed to file an appropriate response purporting to show good cause.

5. Instead, on or about January 6, 2012, the Plaintiff filed an Amended one-sentence Complaint with the Summons served upon the undersigned on January 9, 2012. The Amended Complaint was, once again, conclusory. Moreover, service was untimely as it did not fall within the one hundred twenty (120) days after filing of the original Complaint pursuant to Fed. R. Civ. P. 4(m). Additionally, the Amended Complaint was filed subsequent to this Court's deadline of September 12, 2011. The Complaint fails to state a cause of action for which relief may be granted.

6. For the reasons stated herein, the action at issue must be dismissed with prejudice.

MEMORANDUM OF LAW

The Plaintiff's Complaint fails to state a cause of action for which relief may be sought under Fed. R. Civ. P. 12(b)(6). Further, plaintiff's Complaint fails to satisfy Fed. R. Civ. P. 8 showing that claim made and relief sought. Plaintiff's Complaint does not set for any allegation necessary to satisfy Fed. R. Civ. P. 9. The failure to satisfy these Rules does not give the Defendant fair notice

Hammond, Bruce v. The Weitz Company LLC
Case No. 11-80755-CV-MIDDLEBROOKS/JOHNSON

of the claims and the grounds for those claims. A Court may dismiss an action when a Complaint fails to contain more than mere legal conclusion. See Jackson v. Bell South Telecomms., 372 F.3d 1250, 1263 (11th Cir. 2004). In other words, a Plaintiff must set forth “more than labels and conclusions [or] a formulaic recitation of the elements of a cause of action.” Bell Atlantic Corp v. Twombly, 550 U.S. 544, 555 (2007). The remote possibility that a claimant may later provide facts or details as to support recovery will not be sufficient to preclude a Rule 12(b)(6) dismissal. See Id.

In the case at issue, the Plaintiff's Complaint alleges that he was verbally harassed by his former boss and Safety Director, Kevin McClain, as well as President of Operations, Jon Tori, during his tenure at The Weitz Company. However, the Complaint is only one sentence, providing no specificity as to the violative acts (or the corresponding dates) or any other facts to support a claim for relief. The failure to provide such undoubtedly prejudices the Defendant as it cannot adequately respond to the allegations and assure the Court that the claim has some basis in fact.

III. Motion for a More Definite Statement

Defendant also moves for a More Definite Statement pursuant to Fed. R. Civ. P. 12 (e).

Conclusion

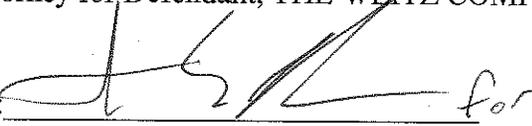
The Court should dismiss the Complaint for failure to state a cause of action for which relief may be granted.

WHEREFORE, the Court should grant the foregoing Motion supported by the grounds indicated in the Motion.

Hammond, Bruce v. The Weitz Company LLC
Case No. 11-80755-CV-MIDDLEBROOKS/JOHNSON

I HEREBY CERTIFY that on this 27th day of January, 2012, I electronically filed the foregoing with the Clerk of the Southern District Court by using the CM/ECF system. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participant: Bruce Hammond, 974 NW 3rd Street, Florida City, FL 33034.

ADAMS | COOGLER
1555 Palm Beach Lakes Blvd., Suite 1600
West Palm Beach, FL 33401
Telephone: (561) 478-4500
E-Mail: KMcHale@adamscoogler.com
Attorney for Defendant, THE WEITZ COMPANY

By:  for

KATHRYN L. MCHALE, ESQUIRE
Florida Bar # 948063

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80755-CIV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiff,

v.

THE WEITZ COMPANY, a
Florida corporation,

Defendant.

ORDER TO SHOW CAUSE

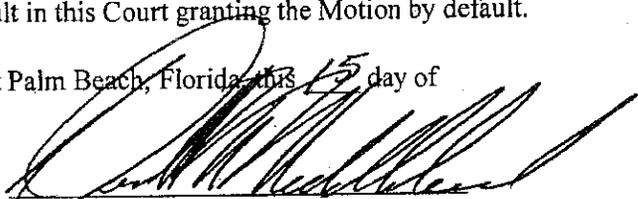
THIS CAUSE comes before the Court *sua sponte*. Defendant filed a Motion to Quash Service of Process and Motion to Dismiss ("Motion") (DE 12) on November 7, 2011. Plaintiff was required to file a response to the motion, but has not yet done so. Southern District of Florida Local Rule 7.1(c) states:

Each party opposing a motion shall serve an opposing memorandum of law not later than fourteen (14) days after service of the motion as computed in the Federal Rules of Civil Procedure. Failure to do so *may be deemed sufficient cause for granting the motion by default.*

S.D. Fla. L.R. 7.1(c) (emphasis added). Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff shall, by **January 6, 2011**, file a Response to Defendant's Motion (DE 12). Failure to do so may result in this Court granting the Motion by default.

DONE AND ORDERED at Chambers in West Palm Beach, Florida, this 15 day of
December, 2011.


DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record;
Bruce Hammond, *pro se*
974 N.W. 3 Street
Florida City, FL 33034



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 11-80755-CIV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiff,

v.

THE WEITZ COMPANY, a
Florida corporation,

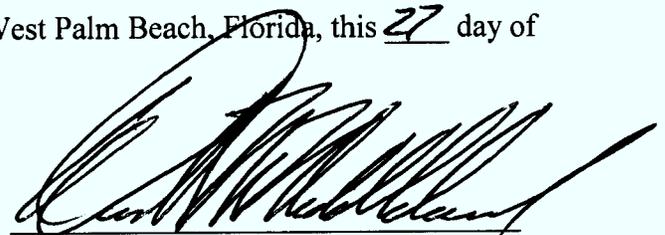
Defendant.

**ORDER DENYING AS MOOT DEFENDANT'S MOTION TO
QUASH SERVICE OF PROCESS AND/OR MOTION TO DISMISS**

THIS CAUSE comes before the Court upon Defendant's Motion to Quash Service of Process and/or Motion to Dismiss ("Motion") (DE 12) filed on November 7, 2011. The record reflects that the summons was served and executed by Defendant on January 9, 2012. (DE 17). Accordingly, it is hereby

ORDERED AND ADJUDGED that Defendant's Motion (DE 12) is DENIED AS MOOT.

DONE AND ORDERED at Chambers in West Palm Beach, Florida, this 27 day of January, 2012.



DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record;
Bruce Hammond, *pro se*
974 N.W. 3 Street
Florida City, FL 33034

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80755-CIV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiff,

v.

THE WEITZ COMPANY, a
Florida corporation,

Defendant.

FILED by _____ D.C.
FEB 22 2012
STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. of FLA. - W.P.B.

ORDER TO SHOW CAUSE

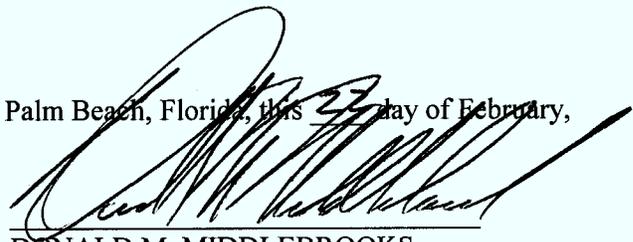
THIS CAUSE comes before the Court *sua sponte*. Defendant filed a Motion to Strike (DE 19) and a Motion to Dismiss (DE 20) on January 27, 2012. Plaintiff was required to file a response to each of these motions by February 13, 2012, but has not yet done so. Southern District of Florida Local Rule 7.1(c) states:

Each party opposing a motion shall serve an opposing memorandum of law not later than fourteen (14) days after service of the motion as computed in the Federal Rules of Civil Procedure. Failure to do so *may be deemed sufficient cause for granting the motion by default.*

S.D. Fla. L.R. 7.1(c) (emphasis added). Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff shall, by **March 5, 2012** file a Response to each of Defendant's Motions (DE 19 and 20). Failure to do so may result in this Court granting the Motions by default.

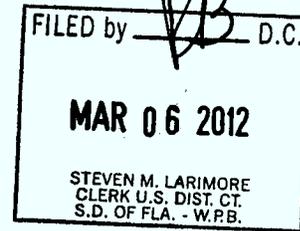
DONE AND ORDERED at Chambers in West Palm Beach, Florida, this 23 day of February, 2012.


DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record;
Bruce Hammond, *pro se*
974 N.W. 3 Street
Florida City, FL 33034

March 2, 2012

To: Attn: Kathryn L. McHale
Adams | Coogler Attorneys At Law
Regions Financial Tower
1555 Palm Beach Lakes Boulevard
Sixteenth Floor
West Palm Beach, Florida 33401
T 561.478.4500 | F 561.478.7847
www.adamscoogler.com



From: Bruce Hammond
974 N.W. 3rd Street
Florida City, Fl 33034 (Phone-305-498-4529)

Re: Hammond, Bruce v. The Weitz Company LLC - Case: 9:11-cv-80755-DMM #3 and your Law Firms
File No. : 2057-09208

In response to the motion filed on January 27, 2012. I, Bruce Hammond-Plaintiff received the following. The U.S. District Court - Southern District of Florida sent letters dated February 23rd and 24th 2012 via the United States Post Office. In the letters the motion dated January 27, 2012 I was to respond by February 13, 2012. I have not received a motion from the defendant with the listed dates. The motions I received from the defendant are dated November 2011 and December 2011. In which I responded in January 2012 and filed on January 18th, 2012.

I am again attaching a copy of my summons served January 6th and 9th 2012. Also, the verified service filed with the U.S. District Court - Southern District of Florida on January 18th, 2012. To date if a response is required after receiving notification by the U.S. District Court - Southern District of Florida on dates after the fact. Please send the motion that requires my response. Please be sure to send to the following address: 974 NW 3rd street, Florida City, Florida 33034.

Respectfully,

Bruce Hammond

cc: United States District Court
Southern District of Florida
701 Clematis Street
West Palm Beach, Florida 33401
Donald M. Middlebrooks
United States District Judge

RECEIVED
FEB 22 2012

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80755-CIV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiff,

v.

THE WEITZ COMPANY, a
Florida corporation,

Defendant.

FILED by _____ D.C.
FEB 22 2012
STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S. D. of FLA. - W/P.B.

ORDER TO SHOW CAUSE

THIS CAUSE comes before the Court *sua sponte*. Defendant filed a Motion to Strike (DE 19) and a Motion to Dismiss (DE 20) on January 27, 2012. Plaintiff was required to file a response to each of these motions by February 13, 2012, but has not yet done so. Southern District of Florida Local Rule

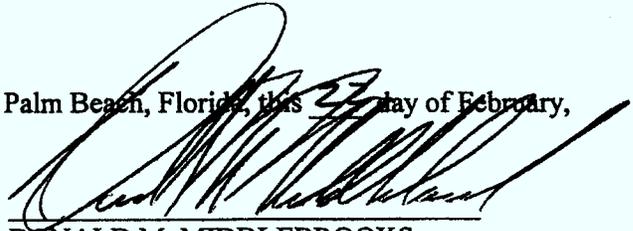
7.1(c) states:

Each party opposing a motion shall serve an opposing memorandum of law not later than fourteen (14) days after service of the motion as computed in the Federal Rules of Civil Procedure. Failure to do so *may be deemed sufficient cause for granting the motion by default.*

S.D. Fla. L.R. 7.1(c) (emphasis added). Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff shall, by **March 5, 2012** file a Response to each of Defendant's Motions (DE 19 and 20). Failure to do so may result in this Court granting the Motions by default.

DONE AND ORDERED at Chambers in West Palm Beach, Florida, this 22 day of February, 2012.



DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record;
Bruce Hammond, *pro se*
974 N.W. 3 Street
Florida City, FL 33034

VERIFIED RETURN OF SERVICE

State of Florida

County of

United States District Court - Court

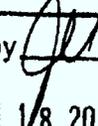
Case Number: 11-CV-⁸⁰⁷⁵⁵~~8075~~DMM

Plaintiff:
Bruce Hammond

vs.

Defendant:
The Weitz Company

For:
Bruce Hammond
974 NW 3rd Street
Florida City, FL 33034

FILED by  D.C.
JAN 18 2012
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. - MIAMI

Received by Above Par Courier Service, Inc. on the 6th day of January, 2012 at 2:19 pm to be served on The Weitz Company Adams I Coogler, Attorney at Law, 1555 Palm Beach Lakes Blvd, Sixteenth Floor, West Palm Beach, FL 33401.

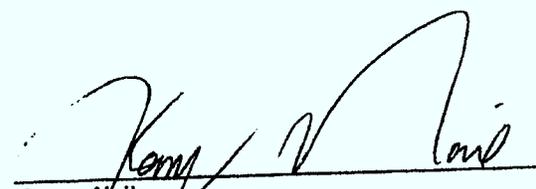
I, Kenny Nail, do hereby affirm that on the 9th day of January, 2012 at 11:55 am, I:

served a CORPORATION by delivering a true copy of the **Summons in a Civil Action and Complaint and Letter from Plaintiff regarding Motion to Proceed with the Process of Law and Plaintiff's Motion to Proceed with the Process of Law** with the date and hour of service endorsed thereon by me, to: **Rita Weishaar as Receptionist for The Weitz Company**, at the address of: **1555 Palm Beach Lakes Blvd, Sixteenth Floor, West Palm Beach, FL 33401**, and informed said person of the contents therein, in compliance with state statutes.

Additional Information pertaining to this Service:

1/9/2011 11:55 am Originally told only one person can accept service. On second attempt, the secretary stated she had permission to accept.
1/6/2012 4:05 pm Attempted Service. Advised by company only one person can accept or grant authority to accept process and she was unavailable.

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served. Under penalty of perjury, I declare I have read the foregoing verified return of service and that the facts stated in it are true.


Kenny Nail
Process Server

Above Par Courier Service, Inc.
2700 W Atlantic Blvd
Suite 106
Pompano Beach, FL 33069
(954) 915-8727
Our Job Serial Number: ABV-2012000028

January 6, 2012

To: Attn: Kathryn L. McHale
Adams | Coogler Attorneys At Law
Regions Financial Tower
1555 Palm Beach Lakes Boulevard
Sixteenth Floor
West Palm Beach, Florida 33401
T 561.478.4500 | F 561.478.7847
www.adamscoogler.com

From: Bruce Hammond
974 N.W. 3rd Street
Florida City, Fl 33034 (Phone-305-498-4529)

Re: Hammond, Bruce v. The Weitz Company LLC - Case: 9:11-cv-80755-DMM #3 and your Law Firms
File No. : 2057-09208

Enclosed please find a copy of the Plaintiff's Motion to proceed with the Process of Law.

Should you have any questions or comments, please do not hesitate to contact me.

Respectfully,


Bruce Hammond

Bruce Hammond,
Plaintiffs,

Vs.

The Weitz Company,
Defendant,

Plaintiff's Motion to Proceed with the Process of Law

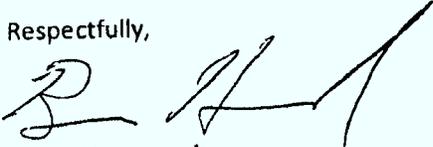
Comes Now, the Plaintiff, Bruce Hammond, by and through the undersigned files this Motion to continue with the Process of Law and in support thereof states as follows:

1. Plaintiff filed a complaint with the Miami US District Courts on June 30, 2011.
2. Plaintiff was given an extension by the District Courts on August 12, 2011.
3. Plaintiff was harassed while employed at the Weitz Company.
4. Plaintiff Summons was served on January 06, 2012.
5. Plaintiff presented no prejudices stated in the Defendant's response dated 12/08/2011 per the service the defendant demands.
6. Plaintiff has lost his home.
7. Plaintiff has been unable to obtain sufficient employment since July 2009.
8. Plaintiffs unemployed to date.

Wherefore, the Court should grant the foregoing of the original Process of Law in this Motion.

I hereby certify that a copy of the foregoing has been furnished by a legal process server on 6th day of January, 2012, to the following: Adams | Coogler Attorneys at Law 1555 Palm Beach Lakes Blvd., Suite 1600 West Palm Beach, Fl 33401.

Respectfully,


Bruce Hammond

United States District Court

Southern District of Florida

January 6, 2012

Bruce Hammond – Plaintiff

v.

The Weitz Company-Defendant

Case No. 11-80755-ctv-MiddleBrooks/Johnson

None official Copy-official copy completed in June 2011

I, Bruce Hammond plaintiff in the above styled cause, was harassed by my former Boss Kevin McClain Safety Director verbally and Jon Tori Vice President of operations and others on several occasions thru out my employment at The Weitz Company.



Bruce Hammond

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the

Bruce Hammond)
Plaintiff)

v.)

The Weitz Company)
Defendant)

Civil Action No. CASE: 9:11-cv-80755-DMM #3

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

The Weitz Company
Adams/Coogler Attorneys AT LAW
Regions Financial Tower
1555 Palm Beach Lakes Boulevard - Sixteenth Floor
West Palm Beach, FL 33401

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Bruce Hammond
774 NW 3rd St
Florida City, FL 33034

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: January 6, 2012



Steven M. Larimore
Clerk of Court

SUMMONS

s/Rosy Avel
Deputy Clerk
U.S. District Courts

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80755-CIV-MIDDLEBROOKS/JOHNSON

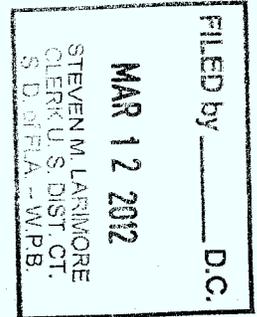
BRUCE HAMMOND,

Plaintiff,

v.

THE WEITZ COMPANY, a
Florida corporation,

Defendant.



ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

THIS CAUSE comes before the Court upon Defendant's Motion to Dismiss and/or Motion for More Definite Statement ("Motion to Dismiss") (DE 20) and Defendant's Motion to Strike ("Motion to Strike") (DE 19) filed on January 27, 2012. Plaintiff's Responses to these Motions were due on February 13, 2012. Plaintiff did not respond, so this Court issued an Order to Show Cause requiring Plaintiff to respond by March 5, 2012. Plaintiff responded on March 6, 2012 and stated that he did not receive either of the Motions from Defendant. (DE 23 at 1). I have reviewed the matter and am advised in the premises.

Plaintiff initiated this action by filing a Complaint with this Court on June 30, 2011. (DE 1). The one-sentence complaint alleges that Plaintiff "was harassed on several occasions by different employees/supervisors during my employment at the Weitz Company. Also, I was mistreated as well and laid off. To date I have been unable maintain (sic) a decent living standard without substantial employment for 2 years." (DE 1 at 2).¹ After filing his Complaint,

¹ Plaintiff's case was previously dismissed by the U.S. Equal Employment Opportunity Commission on March 31, 2011. (DE 19 at 1).

Plaintiff moved to file an Amended Complaint on August 16, 2011. (DE 6). This Court granted Plaintiff's request and required him to file an amended Complaint by September 12, 2011. However, Plaintiff took no further action in this case until January 6, 2012 when Defendant was finally served with Plaintiff's Amended Complaint. (DE 17). In the Amended Complaint² Plaintiff states that he was harassed by his former bosses Kevin McClain and Jon Tori and others on several occasions while employed at the Weitz Company, that he has lost his home, and he has been unable to obtain employment since July 2009. (DE 17 at 3-4). In its Motions, Defendant asks this Court to dismiss Plaintiff's Complaint for two reasons: (1) failure to state a claim and (2) failure to serve the Complaint within 120 days after it is filed in accordance with Fed. R. Civ. P. 4(m).

It is a well-settled principle that in ruling on a motion to dismiss, a federal court must view the complaint in the light most favorable to the plaintiff and assume "all the allegations in the complaint are true." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-56, 127 S. Ct. 1955, 1964-65 (2007) (citation omitted); *Hishon v. King & Spalding*, 467 U.S. 69, 73, 104 S. Ct. 2229, 2232 (1984); *Watts v. Fla. Int'l Univ.*, 495 F.3d 1289, 1295 (11th Cir. 2007); *Hoffman-Pugh v. Ramsey*, 312 F.3d 1222, 1225 (11th Cir. 2002). In considering a motion to dismiss, it is necessary to assess the sufficiency of the complaint against the legal standard set forth in Federal Rule of Civil Procedure 8: "a short and plain statement of the claim showing that the pleader is entitled to relief," but one must also keep in mind that such a short and plain statement "requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action

² The document that was served on Defendant is labeled "Plaintiff's Motion to Proceed With the Process of Law," although this Court liberally construes it as an Amended Complaint in accordance with *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998).

will not do.” *Twombly*, 550 U.S. at 555 (internal citations omitted); *Watts*, 495 F.3d at 1295.

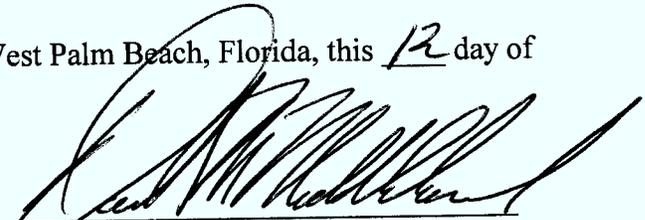
Under the *Twombly* standard, factual allegations in a complaint need not be overly detailed, but “must be enough to raise a right to relief above the speculative level . . . on the assumption that all the allegations in the complaint are true (even if doubtful in fact).” *Twombly*, 550 U.S. at 555 (internal citations omitted). “The Supreme Court’s most recent formulation of the pleading specificity standard is that ‘stating such a claim requires a complaint with enough factual matter (taken as true) to suggest’ the required element.” *Watts*, 495 F.3d at 1295 (quoting *Twombly*, 550 U.S. at 556). This does not mean to say that a plaintiff must establish a probability of prevailing on a particular claim, but rather, the standard “simply calls for enough fact to raise a reasonable expectation that discovery will reveal evidence” of a required element. *Id.* at 1296 (quoting *Twombly*, 550 U.S. at 556). “It is sufficient if the complaint succeeds in ‘identifying facts that are suggestive enough to render [an element] plausible.’” *Id.* (quoting *Twombly*, 550 U.S. at 556). A claim has facial plausibility when a plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) (quoting *Twombly*, 550 U.S. at 556).

I first find that Plaintiff’s Complaint fails to state a cause of action for which relief may be sought. Although Plaintiff’s Complaint states that he was harassed by Kevin McClain and Jon Tori, it does not provide any specific allegations concerning the harassment. Accordingly, Plaintiff’s Complaint merely cites conclusory allegations with providing any facts that raise his right to relief above the speculative level. Second, upon a review of this case it is apparent that Plaintiff’s Complaint, filed on June 30, 2011, was not served on Defendant in the requisite time as required by Fed. R. Civ. P. 4(m). Defendant was served with the Complaint on January 9,

2012, over 180 days after it was filed with this Court. Furthermore, Plaintiff failed to comply with this Court's Order requiring him to file an Amended Complaint by September 12, 2011. This matter is set for trial on March 26, 2012, but Plaintiff's failure to comply with this Court's Order to Pro Se Litigant (DE 10) issued on August 30, 2011 has resulted in practically no progress taking place in this action. Accordingly, it is hereby

ORDERED AND ADJUDGED that Defendant's Motion to Dismiss (DE 20) is GRANTED. Plaintiff's Complaint is DISMISSED WITHOUT PREJUDICE. The Clerk is instructed to CLOSE THIS CASE. If Plaintiff desires to file an Amended Complaint, he must do so within twenty (20) days of the issuance of this Order. Defendant's Motion to Strike (DE 19) and all other pending motions are DENIED AS MOOT.³

DONE AND ORDERED at Chambers in West Palm Beach, Florida, this 12 day of March, 2012.


DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record;
Bruce Hammond, *pro se*
974 N.W. 3 Street
Florida City, FL 33034

³ DE 18 and 19.

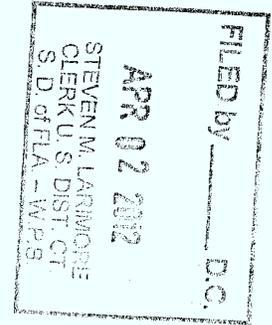
Bruce Hammond,
Plaintiff,

Amended Complaint

11-80755 (cv)

Vs.

The Weitz Company,
Defendant,



Plaintiff's Motion to Proceed with the Process of Law

Plaintiff, Bruce Hammond, the undersigned hereby files this amended complaint against the Weitz Company and thereof states as follows:

- This action is brought pursuant to Title VII of the Civil Rights Acts of 1964, as amended, 42 U.S.C. Section 2000(e), et seq. The jurisdiction of this Court is invoked to secure the protection of and to redress the deprivation of rights, secured by 42 U.S.C. Section 2000(e), et seq. against racial discrimination in the workplace.
- Plaintiff also brings this case under the anti-retaliation provision Title VII of The Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000(-e)-3(a), which forbids employers from retaliating, or from taking adverse personnel action against employees, who exercise their lawful and protected rights Under Title VII.
- Plaintiff also brings this case to Harassment of The Civil Rights Act of 1964 which forbids employers from provoking employees to none discretionary acts.
- Plaintiff further brings this case pursuant to the Equal Pay Act (EPA). I believe every Safety Professional whom was employed by Weitz with the title Regional Manager during my tenure of employment were paid significantly more.
- Plaintiff filed an EEOC Complaint July 16, 2009, stating that the defendant Agency discriminated against him on the basis of race. Amended this case with harassment per Title VII of The Civil Rights Act of 1964. My case was release March 31, 2011 giving me the right to private suit in federal or state court.
- Plaintiff has complied to the administrative prerequisites, which are necessary to file a lawsuit in federal court, pursuant Title VII of the Civil Rights Acts of 1964, as amended 42 U.S.C. Section 2000(e), et seq., in that he filed the appropriate charge of discrimination, within the applicable time frames; the action were filed within the ninety (90) days of the issuance of decision by the Equal

Employment Opportunity Commission, Office of Federal Operations; and therefore, this action has been timely filed.

- At all times herein, Plaintiff, Bruce Hammond is a African American Male, he was Forty two (42) years old; he was formerly employed by the Defendant, herein, The Weitz Company.
- At all times herein, Defendant, Kevin McClain-was the head of department for The Weitz Company(Weitz Golf, Hy-Vee Weitz, Weitz Industrial, Watts Construction, etc./Safety Director/Vice President he was responsible for the administration of personnel policies and practices, applicable to jurisdiction of the Safety Department.

FACTS

- Hammond was previously employed by Jacobs Constructors in Chicago Illinois, recruited by Weitz prior to being hired by former Safety Director/Matthew Frandsen.

During my tenure at The Weitz Company, I received the following commendations:

4 STEP (Safety Training and Evaluation Process) awards from Associated Builders Contractors, Inc.

Two President's Safety awards – for project excellence 2001 Minto Las Olas Water Garden project and 2005 Dwyer High School project

Six Charles H. Weitz awards for Excellence from The Weitz Company – in which no safety manager has never received that number of Charles H. Weitz Awards. Two for Weitz Golf and Four for the Florida Business Unit

6 traffic safety and 6 worker safety awards from the Palm Beach Safety Council a Total of 12

24 awards in Florida from 2001 to 2009

I was the only manager in four years and nine months with 1.9 million man hours worked without a lost time incident.

PLEASE NOTE: I was the ONLY employee who had ever received SIX Charles H. Weitz awards!

I cannot imagine an employee not working to their "full performance" despite being able to achieve what I did while not having strong support and enduring hostile and demeaning situations.

On 5-20-04, Dave Swiercinsky the senior superintendent for the Weitz Company told me that I was going to be fired. This was very disconcerting coming from someone who carried a lot of clout in the company. **THIS WAS VERY THREATENING.**

On 10-31-06, I submitted the safety preconstruction portion of a report to Michael Harstad, Preconstruction Director (Caucasian). He threw my submission in the garbage and told me he would not be including it in the report. I informed my boss Kevin McClain (Caucasian) of this incident. He was not

forthcoming with a solution or plan of action. I was left hanging and on my own as to how to deal with Mr. Harstad. **MY SUPERVISOR WAS NOT FORTHCOMING WITH A PLAN TO CORRECT THIS TREATMENT I SUFFERED AT THE HANDS OF Mr. HARSTAD.**

ON 2-22-07 I had a conversation with my boss Kevin McLain (Caucasian) regarding training needs and challenges I was facing which included burn out. His response was that I needed to get my old energy level back before any assistance could be given. I explained to him that I could not continue to work 60 hour work weeks AND weekends as well. He was not forthcoming with assistance. **THIS WAS A BLATENT ABUSE OF WORK HOURS WITH NO ASSISTANCE FORTHCOMING DESPITE REPORTING SAME.**

On 3-20-07 After the meeting to discuss the new drug policy changes, my boss Kevin McClain, Safety Director (Caucasian) told me that I "could not continue to sleep with my Safety & Claims Coordinator", Joyce Bashner (Caucasian). I was stunned and told him I did not appreciate the accusation. No further conversation occurred. **THIS WAS HARRASSMENT. IT WAS THREATENING AND INFLAMATORY.**

On 3-23-07 I had lunch with Dennis Gallagher, Florida Business Unit President (Caucasian) who said he did not understand how I took care of all the things I did including being on call seven days a week. I asked him for his help to which he said he would not tell the COO, Len Martling (Caucasian) of my need and would deny that we even had the conversation. **THIS WAS A BLATENT LACK OF SUPPORT DESPITE RECOGNIZING A PROBLEM.**

In July/August 2007 I was scheduled to take a class on Fearless Presentation in Miami, FL which was recommended by the company's trainer Jeff Trimble (Caucasian). This class would cover being clear and concise, designing your speech, impromptu speaking etc. Even though my attendance was scheduled, Kevin McClain, safety director (Caucasian) cancelled it. **THIS WAS A DELIBERATE ATTEMPT TO MAKE SURE I COULD NOT WORK ON AND IMPROVE MY WORK RELATED SKILLS.**

On 10-23-07 while following up with Kevin Brindley, company superintendent (Caucasian) regarding a project incident and the fact that I had not received proper support for safety in Florida, he informed me that the reason I did not and would not was because of my skin color. He stated that I was referred to as a 'nigger' by the other superintendents (John Rodeman, Larry Thompson, Jack Doran, Dave Swiercinsky, Bob Emmett – all Caucasian). This was disheartening but I continued to press on. **THIS WAS DISCRIMINATORY.**

On 8-22-07 I met with Kevin McClain and Dennis Gallagher who stated that I had communication issues; that my emails were not clear. They were unable to give specifics.

They stated I had poor management skills. At this point Kevin McClain stated that if I wanted to be a coordinator, he would give me a reference. He then laughed. Chris Brew (Caucasian), Weitz Golf Safety Manager witnessed this exchange. After lunch, Kevin McClain continued his sarcastic behavior by aiming his pen at my eyes (within inches) as if he was going to stick me in the eyes. Also, he hit me for no reason as if he dared me to hit him back. We had a conference call in my office @ 2pm with all the other safety managers across the country. The Denver safety manager and Iowa safety manager ridiculed my "How It Happened" report on an electrical generator. Chris Brew the new Weitz Golf Safety

Manager lasted about two weeks after being hired. He resigned from the Weitz Company. **I FELT DISCRIMINATED AGAINST AND ATTACKED. THIS WAS A HOSTILE ENVIRONMENT.**

On 9-13-07 - I received a call from Dan Vasilash (Caucasian), Safety Director for Watts Constructors which is owned by The Weitz Company. The call came in approximately 4 PM EST to my cell phone. Dan is located in Hawaii and he stated to me that he was warned about talking to me and that my phone calls were being tracked. Dan stated that he was tired of McClain's crap and wanted to do something about that. He asked what my thoughts were. I stated as a Christian, I could not pursue any violent behavior towards anyone and that things would work out. Dan asked me how I could remain calm knowing that McClain was creating a hostile work environment for me. I stated, I know but I must do it Gods way. **THIS WAS AGAIN HOSTILITY DIRECTED TOWARDS ME ON THE PART OF WEITZ.**

On October-8th, 9th, 10th in 2007 I went to a meeting in Des Moines, Iowa for Safety Managers.

I was the only one in the safety dept. who had a record of 3 years with no LOST TIME incidents in the company. During the meeting Kevin McClain (Caucasian) Safety Director talked about position changes with the other safety managers. On the last day of the meeting (10-10-07) Dan Vasilash (Caucasian), Watts Safety Director and I walked back to the Marriot Hotel where we were staying. Dan stated to me that if I needed to file a claim regarding working in a hostile environment and he would support me. **THIS SPEAKS FOR ITSELF.**

On 12-19-07 I met with Jeff Trimble (Caucasian), Corporate Trainer out of the Des Moines Iowa office. We discussed my development plan - adult learning courses to take or possibly getting another Master's degree to improve the safety training and development programs. I asked him if he had my profile (education) to which he said yes and that he knew I was a risk taker. I asked what he meant. He then asked me why I went to Marshall University and worked all over the United States for several different employers. I replied that I wanted real experience to put on my resume. He asked me whether I felt I could go further in this company or if I felt stagnated. I replied that I felt stagnated but believed I could go further. He asked if I would accept doing what I was currently doing for the next 20 or 30 years. I said no. He asked whether I was going to make a change sooner or later. I replied that I was going to make some changes, but did not know when. He stated he did not trust me at times. I asked why and he did not explain and proceeded to call me a bonehead. The evening ended. **HOSTILE ENCOUNTER**

On 12-27-07 Florida President Dennis Gallagher (Caucasian) came to my office and shook my hand and stated that I was working hard. **IN YOUR LETTER YOU STATED THAT MY REVIEW DATED 12-27-07 STATED THAT IF MY PERFORMANCE DID NOT IMPROVE I WOULD BE FIRED. BASED ON THIS COMMENT BY THE FLORIDA PRESIDENT, MY PERFORAMNCE MUST HAVE BEEN SATISFACTORY.**

On 2-22-08 I met with Kevin McClain Safety Director via telephone and Mark Green (Caucasian), Regional Safety Manager in person for my 2007 annual review. We discussed the following: my individual performance highlights in 2007, my 2007 performance low points, my personal strengths, my personal weaknesses, my assessment of overall skills, my level of enjoyment and satisfaction attributed to my role, moving forward in 2008 (how do we maximize my strengths), shore up minimize my weaknesses, development plan needs and requirements, and what can the Safety Director do to assist

me i.e. how could Kevin be a better Safety Director. Mark and Kevin's feedback is as listed: I need to improve in 3 areas: Management skills /Decision making (keep pushing the difficult issues); Verbal & Written Communication (clear & concise) and Leadership (I talk down to Superintendents & others). This review via phone lasted for 3 ½ hours. I was also tasked with sitting down with each manager in the Florida Business Unit and discussing the pros & cons of my communication. I was also asked to add Keith Harkins (Caucasian), new Weitz Golf Safety Manager to my development plan and meet with him weekly to bring him up to speed in Florida and Weitz Golf. **THIS WAS WHEN I RECEIVED MY REVIEW FOR 2007, NOT IN DECEMBER AND NOT IN PERSON. THIS WAS DONE VIA A PHONE CONVERSATION.**

The following is a list of the various meetings I held as instructed with each manager to discuss the pros and cons of my performance. This is important to establish with respect to my review.

On 2-26-08 I met with David Teets (Caucasian), Director of Finance about my pros & cons of my communication. Teets stated the listed cons: He believed the management team felt I brought the gory truth with negative energy. He suggested I chart or graph handouts. Get management more involved.

The pros listed: Teets stated he did not have a problem with my communication.

Other items discussed: Teets stated not being able to trust your Business Unit President Dennis Gallagher.

On 2-27-08 I met with Dennis Gallagher the Florida Business Unit President about my pros & cons of my communication. The lunch appointment was scheduled for 11:30AM and Mr. Gallagher arrived at 12:10 PM. Mr. Gallagher stated the cons: I needed to have someone read my emails before sending them and I needed to communicate with instructions added. Example, I needed the following things done by "Date" and I needed you/he/she to be specific in your response. He also recommended Dale Carnegie school and to be more enthusiastic about boring subjects. He also asked if I wanted to have this meeting or I was told to do so. I replied that I wanted to have this meeting and Gallagher replied that he hoped he could help me. The pros: Mr. Gallagher stated that I appeared comfortable in front of a crowd and I command attention. The meeting ended.

On 3-6-08 I met Jon Tori (Caucasian), Vice President to discuss the pros & cons of my communication. Cons: He stated that I talked too fast sometimes and I went off on tangents sometimes when having a discussion. Pros: he did not have a problem with my communication.

On 3-7-08 I met with Clayton Garrison Construction Manager for lunch on the pros & cons of my communication. Cons: He stated that I needed to be more passionate about my presentations if I wanted people to believe what I am said. He also stated that I was not emotional enough when doing presentations and should never read slides. Pros: he stated I was technically sound, knew my stuff and my OSHA 10 hour class was very good

On 3-10-08 I met with Jim Wells (Caucasian), Preconstruction Director for lunch to discuss the pros & cons of my communication. Cons: Jim stated that I should be more aggressive in pushing Construction

Managers and Project Managers to enforce consistency among them. He also suggested I work on my written communication.

Pros: He stated that my overall communication skills were good.

On 3-17-08 I met with Doug Thigpen (Caucasian) Construction Manager for lunch to discuss the pros & cons of my communication. Pros: stated that I was a positive communicator. Cons: He had no negative feedback.

Other items we discussed: Doug really liked the safety outreach program and the process I implemented in Florida.

On 7-2-09 I was told my job has been eliminated after nine years and 3 months of service with the most outstanding accomplishments in the company for safety in my division.

*Green stated that my lay off was not due to performance.

*Green and McClain both gave me their personal phone #'s to call them and talk the following week.

- I was immediately given boxes by McClain and Green to pack my things. I was then driven home by Green.
- As a result, Plaintiff has incurred loss due to the unjust layoff.
- Wherefore, Plaintiff, Bruce Hammond, respectfully request this case to be amended and this Court enter judgment against the Defendant, The Weitz Company and Kevin McClain/Safety Director/Vice President, and find the Defendant indeed violated Title VII of the Civil Rights Acts of 1964, as amended, 42 U.S.C. Section 2000e-3(a) and order the following relief:
 - *Payment of 8,246 accumulated hours worked over a period of nine years without pay:
 - *Wages lost from July 2, 2009 to date
 - *Lost retirement investment since July 2, 2009 to date.
 - *Cost of insurance (health, dental, vision, life) to date:
 - *Expense in conducting job search from July 2009 to date:
 - *Personal savings lost due to layoff:
 - *Compensation for working out of my home and truck for the first eight months of employment:
 - *Compensation for the pain and mental anguish experienced from the derogatory comments endured as stated in my claim:
 - *Compensation for the humiliation and embarrassment endured from harassment, threats and False accusations made by my former supervisor:
 - *Compensation for being on call 24/7 during my planned/approved vacations:
 - *Compensation for having to start my career over as a 45 year old man:

- **Follow up information:**
 1. Plaintiff filed a complaint with the Miami US District Courts on June 30, 2011.
 2. Plaintiff was given an extension by the District Courts on August 12, 2011.
 3. Plaintiff was harassed while employed at the Weitz Company.
 4. Plaintiff Summons was served on January 06, 2012.
 5. Plaintiff presented no prejudices stated in the Defendant's response dated 12/08/2011 per the service the defendant demands.
 6. Plaintiff Summons was served on March 5th, 2012 and courier affidavit not signed and submitted timely.
 7. Plaintiff has lost his home.
 8. Plaintiff has been unable to obtain sufficient employment since July 2009.
 9. Plaintiffs unemployed to date.
 10. Plaintiff has no health insurance.
 11. Plaintiff credit is in jeopardy.
 12. Plaintiff attends school to change career to obtain employment.
 13. Plaintiff requested information on March 21, 2012 from the defendant as listed:
 - Plaintiff request copies of all employees that were laid off from July 2009 to present.
 - Plaintiff request copies of all jobs eliminated during the process of reduction at the Weitz Company.
 - Plaintiff request copies of present positions and pay scales.

Wherefore, the Court should grant the foregoing of this amendment to original Process of Law and the listed relief.

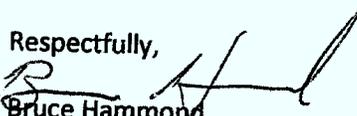
- Award Plaintiff, actual damages, including appropriate amounts of back pay and front pay.
- Enjoin the Defendant from continuing its discriminatory practices; and
- Grant any and all appropriate relief, which the Court deems to be just, proper and equitable.

Demand for Jury Trial

Plaintiff demands trial by jury of all issues so triable.

I hereby certify that a copy of the foregoing has been furnished by a legal process server on 30th day of March, 2012, to the following: Adams | Coogler Attorneys at Law 1555 Palm Beach Lakes Blvd., Suite 1600 West Palm Beach, Fl 33401.

Respectfully,


Bruce Hammond

cc: United States District Court
Southern District of Florida
701 Clematis Street
West Palm Beach, Florida 33401
Donald M. Middlebrooks
United States District Judge

DISMISSAL AND NOTICE OF RIGHTS

Bruce Hammond
4581 Palm Brooke Circle
West Palm Beach, FL 33417

From: **Miami District Office**
2 South Biscayne Blvd
Suite 2700
Miami, FL 33131

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
510-2009-05284	Latoya Allen, Investigator	(305) 808-1813

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

On behalf of the Commission

Nitza Santos Wright

Delner Franklin-Thomas,
Acting District Director

MAR 8 1 2011

EEOC Miami District Office
 (Date Mailed)

Enclosure(s)

cc: **Respondent Representative**

The Wertz Company
c/o Kathryn McHale, Esq.
ADAMS, COOGLER, WATSON
1555 Palm Beach Lakes Blvd., Suite 1600
West Palm Beach, FL 33401

Bruce Hammond
EEOC Charge No.: 510-2009-05284 (Amended)
February 16, 2011

With respect to your allegation of harassment, it is the employer's position that the amended charge of discrimination was not filed with the EEOC in a timely manner and that the alleged incidents are not sufficient to create an objectively hostile work environment. The employer states that Mr. Tori denied he yelled at you, asserted that you yelled at him, and that you were never disciplined formally as result of the scaffold collapsing in December 2008. The employer maintains an anti-harassment policy, which it states is accessible to all employees, and there is no evidence that you registered a complaint of racial harassment or racial discrimination during your employment.

Our review of the evidence currently in your file indicates that it is insufficient to conclude that an EEOC statute was violated. The employer provided legitimate, non-discriminatory reasons for terminating your employment, and the information you have provided thus far is insufficient to support your claim.

You are invited to provide in writing any additional information you may have in support of your charge. Please see the attached Request for Information. If we do not hear from you or receive any additional information on or before **March 9, 2011**, we will decide your case based on the evidence currently in your file.

Please be advised that if you receive a dismissal notice, you will have 90 days from the date of receipt to file a private suit against the employer in federal or state court.

Sincerely,


Latoya Allen
Investigator
(305) 808-1813

Enclosure

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 12-80755-CV- MIDDLEBROOKS/BRANNON

BRUCE HAMMOND,
Plaintiff(s)

vs.

THE WEITZ COMPANY,
Defendant(s).

ORDER REFERRING CASE AND SETTING TRIAL DATE

PLEASE TAKE NOTICE that the above-entitled cause is hereby set for Trial before the Honorable Donald M. Middlebrooks, United States District Judge, at United States District Court at 701 Clematis Street, Second Floor, Courtroom 7, West Palm Beach, Florida, **during the two-week trial period commencing November 19, 2012 at 9:00 a.m.**, or as soon thereafter as the case may be called. PLEASE TAKE FURTHER NOTICE that a **Status Conference/Calendar Call will be held on Wednesday, November 14, 2012 at 1:15 p.m. ALL COUNSEL MUST BE PRESENT.** The Court notes that this is an extended trial schedule.

1. JURY TRIALS

On or before the date of the Status Conference, counsel shall submit proposed jury instructions with the substantive charges and defenses, verdict forms, and motions in limine, if any. Jury instructions shall be filed with the Clerk and a copy shall be submitted in **Word or WordPerfect format** directly to middlebrooks@flsd.uscourts.gov. To the extent these instructions are based upon the Eleventh Circuit Pattern Jury Instructions, counsel shall indicate the appropriate Eleventh Circuit Pattern Jury Instruction upon which their instruction is modeled. All other

instructions shall include citations to relevant supporting case law.

2. **BENCH TRIALS**

In cases tried before the Court, each party shall file at least ONE WEEK prior to the beginning of the trial calendar, the proposed Findings of Fact and Conclusions of Law. An additional copy shall be sent in WordPerfect format to the chambers e-mail account listed above.

Prior to **any** trial, counsel shall submit to the Court a typed list of proposed witnesses and/or exhibits. All exhibits shall be pre-labeled in accordance with the proposed exhibit list. Exhibit labels must include the case number. It is further

ORDERED AND ADJUDGED PURSUANT to 28 U.S.C. § 636 (b)(1)(A) and the Magistrate Judge Rules of the Local Rules of the Southern District of Florida, the above-captioned cause is hereby referred to **United States Magistrate Dave Lee Brannon** to conduct a Scheduling Conference, pursuant to Local Rule 16.1.B, for the purpose of setting pre-trial deadline dates, and for determining possible consent to the jurisdiction of the Magistrate Judge for trial. All counsel of record will be required to attend this conference which will be noticed by Magistrate Judge Brannon. Copies of any and all filings related to such scheduling conference, including proposed orders, must be sent directly to Judge Brannon at brannon@flsd.uscourts.gov.

Further, any request to modify the above-set trial date must be made prior to the Scheduling Conference. The foregoing does not preclude consideration of a prompt motion to modify the trial date for good cause shown by a party joined in the litigation after the Scheduling Conference has occurred.

The parties are directed , in accordance with CM/ECF procedures, as follows:

COURTESY COPIES: Notwithstanding the implementation of CM/ECF, all parties shall deliver a courtesy copy to the Intake Section of the Clerk's Office all motions exceeding

twenty-five pages. This copy shall be bound and any attachments and/or appendices must be indexed with tabs.

PROPOSED ORDERS: Pursuant to the CM/ECF Administrative Procedures, counsel shall send proposed orders in Word or WordPerfect format for ALL motions directly to middlebrooks@flsd.uscourts.gov.¹

DONE AND ORDERED, in Chambers, at West Palm Beach, Florida, this 10th day of April, 2012.



DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Honorable Dave Lee Brannon
All Counsel of Record

¹ This does not apply to orders relating to Judge Brannon's scheduling conference discussed above.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80755-CV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiff,

vs.

THE WEITZ COMPANY,

Defendant.

DEFENDANT'S MOTION TO DISMISS

COMES NOW, the Defendant, THE WEITZ COMPANY, by and through the undersigned counsel, hereby files this Motion to Dismiss the Plaintiff's Amended Complaint dated March 30, 2012, and as grounds therefore states:

PROCEDURAL BACKGROUND

I. On or about March 31, 2011, the Plaintiff's case was dismissed by the U.S. Equal Opportunity Commission and he received a Notice of Rights designating a ninety (90) day deadline to file suit. On the 90th day the Plaintiff filed a "Complaint".

2. The EEOC charges were for racial discrimination pursuant to the July 14, 2009 charge (attached hereto as Exhibit "A"), and an amended charge of discrimination asserting he was racially harassed on April 30, 2010 (attached hereto as Exhibit "B").

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3. HAMMOND's allegations concerned an incident on a construction site in December of 2008, wherein there was a scaffolding collapse. The Safety Accountability Committee considered disciplining HAMMOND, however, no warning was ever given.

4. On or about June 30, 2011, the Plaintiff filed a one sentence conclusory complaint alleging he was harassed while employed by the Defendant. At that time, the Summons was not served upon the Defendant or on the undersigned as indicated by the Summons.

5. On or about August 12, 2011, the Plaintiff filed a Motion for Leave to File an Amended Complaint. Said Motion was not received by the undersigned on that date or at any other subsequent time. Nonetheless, the Court entered an Order permitting the Plaintiff to file an Amended Complaint on or before September 12, 2011.

6. On or about January 6, 2012, the Plaintiff filed an Amended one sentence Complaint with a Summons served upon the undersigned on January 9, 2012.

7. On March 12, 2012, the Court dismissed Plaintiff's Complaint with prejudice and permitted him to file within twenty (20) days after issuance of the Order on Amended Complaint.

8. On March 30, 2012, the Plaintiff filed his "Amended Complaint" also titled as Plaintiff's Motion to Proceed with the Process of Law.

SUMMARY OF ARGUMENT

As a condition precedent to filing this lawsuit, Hammond filed Charges of Discrimination with the Equal Employment Opportunity Commission ("EEOC"). These charges only included allegations of race discrimination. It was Defendant's position that the Amended Charge was

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untimely filed with the EEOC. This Court should dismiss the purported causes of action not raised in the EEOC charges as Hammond has failed to fulfill a condition precedent to the filing of this Complaint by not exhausting administrative remedies. Plaintiff's judicial Complaint is limited by the scope of the EEOC investigation. Further, HAMMOND's Amended Complaint fails to follow the Federal Rules of Civil Procedure and should be dismissed on the grounds stated herein.

MEMORANDUM OF LAW

The Plaintiff's Amended Complaint, while no longer a couple of sentences, has now evolved into a seven (7) page, single spaced rambling pleading. The Plaintiff's Amended Complaint fails to Comply with Fed. R. Civ. P. 8(d) in that it fails to meet the short, plain statement standard. The single spaced, seven (7) page Amended Complaint is ambiguous, vague and otherwise unintelligible to decipher claims for relief. Furthermore, the Plaintiff's Amended Complaint is not numbered, so responding to each paragraph is impossible.

There are no causes of action which are defined for which a response can be given. Pursuant to Fed. R. Civ. P. 8(d)(1), each allegation must be simple, concise and direct. Further, Plaintiff's Amended Complaint fails to satisfy Fed. R. Civ. P. 8(a) which sets forth the elements showing that the pleader is entitled to relief.

The Plaintiff's Amended Complaint also fails to satisfy Rule 10 of the Fed. R. Civ. P. The Plaintiff fails to satisfy 10(a) in that there is no caption which sets for the Court.

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The Plaintiff's Amended Complaint fails to satisfy Fed. R. Civ. P. 10(b) where the Complaint must state claims in numbered paragraphs. Further, the Complaint should have separate counts for each of the claims being brought against THE WEITZ COMPANY. HAMMOND's Amended Complaint fails to satisfy these important rules of pleading practice.

The Plaintiff's Amended Complaint fails to satisfy Fed. R. Civ. P. 12(b)(6) in that there are no claims stated for which relief can be granted.

Plaintiff makes allegations on page one (1) that he is bringing this action pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000 for racial discrimination in the workplace. This is the only cause of action for which HAMMOND sought administrative relief from the Equal Employment Opportunity Commission. He filed a specific charge and amended his charge for racial harassment in the workplace. Both of those charges were dismissed by the EEOC. The other three causes of action which Plaintiff now seeks, it appears, are retaliation and harassment, a cause of action from Civil Rights Act of 1964, which "forbids employers from provoking employees to none (sic) discretionary acts" and Plaintiff's cause of action pursuant to the Equal Pay Act. These claims should be dismissed for lack of subject matter jurisdiction by this Court pursuant to Fed. R. Civ. Proc. 12(b)(1). The Plaintiff has not met the conditions precedent for this Court to accept subject matter jurisdiction.

In *Lambert v. Alabama Dept. Of Youth Services*, 150 Fed. Appx. 990 (11th Cir. 2005), the Eleventh Circuit affirmed the District Court finding that the Plaintiff failed to exhaust his remedies with the EEOC. The Court properly granted the Motion to Dismiss. Allegations of

Hammond, Bruce v. The Weitz Company LLC
Case No. 11-80755-CV-MIDDLEBROOKS/JOHNSON
Defendant's Motion to Dismiss

new acts of discrimination are not appropriate. *See also, Francois v. Miami-Dade County*, 742 F. Supp. 2d 1350 (S.D. Fla. 2010) (Plaintiff failed to satisfy the condition precedent with the EEOC).

The amended charge of discrimination was untimely filed within three hundred days of the alleged unlawful employment practice. *Maynard v. Pneumatic Products Corp.*, 256 F. 3d 1259, 1262-1263 (11th Cir. 2001). In the instant matter, the original charge of discrimination was filed by the Plaintiff on July 16, 2009. The Plaintiff asserts that he was laid off on July 2, 2009 because of his race. In the amended charge of discrimination, the Plaintiff asserts that he was harassed because a WEITZ employee yelled at him while being disciplined for an incident and also asserts that he was threatened several times by an employee.

The Defendant recognizes that the Federal Court must view the Amended Complaint in light most favorable to the Plaintiff. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-556 (127 S.Ct.1955, 1964-1965 (2007)). The Defendant submits that the Amended Complaint as worded does not meet the short and plain statement requirements and is more of a rambling of honors, events and issues that Plaintiff had throughout the course of his tenure of employment with THE WEITZ COMPANY. These statements do not give rise to causes of action against WEITZ in this forum. Further, Plaintiff's Amended Complaint does not give rise to factual allegations specific enough to formulate a response past speculation as to what the statements in the seven (7) page Amended Complaint seek as far as specific claims. While the word harassment is used

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in capital letters or threatening was used, these do not give rise to claims against THE WEITZ COMPANY. See Twombly, Id.

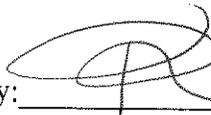
CONCLUSION

The Court should dismiss this Amended Complaint for the reasons cited herein.

WHEREFORE, based upon the foregoing, Defendant respectfully requests this Court enter an Order dismissing the Plaintiff's Amended Complaint dated March 30, 2012.

I HEREBY CERTIFY that on this 19th day of April, 2012, I electronically filed the foregoing with the Clerk of the Southern District Court by using the CM/ECF system. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participant: Bruce Hammond, 974 NW 3rd Street, Florida City, FL 33034 .

ADAMS | COOGLER, P.A.
1555 Palm Beach Lakes Blvd., Suite 1600
West Palm Beach, FL 33401-2329
Telephone: (561) 478-4500
Facsimile: (561) 478-7847
E-Mail: KMcHale@adamscoogler.com
Attorney for Defendant, THE WEITZ
COMPANY

By: 

KATHRYN L. MCHALE, ESQUIRE
Florida Bar # 948063

EEOC Form 5 (11/09)

<p>CHARGE OF DISCRIMINATION</p> <p>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>	<p>Charge Presented To: Agency(ies) Charge No(s):</p> <p><input type="checkbox"/> FEPA AMENDED</p> <p><input checked="" type="checkbox"/> EEOC 510-2009-05284</p>
---	---

Florida Commission On Human Relations and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.) Mr. Bruce Hammond	Home Phone (Incl. Area Code) (561) 616-0306	Date of Birth 07-24-1966
--	---	------------------------------------

Street Address City, State and ZIP Code
4561 Palm Brooke Circle, West Palm Beach, FL 33417

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (if more than two, list under PARTICULARS below.)

Name THE WEITZ COMPANY	No. Employees, Members 500 or More	Phone No. (Include Area Code) (561) 686-4800
----------------------------------	--	--

Street Address City, State and ZIP Code
1720 Centrepark Drive East, West Palm Beach, FL 33401

Name	No. Employees, Members	Phone No. (Include Area Code)
------	------------------------	-------------------------------

Street Address City, State and ZIP Code

<p>DISCRIMINATION BASED ON (Check appropriate box(es).)</p> <p><input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN</p> <p><input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION</p> <p><input type="checkbox"/> OTHER (Specify)</p>	<p>DATE(S) DISCRIMINATION TOOK PLACE</p> <table style="width:100%;"> <tr> <td style="text-align: center;">Earliest</td> <td style="text-align: center;">Latest</td> </tr> <tr> <td style="text-align: center;">12-08-2008</td> <td style="text-align: center;">07-02-2009</td> </tr> </table> <p><input type="checkbox"/> CONTINUING ACTION</p>	Earliest	Latest	12-08-2008	07-02-2009
Earliest	Latest				
12-08-2008	07-02-2009				

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):
AMENDED

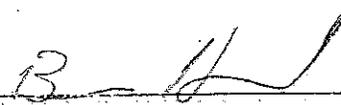
I am African American, and I believe that I was harassed and laid off because of my race.

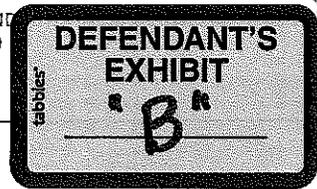
I was hired by Respondent on or about March 29, 2000. I was employed as a Safety Manager. On or about December 8, 2008, a scaffold collapsed at Respondent's Kravis Center Project which nearly injured two subcontractor employees. Wentworth Construction hired SAFWAY Scaffolding Company to install the scaffolding, but the scaffolding was not installed properly. The Florida Business Unit Accountability Committee, Dennis Gallagher, Jon Tori, and Construction Managers Clayton Garrison, Rick Kolb, and Doug Thigpen, stated that I should take the blame for the scaffolding incident. Mr. Tori stated that he believed that I was responsible and that I should be written-up. Mr. Tori screamed at me when I asked why I was being blamed for the incident. I was not involved in hiring Wentworth nor was I involved in hiring or managing SAFWAY Scaffolding Company.

I was threatened several times by Vice President Kevin McClain (Caucasian). On or about July 2, 2009, I was laid off by Mr. McClain and replaced with Keith Harkins (Caucasian). Mr. Harkins was employed by Respondent less than two years, whereas I was employed by Respondent for about nine years, first as a Regional Safety Manager and most recently as a Safety Manager.

I believe that I was harassed and was laid off because of my race, African American, in violation of Title VII of the Civil Rights Act of 1964, as amended.

<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p>	<p>NOTARY - When necessary for State and Local Agency Requirements</p>
--	--

<p>I declare under penalty of perjury that the above is true and correct.</p> <p style="text-align: center;">  Charging Party Signature </p>	<p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2010.</p> <p style="text-align: center;"> Date 4-30-2010 </p>
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 11-80755-Civ-Middlebrooks/Brannon

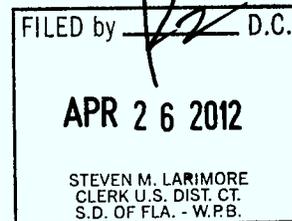
BRUCE HAMMOND,

Plaintiff(s),

vs.

THE WEITZ COMPANY,

Defendant(s).



PRETRIAL SCHEDULING ORDER

THIS CAUSE is before the Court following a Scheduling Conference that took place before the undersigned U.S. Magistrate Judge. In accordance with this Scheduling Conference and pursuant to S.D. Fla. L. R. 16.1(b), the Court ORDERS the following:

1. Trial: This case is presently set for trial before U.S. District Judge Middlebrooks during the two-week trial period commencing November 19, 2012. This Court has advised the parties of the opportunity to consent to a specially set trial before a U.S. Magistrate Judge pursuant to 28 U.S.C. § 636(c). A fully executed consent form should be filed within 30 days from this Order's date if the parties wish to consent to trial before a U.S. Magistrate Judge.

2. Pretrial Discovery and Conference: Pretrial discovery shall be conducted in accordance with S.D. Fla. L.R. 16.1 and 26.1, and the Federal Rules of Civil Procedure. No pretrial conference shall be held in this action, unless the parties so request or the Court determines, sua sponte, that a pretrial conference is necessary. Should a pretrial conference be set, the deadlines set forth in this Order shall remain unaltered.

3. Pretrial Stipulation: Counsel must meet at least 45 days prior to the beginning of the trial calendar to confer on the preparation of a Joint Pretrial Stipulation. The Joint Pretrial Stipulation shall be filed by the date set forth below and shall conform to S.D. Fla. L.R. 16.1(e). The Court will not accept unilateral pretrial stipulations, and will strike sua sponte any such submissions. Should any of the parties fail to cooperate in preparing the Joint Pretrial Stipulation, all other parties shall file a certification with the Court stating the circumstances. Upon receipt of such certification, the Court will issue an order requiring the non-cooperating

party or parties to show cause why such party or parties (and their respective attorneys) should not be held in contempt for failure to comply with the Court's order. The pretrial disclosures and objections required under Fed. R. Civ. P. 26(a)(3) should be served, but not filed with the Clerk's Office, as the same information is required to be attached to the parties' Joint Pretrial Stipulation.

4. Cases Tried Before A Jury: In cases tried before a jury, at least ONE WEEK prior to the beginning of the trial calendar, the parties shall submit A SINGLE JOINT SET of proposed jury instructions and verdict form, though the parties need not agree on the proposed language of each instruction or question on the verdict form. Where the parties do agree on a proposed instruction or question, that instruction or question shall be set forth in Times New Roman 14 point typeface. Instructions and questions proposed only by the plaintiff(s) to which the defendant(s) object shall be italicized. Instructions and questions proposed only by defendant(s) to which plaintiff(s) object shall be bold-faced. Each jury instruction shall be typed on a separate page and, except for Eleventh Circuit Pattern instructions clearly identified as such, must be supported by citations to authority. In preparing the requested jury instructions, the parties shall use as a guide the Pattern Jury Instructions for civil cases approved by the Eleventh Circuit, including the directions to counsel contained therein. A copy of the proposed jury instructions and verdict form shall be sent in Word or WordPerfect format to: Middlebrooks@flsd.uscourts.gov.

5. Cases Tried Before The Court: In cases tried before the Court, at least ONE WEEK prior to the beginning of the trial calendar, a copy of the proposed Findings of Fact and Conclusions of Law shall be sent in Word or WordPerfect format to: Middlebrooks@flsd.uscourts.gov. Proposed Conclusions of Law must be supported by citations to authority.

6. Exhibits: All exhibits must be pre-marked. A typewritten exhibit list setting forth the number, or letter, and description of each exhibit must be submitted at the time of trial. The parties shall submit said exhibit list on Form AO 187, which is available from the Clerk's office.

7. Motions to Continue Trial: A Motion to Continue Trial shall not stay the requirement for the filing of a Pretrial Stipulation and, unless an emergency situation arises, such Motion will not be considered unless it is filed at least 20 days before the date on which the trial calendar is scheduled to commence.

8. Pretrial Motions: Any party filing a pretrial motion shall submit a proposed order granting the motion.

9. Non-compliance With This Order: Non-compliance with any provision of this Order may subject the offending party to sanctions or dismissal. It is the duty of all counsel to enforce the timetable set forth herein in order to ensure an expeditious resolution of this cause.

10. Pretrial Schedule: The parties shall adhere to the following schedule, which shall not be modified absent compelling circumstances. Any motions to modify this schedule shall be directed to the attention of U.S. District Judge Donald M. Middlebrooks.

- | | |
|--------------------|--|
| June 4, 2012 | Joinder of Additional Parties and Amend Pleadings. |
| July 2, 2012 | Plaintiff shall provide opposing counsel with a written list with the names and addresses of all expert witnesses intended to be called at trial and only those expert witnesses listed shall be permitted to testify. Within the 14 day period following this disclosure (on or before July 16, 2012), Plaintiff shall make its experts available for deposition by Defendant. The experts' depositions may be conducted without further Court order. |
| July 16, 2012 | Defendant shall provide opposing counsel with a written list with the names and addresses of all expert witnesses intended to be called at trial and only those expert witnesses listed shall be permitted to testify. Within the 14 day period following this disclosure (on or before July 30, 2012), the defendant shall make its experts available for deposition by the plaintiff. The experts' depositions may be conducted without further Court order. |
| <u>Note:</u> | The above provisions pertaining to expert witnesses do not apply to treating physicians, psychologists or other health providers. |
| July 30, 2012 | Parties shall furnish opposing counsel with a written list containing the names and addresses of all witnesses intended to be called at trial and only those witnesses listed shall be permitted to testify. |
| August 15, 2012 | Parties shall furnish opposing counsel with expert reports or summaries of their expert witnesses' anticipated testimony in accordance with Fed. R. Civ. P. 26(a)(2). |
| August 27, 2012 | All discovery shall be completed. |
| September 10, 2012 | All Pretrial Motions and Memoranda of Law shall be filed. |
| October 22, 2012 | Joint Pretrial Stipulation shall be filed. Designations of deposition testimony shall be made. |

November 5, 2012 Objections to designations of deposition testimony shall be filed. Late designations shall not be admissible absent exigent circumstances.

November 13, 2012 Jury Instructions or Proposed Findings of Fact and Conclusions of Law shall be filed.

November 14, 2012 Status Conference/Calendar Call.

11. Settlement: If the case is settled, counsel shall promptly inform the Court by calling the chambers of U.S. District Judge Donald M. Middlebrooks at (561) 514-3720 and, within 10 days of notification of settlement to the Court, submit an appropriate Motion and proposed order for dismissal, pursuant to Fed. R. Civ. P. 41(a). The parties shall attend all hearings and abide by all time requirements unless and until an order of dismissal is filed.

DONE and ORDERED in Chambers at West Palm Beach in the Southern District of Florida, this 26th day of April, 2012.



DAVE LEE BRANNON
UNITED STATES MAGISTRATE JUDGE

Copies to:
U.S. District Judge Donald M. Middlebrooks
Bruce Hammond, pro se
All counsel of record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

NOTICE OF RIGHT TO CONSENT TO DISPOSITION OF A CIVIL CASE
BY A UNITED STATES MAGISTRATE JUDGE

All counsel are directed to review this notice with their client(s) before the execution of any written consent to trial before a United States Magistrate Judge.

In accordance with the provisions of 28 U.S.C. §636(c), you are hereby notified that the full-time United States Magistrate Judges of this District Court, in addition to their other duties, may, upon the consent of all the parties in a civil case, conduct any and all proceedings in a civil case, including a jury or non jury trial, and order the entry of a final judgment. Moreover, upon consent, the Magistrate Judge may rule on case dispositive motion(s). Copies of appropriate consent forms for these purposes are attached and are also available from the Clerk of the Court.

You should be aware that your decision to consent or not to consent to the referral of your case to a United States Magistrate Judge for disposition is your decision and yours alone after consulting with your lawyer, that your lawyer cannot make this decision for you, that this decision is entirely voluntary on your part and should be communicated solely to the Clerk of the District Court. You should be aware that you have a right to trial by a United States District Judge. Only if all parties to the case consent to the reference to a Magistrate Judge will either a District Judge or Magistrate Judge be informed of your decision. Once consent is given by the parties it cannot be withdrawn. Only the District Court may, sua sponte for good cause or under extraordinary circumstances shown by a party, vacate a reference of a civil matter to a Magistrate Judge. You are free to withhold your consent without any adverse substantive consequences.

Appeals in rulings from consent cases are decided by the Eleventh Circuit Court of Appeals.

UNITED STATES DISTRICT OF FLORIDA
SOUTHERN DISTRICT OF FLORIDA

Case No. []-Civ-Middlebrooks/Brannon

[],
Plaintiff(s),

v.

[],
Defendant(s).

NOTICE AND CONSENT TO
EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of 28 U.S.C. §636(c), and Federal Rule of Civil Procedure 73, you are notified that a United States Magistrate Judge of this District Court is available to conduct any or all proceedings in this case including a jury or nonjury trial, and to order the entry of a final judgment. Exercise of this jurisdiction by a Magistrate Judge is, however, permitted only if all parties voluntarily consent.

You may, without adverse substantive consequences, withhold your consent, but this will prevent the Court's jurisdiction from being exercised by a Magistrate Judge. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any Magistrate Judge or to the District Judge to whom the case has been assigned.

An appeal from a judgment entered by a Magistrate Judge shall be taken directly to the United States Court of Appeals for this judicial circuit in the same manner as a appeal from any other judgment of this District Court.

Consent to the Exercise of Jurisdiction by
a United States Magistrate Judge

In accordance with provisions of 28 U.S.C. §636(c) and Federal Rule of Civil Procedure 73, the parties in this case consent to have a United States Magistrate Judge conduct any and all proceedings in this case, including the trial, order the entry of a final judgment and conduct all post-judgment proceedings.

Party Represented	Signatures	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Order of Reference

IT IS HEREBY ORDERED that this case be referred to _____, United States Magistrate Judge, to conduct all proceedings and order the entry of judgment in accordance with 28 U.S.C. §636(c), Federal Rule of Civil Procedure 73, and the foregoing consent of the parties.

_____ Date _____ United States District Judge

NOTE: SEND ORIGINAL FORM TO THE CLERK OF COURT AND A COPY TO THE DISTRICT JUDGE.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 11-80755-Civ-Middlebrooks/Brannon

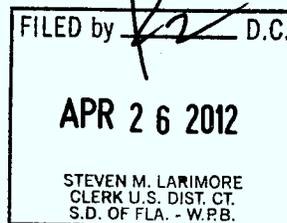
BRUCE HAMMOND,

Plaintiff(s),

vs.

THE WEITZ COMPANY,

Defendant(s).



ORDER OF REFERRAL TO MEDIATION

THIS CAUSE is before the Court for the purpose of setting pre-trial deadline dates. Trial having been set in this matter, pursuant to Federal Rule of Civil Procedure 16 and Local Rule 16.2, it is ORDERED AND ADJUDGED as follows:

1. All parties are required to participate in mediation. The mediation shall be completed no later than 60 days before the scheduled trial date.
2. Plaintiff's counsel, or another attorney agreed upon by all counsel of record and any unrepresented parties, shall be responsible for scheduling the mediation conference. The parties are encouraged to avail themselves of the services of any mediator on the List of Certified Mediators, maintained in the office of the Clerk of the Court, but may select any other mediator. The parties shall agree upon a mediator within 14 days from the date hereof. If there is no agreement, lead counsel shall promptly notify the Clerk of the Court in writing and the Clerk of the Court shall designate a mediator

from the List of Certified Mediators, which designation shall be made on a blind rotation basis.

3. A place, date, and time for mediation convenient to the mediator, counsel of record, and unrepresented parties shall be established. If the parties cannot agree to a place, date, and time for the mediation, they may file a motion asking the Court for an order dictating the place, date, and time.
4. The appearance of counsel and each party or representatives of each party with full authority to enter into a full and complete compromise and settlement is mandatory. If insurance is involved, an adjuster with authority up to the policy limits or the most recent demand, whichever is lower, shall attend.
5. All proceedings of the mediation shall be confidential and privileged.
6. At least 14 days prior to the mediation date, each party shall present to the mediator a confidential brief written summary of the case identifying issues to be resolved.
7. The Court may impose sanctions against parties and/or counsel who do not comply with the attendance or settlement authority requirements herein who otherwise violate the terms of this Order. The mediator shall report non-attendance and may recommend imposition of sanctions by the Court for non-attendance.
8. The mediator shall be compensated in accordance with the standing order of the Court entered pursuant to Local Rule 16.2(b)(6), or on such basis as may be agreed to in writing by the parties and the mediator selected by the parties. The cost of mediation shall be shared equally by the parties unless otherwise ordered by the Court. All payments shall be remitted to the mediator within 45 days of the date of the bill. Notice to the mediator of cancellation or settlement prior to the scheduled

mediation conference must be given at least 3 full business days in advance. Failure to do so will result in imposition of a fee for 2 hours.

9. If a full or partial settlement is reached in this case, counsel shall promptly notify the Court of the settlement in accordance with Local Rule 16. 2(f), by filing a notice of settlement signed by counsel of record within 14 days of the mediation conference. Thereafter the parties shall forthwith submit an appropriate pleading concluding the case.
10. Within 7 days following the mediation conference, the mediator shall file a Mediation Report indicating whether all required parties were present. The report shall also indicate whether the case settled (in full or in part), was adjourned, or whether the case did not settle.
11. If mediation is not conducted, the case may be stricken from the trial calendar, and other sanctions may be imposed.

DONE AND ORDERED this 26th day of April, 2012.


DAVE LEE BRANNON
U.S. MAGISTRATE JUDGE

Copies furnished:
U.S. District Judge Donald M. Middlebrooks
Bruce Hammond, pro se
All counsel of record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80755-CIV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiff,

v.

THE WEITZ COMPANY, a
Florida corporation,

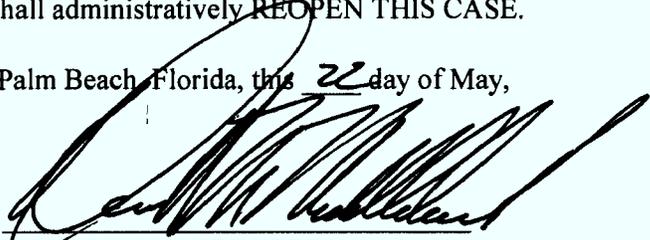
Defendant.

ORDER INSTRUCTING THE CLERK TO REOPEN THIS CASE

THIS CAUSE comes before the Court *sua sponte*. On March 12, 2012 I dismissed this case without prejudice and instructed the Clerk to close this case, but allowed Plaintiff to file an Amended Complaint within twenty days. (DE 24 at 4). Plaintiff filed an Amended Complaint on April 2, 2012. Accordingly, it is hereby

ORDERED AND ADJUDGED that the Clerk shall administratively REOPEN THIS CASE.

DONE AND ORDERED at Chambers in West Palm Beach, Florida, this 22 day of May,
2012.


DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record;
Bruce Hammond, *pro se*
974 N.W. 3 Street
Florida City, FL 33034

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-80755-CIV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiff,

v.

THE WEITZ COMPANY, a
Florida corporation,

Defendant.

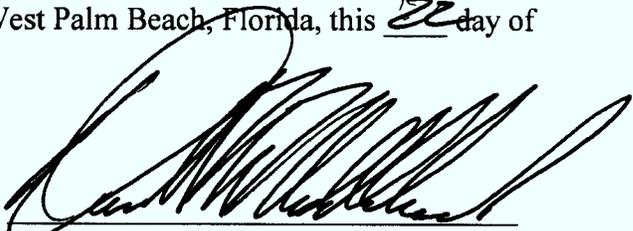
ORDER GRANTING IN PART PLAINTIFF'S MOTION FOR EXTENSION OF TIME

THIS CAUSE comes before the Court upon Plaintiff's Motion for Extension of Time to File Response as to Defendant's Motion to Dismiss (DE 32) filed on May 11, 2012. Having considered the matter, it is hereby

ORDERED AND ADJUDGED that Plaintiff's Motion (DE 32) is GRANTED IN PART. Plaintiff shall have until June 8, 2012 in which to file his response to Defendant's Motion to Dismiss. It is further

ORDERED AND ADJUDGED that Plaintiff's Motion (DE 33) is DENIED AS MOOT.

DONE AND ORDERED at Chambers in West Palm Beach, Florida, this 22 day of
May 2012.


DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record;
Bruce Hammond, *pro se*
974 N.W. 3 Street
Florida City, FL 33034

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 11-80755-CIV-MIDDLEBROOKS/JOHNSON

BRUCE HAMMOND,

Plaintiff,

v.

THE WEITZ COMPANY,

Defendant.

_____/

NOTICE OF MEDIATION CONFERENCE

In accordance with the Order of Referral to Mediation signed April 26, 2012 (D.E.#31), Mediator KAREN EVANS hereby notifies the Court that the mediation of this case will be held Tuesday, August 21, 2012 at 10:00 a.m. Litigation Resolution, Inc., Suite 1229 at the Alfred I. DuPont Building, 169 East Flagler Street, Miami, Florida 33131.

Dated June 4, 2012.

Respectfully submitted,

s/Karen Evans

Florida Bar No: 376736

KarenEvans@LitigationResolution.com

LITIGATION RESOLUTION, INC.

SUITE 1229-The Alfred I. DuPont Building

169 EAST FLAGLER STREET

MIAMI, FLORIDA 33131

Tel: 305-371-3250

Fax: 305-371-3341

I hereby certify that on June 4, 2012 I electronically filed the NOTICE OF MEDIATION CONFERENCE with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served *via electronic mail* this day on all counsel of record or pro se parties identified on the attached Service List.

s/Karen Evans

Service List

BRUCE HAMMOND v. THE WEITZ COMPANY

CASE NO: 11-80755-CIV-MIDDLEBROOKS/JOHNSON

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA

Bruce Hammond
hammond1999@gmail.com
974 Northwest Third Street
Florida City, Florida 33034
Tel: 305-498-4529

Pro Se Plaintiff

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Fax: 561-684-7346

Attorney for the Defendant