

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

Civil Action No.

JANIT POLLARD,

Plaintiff

v.

**WELLS FARGO BANK, NA,
a foreign corporation.**

Defendant.

Complaint

COMES NOW Plaintiff, Janit Pollard (“Ms. Pollard”), by and through counsel, Cornish and Dell’Olio, and for her Complaint against the Defendant, Wells Fargo Bank, NA (“Wells Fargo”) alleges the following:

Introduction

1. This is an action brought against Wells Fargo pursuant to 42 U.S.C § 1981 and Title VII of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000e, *et seq.*) for race discrimination.

Jurisdiction

2. The Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331, 1343, and 42 U.S.C. § 2000e-(5).

Venue

3. The unlawful employment actions described below were committed in the State of Colorado. Venue is proper in the United States District Court for the District of Colorado under 28 U.S.C. § 1391(b).

Administrative Exhaustion

4. On November 30, 2009 the Plaintiff filed a Charge of Discrimination with the United States Equal Employment Opportunity Commission in Denver Colorado against Wells Fargo for race discrimination in violation of Title VII of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000e, *et seq.*).

5. On October 28, 2010 a Notice of Right to Sue was issued to Plaintiff by the United States Equal Employment Opportunity Commission.

Parties

6. Ms. Pollard is a 53 year old African-American female who was formerly employed by Wells Fargo.

7. Wells Fargo is a National Banking Association incorporated under the laws of the United States of America doing business in good standing with the Colorado Secretary of State.

General Allegations

8. Ms. Pollard worked for Wells Fargo and its predecessors in Colorado Springs from 1984 until October 1, 2009 when her employment was involuntarily terminated.

9. Ms. Pollard was initially promoted to a Store Manager position for Wells Fargo at their Briargate location in Colorado Springs in 2000.

10. During her time at the Briargate location that store grew from a Level 2 to a Level 3 store under Ms. Pollard's guidance.

11. Ms. Pollard also consistently received review ratings of "3" ("met all and may have exceeded some key targets") and "4" ("consistently above all key targets.") while working at Wells Fargo's Briargate location.

12. Ms. Pollard was promoted to the Store Manager position at Wells Fargo's East location in November of 2005.

13. Despite consistently high performance as a Store Manager Ms. Pollard received an informal warning on September 10, 2008.

14. The stated reason for the informal warning was a concern regarding whether East location would pass its audit.

15. The warning came before the audit occurred; however, the East location did pass its 2008 audit under Ms. Pollard's leadership.

16. On May 12, 2009 Ms. Pollard received a Formal Warning regarding Sales Performance Standards.

17. The reason for the Formal Warning was that Ms. Pollard's "sales performance is not at [Wells Fargo's] Regional performance standards."

18. Ms. Pollard's Formal Warning on May 12, 2009 for sales performance was not justified because the East location had sales performance on par with the 25 Stores in the Southern Region and higher than the average for the 8 Stores, including East, in the Springs District of the Southern Region.

19. The Formal Warning laid out a series of goals for Ms. Pollard to achieve in six categories under specific time criteria.

20. The Formal Warning also transferred Ms. Pollard from the East location to the Monument Store.

21. Under the terms of the Formal Warning Ms. Pollard's performance was to be graded upon six scores: 1) Teller Contributions per FTE; 2) 11 Ways to Wow; 3) Productivity measured by Core per/PFTE/day; 4) Percentage of Platform at FTE; 5); Retail Scorecard Results; and 6) Small Business Solutions.

22. For each of these categories Ms. Pollard was given goals for each category to meet on June 30, 2009; July 31, 2009; and August 31, 2009.

23. For three scores, Teller Contributions, Wow, and Productivity, the Monument Store was performing well below these goals on May 12, 2009 when the decision was made to transfer Ms. Pollard to that location.

24. By September 1, 2009 Ms. Pollard had significantly improved the scores for the Monument Store in all three categories.

25. On information and belief these three categories fully measure the sales performance of a Wells Fargo Store Manager.

26. Wells Fargo terminated Ms. Pollard's employment on October 1, 2009 "based on her lack of progress towards her goals"

27. Wells Fargo's also falsely asserted that Ms. Pollard's employment was terminated for a "negative attitude."

28. Ms. Pollard was one of two African-American Store Managers in the Southern Region out of twenty five stores.

29. Other similarly situated, non-minority employees did not receive informal warnings, Formal Warnings, or have their employment terminated for work performance substantially similar to that of Ms. Pollard.

**First Cause of Action
(For Violations of 42 U.S.C. § 1981)**

30. Plaintiff incorporates paragraphs 1 through 29 herein by reference.

31. Ms. Pollard is an African-American protected from racial discrimination by 42 U.S.C. § 1981.

32. Ms. Pollard received disparate treatment compared to other similarly situated, non-minority employees when she received her informal warning, her Formal Warning, and had her employment terminated.

33. The informal warning, her Formal Warning, and termination of Ms. Pollard's employment were not justified under the stated reasons provided by Wells Fargo or otherwise justified by Ms. Pollard's work performance.

34. The stated reasons for the informal warning, her Formal Warning, and termination of Ms. Pollard's employment were pretexts for discrimination.

35. Ms. Pollard had a long history of satisfactory work performance for Wells Fargo and was performing her job satisfactorily during the time period relevant to this Complaint.

36. Ms. Pollard was qualified to perform her Store Manager position for Wells Fargo during the time period relevant to this Complaint.

37. Ms. Pollard's employment as a Store Manager was terminated by Wells Fargo because of her race.

38. Defendant's actions and omissions violated Plaintiff's rights secured by 42 U.S.C. § 1981.

**Second Cause of Action
(For Violations of Title VII of the Civil Rights Act of 1964
(42 U.S.C. §§ 2000e, et seq.)**

39. Paragraphs 1 through 38 are incorporated herein.

40. Plaintiff has exhausted all administrative filing requirements of 42 U.S.C. §§ 2000e.

41. By the foregoing acts Defendant violated Title VII by discriminating against Ms. Pollard because of her race in the terms, conditions and privileges of her employment.

42. Defendant's actions were with malice and reckless disregard for Plaintiff's federally protected civil rights.

Prayer for Relief

WHEREFORE, Plaintiff prays for the following relief, pursuant to 42 U.S.C. §§ 1981, 1988, and Fed. R. Civ. P. 54:

- a. Back pay;
- b. Front pay in lieu of reinstatement;
- c. Nonpecuniary and compensatory damages, including damages for humiliation, emotional distress and consequential damages;
- d. Punitive damages;

- e. Pre- and post-judgment interest at the highest rate allowed by law;
- f. Costs and reasonable attorneys fees; and
- g. All other legal or equitable relief to which Plaintiff is entitled.

Jury Demand

Plaintiff requests this matter be tried by a jury.

Respectfully submitted on this 25th day of January, 2011.

CORNISH AND DELL'OLIO

/s/ Donna Dell'Olio

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