

10.12.10 #25

TO: The Honorable Chairman and Members of the Board of County Commissioners

FROM: James L. Bennett, County Attorney *JLB*

SUBJECT: Notice of New Lawsuit and Defense of the Same by the County Attorney in the Case of David Holt v. Pinellas County, a Political Subdivision of the State of Florida
Circuit Civil Case No. 10-014453-CI-015

DISTRIBUTION: Will Davis, Interim Bureau Director, Risk Management

DATE: October 12, 2010

NOTICE: THIS IS TO ADVISE THE BOARD OF COUNTY COMMISSIONERS THAT THE ABOVE-REFERENCED LAWSUIT WAS FILED AGAINST THE COUNTY AND THE COUNTY ATTORNEY'S OFFICE WILL DEFEND THE SAME.

DISCUSSION: Plaintiff filed a one-count Complaint against Pinellas County, alleging that the County discriminated against him on the basis of his age in violation of the Florida Civil Rights Act. Plaintiff was employed as a Chief Technologist in BTS when he resigned on June 4, 2008. Plaintiff resigned in lieu of termination following several reviews where Plaintiff was advised of the need to become a more effective leader.

A copy of the Complaint (without attachments) is attached hereto.

JLB:CDP
Attachment

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**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CASE NO.:**

DAVID HOLT,

Plaintiff,

vs.

**PINELLAS COUNTY, a political Subdivision
of the State of Florida,**

Defendant.

COMPLAINT

COMES NOW, Plaintiff, DAVID HOLT, by and through his undersigned counsel and sues the Defendant, PINELLAS COUNTY, a political Subdivision of the State of Florida, hereinafter referred to as "PINELLAS COUNTY" and states as follows:

JURISDICTION AND VENUE

1. This is an action for damages in excess of \$15,000.00.
2. Venue lies within Pinellas County because a substantial part of the events giving rise to this claim arose in this Judicial District.

ADMINISTRATIVE PREREQUISITES

3. All conditions precedent to bringing this action have occurred.
4. Plaintiff timely filed a charge of discrimination with the Florida Commission on Human Relations (FCHR) on or about June 1, 2009. A copy of the charge is attached as Exhibit "A".
5. Plaintiff received a Cause Determination from the Florida Commission on Human Relations (FCHR) dated April 9, 2010. A copy is attached as Exhibit "B".

PARTIES

6. Plaintiff is a resident of Pinellas County, Florida.

7. Defendant, PINELLAS COUNTY, is a political subdivision of the State of Florida.

Defendant is an employer as defined by the laws under which this action is brought and employs the required number of employees.

8. At all material times, Defendant maintained a facility in Clearwater, Pinellas County, Florida.

GENERAL ALLEGATIONS

9. At all times material, Defendant acted with malice and with reckless disregard for Plaintiff's state protected rights.

10. At all times material, Plaintiff was qualified to perform his job duties within the legitimate expectations of his employer.

11. Plaintiff has been required to retain the undersigned counsel to represent him in this action and is obligated to pay them a reasonable fee for their services.

12. Plaintiff requests a jury trial for all issues so triable.

FACTUAL ALLEGATIONS

13. Plaintiff is 56 years old.

14. On or about October 1985, Plaintiff, DAVID HOLT, began his employment with Defendant, PINELLAS COUNTY, as Lead Systems Programmer and ultimately progressed to the position of Chief Technologist in the Business Technology Services department.

15. On or about the year 2003, Plaintiff turned 50 years old. At this time, Paul Alexander became Director of Plaintiff's department. On or about the year 2006, Plaintiff's Manager, Jim Russell, became Assistant Director. Almost immediately, Mr. Russell began to scrutinize Plaintiff's

performance and regularly called Plaintiff into his office for verbal counseling. Prior to this event, Plaintiff had received outstanding reviews.

16. On or about the year 2006, employees began to be evaluated on a quarterly basis. Plaintiff was shocked when he received several poor reviews containing inaccurate and untrue statements. When Plaintiff inquired about this, Carl Lucas, IT Senior, advised Plaintiff that Jim Russell instructed him to be particularly harsh on Plaintiff's reviews. Mr. Lucas also stated that he did not write most of the reviews, that Mr. Russell did.

17. Approximately 2007/2008, Bruce Rader, became Plaintiff's direct Manager.

18. Approximately one week before Plaintiff's forced resignation, Mr. Rader attempted to solicit an untrue statement from a female employee named Gail Tyburski concerning derogatory comments which Plaintiff allegedly made regarding his department in order to justify terminating Plaintiff's employment. However, Ms. Tyburski refused to provide such a statement.

19. On or about June 4, 2008, Plaintiff's Manager, Bruce Rader, commented to Plaintiff that "the technology had passed [him] by"; placed Plaintiff on Administrative Leave for not performing his duties and gave Plaintiff the option to resign in lieu of termination. Plaintiff chose to resign.

20. On or about one week later in June 2008, Plaintiff made a verbal complaint to Peggy Rowe, the Director of Human Resources concerning age discrimination he was experiencing and inquired about other positions which may be available within the County. Ms. Rowe advised Plaintiff there were no other positions available.

21. Plaintiff, DAVID HOLT's, job duties and responsibilities were assumed by substantially younger employees with less experience.

22. Between 2008 and 2009 numerous employees over the age of 40 were separated from

the Business Technology Services department.

COUNT I
FLORIDA CIVIL RIGHTS ACT - AGE DISCRIMINATION

23. Plaintiff realleges and adopts the allegations stated in Paragraphs one (1) through twenty-two (22).

24. Plaintiff is a member of a protected class under the Florida Civil Rights Act.

25. By the conduct described above, Defendant engaged in unlawful employment practices and discriminated against Plaintiff on account of age in violation of the Florida Civil Rights Act, Florida Statutes, Chapter 760.

26. Defendant knew, or should have known of the discrimination.

27. As a result of Defendant's unlawful discrimination, Plaintiff has suffered and continues to suffer damages.

WHEREFORE, Plaintiff, DAVID HOLT, prays for the following damages against Defendant:

- a. Back pay and benefits;
- b. Interest on back pay and benefits;
- c. Front pay and benefits;
- d. Compensatory damages for emotion pain and suffering;
- e. Punitive damages;
- f. For costs and attorneys' fees;
- g. Injunctive relief;
- h. For any other relief this Court deems just and equitable.

Dated this the 27 day of September 2010.

FLORIN ROEBIG, P.A.



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