

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

KENNY FAULK,	)	
	)	Civil Action No.
Plaintiff,	)	
v.	)	
	)	
DIMERCO EXPRESS (USA) CORP.,	)	JURY TRIAL DEMANDED
	)	
Defendant.	)	
_____	)	

**COMPLAINT FOR DAMAGES**

COMES NOW, Plaintiff Kenny Faulk (“Plaintiff”) and files this Complaint against Defendant Dimerco Express (USA) Corp. (“Defendant”), and shows the following:

**I. Nature of Complaint**

1.

Plaintiff brings this action to obtain full and complete relief and to redress the unlawful employment practices described herein.

2.

With this action, Plaintiff brings a discrimination claim for damages pursuant to 42 U.S.C. § 1981.

**II. Jurisdiction and Venue**

3.

The jurisdiction of this Court is invoked pursuant to 29 U.S.C. §216(b), and 28 U.S.C. §1331.

4.

Defendant does business in this district and is subject to specific jurisdiction over the claims asserted herein. In addition, a substantial part of the acts and omissions that give rise to Plaintiff's claims occurred in this district. Accordingly, venue in this Court is proper pursuant to 29 U.S.C. §1391.

**III. Parties and Facts**

5.

Plaintiff is a resident of the State of Georgia. Plaintiff is African-American/black.

6.

Plaintiff applied for an account executive position with Defendant in 2019.

7.

On or about September 16, 2019, Defendant provided Plaintiff with a formal offer letter for the account executive position.

8.

After offering the position to Plaintiff, Defendant rescinded the offer claiming that the offer had been rescinded because of a misdemeanor disorderly conduct charge from 2014.

9.

Plaintiff was notified that the offer had been rescinded by Defendant's then Director of Human Resources, Renee Howard ("Howard").

10.

Howard was directed to rescind the job offer by Defendant's President, Herbert Liou ("Liou").

11.

After rescinding Plaintiff's job offer, Defendant subsequently hired another white/Caucasian account executive that had more significant criminal charges on his record than Plaintiff.

12.

Howard spoke with Liou and questioned why Defendant was hiring the account executive with a more significant criminal history, and in response Liou explained to Howard that the reason was he only wanted to hire whites and further

justified his position stating that whites could get in the door with customers that minorities could not.

13.

Defendant failed to hire Plaintiff because of his race/national origin.

**Count I**

**42 U.S.C. § 1981 Race Discrimination**

14.

Plaintiff re-alleges the preceding paragraphs as if set forth fully herein.

15.

Plaintiff is African American and black in color.

16.

42 U.S.C. § 1981 prohibits race discrimination in the making and enforcement of contracts. Defendant was prohibited from not hiring Plaintiff due to his race/color.

17.

Defendant violated Plaintiff's rights under 42 U.S.C. § 1981 by not hiring Plaintiff because of his race/color.

18.

Defendant intentionally discriminated against Plaintiff, on the basis of Plaintiff's race/color, in violation of 42 U.S.C. § 1981.

19.

Defendant treated Plaintiff differently than at least one other employee outside of Plaintiff's protected class. Any alleged non-discriminatory reason given by Defendant for treating Plaintiff differently than another employee outside of Plaintiff's protected race class is pretext for unlawful discrimination.

20.

As a direct and proximate result of Defendant's actions and omissions, Plaintiff has suffered damages, including lost wages, emotional distress, humiliation and other indignities.

21.

Defendant willfully and wantonly disregarded Plaintiff's rights, and Defendant's actions toward Plaintiff were undertaken in bad faith.

22.

The acts and omissions of Defendant were willful, malicious and in reckless disregard of Plaintiff federally protected rights entitling Plaintiff to punitive damages.

23.

Defendant is liable for the damages caused by its discrimination against Plaintiff. **WHEREFORE**, Plaintiff prays for judgment and relief as follows:

- (a) Compensatory damages, including general damages for mental and emotional suffering caused by Defendant;
- (b) Punitive damages based on Defendant's willful, malicious, intentional, and deliberate acts, including ratification, condonation and approval of said acts;
- (c) Damages for lost wages and benefits and prejudgment interest thereon;
- (d) Reasonable attorneys' fees and expenses of litigation;
- (e) Trial by jury as to all issues;
- (f) Prejudgment interest at the rate allowed by law;
- (g) Declaratory relief to the effect that Defendants have violated Plaintiff's statutory rights;
- (h) Injunctive relief of reinstatement, or front pay in lieu thereof, and prohibiting Defendants from further unlawful conduct of the type described herein; and
- (i) All other relief to which she may be entitled.

Respectfully submitted,

This 4<sup>th</sup> day of May, 2021.

**BARRETT & FARAHANY**

/s/ V. Severin Roberts

V. Severin Roberts

Georgia Bar No. 940504

Attorney for Kenny Faulk

1100 Peachtree Street NE  
Suite 500  
Atlanta, GA 30309  
(404) 214-0120  
(404) 214-0125 facsimile  
severin@justiceatwork.com

**CIVIL COVER SHEET**

The JS44 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 is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

<p><b>I. (a) PLAINTIFF(S)</b></p> <p style="text-align: center;">KENNY FAULK</p>  <p><b>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF</b> <u>FULTON</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p><b>DEFENDANT(S)</b></p> <p style="text-align: center;">DIMERCO EXPRESS (USA) CORP.</p>  <p><b>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT</b> _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p><small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p>
<p><b>(c) ATTORNEYS</b> (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)</p> <p>BARRETT &amp; FARAHANY V. Severin Roberts 1100 Peachtree St. NE, Suite 500 Atlanta, GA 30309 Tel: (404) 214-0120; severin@justiceatwork.com</p>	<p><b>ATTORNEYS</b> (IF KNOWN)</p>

<p><b>II. BASIS OF JURISDICTION</b> (PLACE AN "X" IN ONE BOX ONLY)</p> <p><input type="checkbox"/> 1 U.S. GOVERNMENT PLAINTIFF      <input checked="" type="checkbox"/> 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)</p> <p><input type="checkbox"/> 2 U.S. GOVERNMENT DEFENDANT      <input type="checkbox"/> 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (FOR DIVERSITY CASES ONLY)</p> <table style="width:100%; border: none;"> <tr> <td style="text-align: center;"><small>PLF</small></td> <td style="text-align: center;"><small>DEF</small></td> <td></td> <td style="text-align: center;"><small>PLF</small></td> <td style="text-align: center;"><small>DEF</small></td> <td></td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>CITIZEN OF THIS STATE</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 4</td> <td>INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>CITIZEN OF ANOTHER STATE</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td>INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>CITIZEN OR SUBJECT OF A FOREIGN COUNTRY</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td>FOREIGN NATION</td> </tr> </table>	<small>PLF</small>	<small>DEF</small>		<small>PLF</small>	<small>DEF</small>		<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	CITIZEN OF THIS STATE	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4	INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE	<input type="checkbox"/> 2	<input type="checkbox"/> 2	CITIZEN OF ANOTHER STATE	<input type="checkbox"/> 5	<input type="checkbox"/> 5	INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	<input type="checkbox"/> 3	<input type="checkbox"/> 3	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	<input type="checkbox"/> 6	<input type="checkbox"/> 6	FOREIGN NATION
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**IV. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

1 ORIGINAL PROCEEDING       2 REMOVED FROM STATE COURT       3 REMANDED FROM APPELLATE COURT       4 REINSTATED OR REOPENED       5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)       6 MULTIDISTRICT LITIGATION - TRANSFER       7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT

8 MULTIDISTRICT LITIGATION - DIRECT FILE

**V. 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)

Plaintiff brings a discrimination claim for damages pursuant to 42 U.S.C. § 1981.

**(IF COMPLEX, CHECK REASON BELOW)**

- |   |  |
|---|--|
| <p><input type="checkbox"/> 1. Unusually large number of parties.</p> <p><input type="checkbox"/> 2. Unusually large number of claims or defenses.</p> <p><input type="checkbox"/> 3. Factual issues are exceptionally complex</p> <p><input type="checkbox"/> 4. Greater than normal volume of evidence.</p> <p><input type="checkbox"/> 5. Extended discovery period is needed.</p> | <p><input type="checkbox"/> 6. Problems locating or preserving evidence</p> <p><input type="checkbox"/> 7. Pending parallel investigations or actions by government.</p> <p><input type="checkbox"/> 8. Multiple use of experts.</p> <p><input type="checkbox"/> 9. Need for discovery outside United States boundaries.</p> <p><input type="checkbox"/> 10. Existence of highly technical issues and proof.</p> |
|---|--|

**CONTINUED ON REVERSE**

<b>FOR OFFICE USE ONLY</b>			
RECEIPT # _____	AMOUNT \$ _____	APPLYING IFP _____	MAG. JUDGE (IFP) _____
JUDGE _____	MAG. JUDGE _____ <small>(Referral)</small>	NATURE OF SUIT _____	CAUSE OF ACTION _____



**VI. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK
- 880 DEFEND TRADE SECRETS ACT OF 2016 (DTSA)

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
- 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395ff)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 376 Qui Tam 31 USC 3729(a)
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 485 TELEPHONE CONSUMER PROTECTION ACT
- 490 CABLE/SATELLITE TV
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT 899
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTI TRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

**\* PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

**VII. REQUESTED IN COMPLAINT:**

- CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ \_\_\_\_\_
- JURY DEMAND  YES  NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

**VIII. RELATED/REFILED CASE(S) IF ANY**

JUDGE \_\_\_\_\_ DOCKET NO. \_\_\_\_\_

**CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)**

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

- 7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. \_\_\_\_\_, WHICH WAS DISMISSED. This case  IS  IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

/s/ V. Severin Roberts

5/4/2021

SIGNATURE OF ATTORNEY OF RECORD

DATE