

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

GEORGE DULIN

PLAINTIFF

VERSUS

CIVIL ACTION NO: 4:07CV194-SA-B

BOARD OF COMMISSIONERS OF THE
GREENWOOD LEFLORE HOSPITAL, and
ROBERT R. MOORE, in his individual capacity

DEFENDANTS

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

This is an action to recover actual damages against the Board of Commissioners of the Greenwood Leflore Hospital. The following facts support the action:

1.

Plaintiff, GEORGE H. DULIN, is an adult white resident citizen of 120 West Market Street, Greenwood, Mississippi 38930.

2.

Defendant, BOARD OF COMMISSIONERS OF GREENWOOD LEFLORE HOSPITAL, is a political subdivision of the State of Mississippi. It may be served with process through its Chancery Clerk, Sam Abraham, Leflore County Courthouse, 306 West Market Street, Greenwood, Mississippi 38930, and through its Mayor, Sheriel Perkins, 101 West Church Street, Greenwood, Mississippi 38905. It is governed by a Board of Commissioners appointed by the Board of Aldermen of the City of Greenwood and Leflore County, Mississippi. As a political subdivision of

the State of Mississippi, it acted under color of state law.

Defendant, ROBERT R. MOORE, is being sued in his individual capacity, and may be served with process by service upon him at 1901-C East Chambers Drive, Booneville, Mississippi 38829. At all relevant times, Robert R. Moore was President of the Board of Supervisors of Leflore County, Mississippi. He is sued in his individual capacity, because he utilized his position as president of the board to influence members of the Greenwood Leflore Hospital to discharge Plaintiff from his employment.

3.

This court has federal question jurisdiction under 28 U.S.C. § 1331 and civil rights jurisdiction under 28 U.S.C. § 1343, for a cause of action arising under the Civil Rights Act of 1866, 42 U.S.C. § 1981, and under the equal protection clause of the Fourteenth Amendment. This action is authorized by 42 U.S.C. § 1983. This court has supplemental jurisdiction over Plaintiff's state law claims.

4.

The Plaintiff, a white person, was employed as the attorney for the Greenwood Leflore Hospital since 1984. Throughout this time, there were no complaints about his job performance from members of the Defendant Board.

5.

Defendant's black Board members Parker, Flagg and Foster, desired to replace Plaintiff with a black person. The Board members Malouf and Waldrop, who are white, knew that the motivation for replacing Plaintiff was racial, but went along with the decision because these Board members knew they could not control the decision. Additionally, based on comments made at

depositions, some or all of the board members had an age-based bias against Plaintiff, who is 82 years of age. Some or all of the board members perceived Plaintiff's age as a handicap in performing his job. An additional factor was that board member Malouf was hopeful that he could get his own business attorney to be the attorney for the board. While Malouf's business attorney was qualified, he was not acceptable to the black board members, since he, like Plaintiff, is white.

6.

An article appeared in the newspaper in Greenwood, Mississippi, in August 2005, indicating pressure being placed upon board members to replace Plaintiff with a black attorney. Prominent black leaders, including the Defendant Moore, prominent attorney Willie Perkins, and State Senator/City Councilman/Voters League President, David Jordan, all pressured the board to replace Plaintiff with a black person.

7.

While Perkins and Jordan only urged replacing Plaintiff with a black person at the meeting of the Greenwood Voters League (an organization which attempts to influence politicians on behalf of black persons), Moore's actions went further. Moore had private meetings with certain of the black board members, urging them to replace Plaintiff, by making false, defamatory charges that Plaintiff frequently slept at board meetings. By maliciously claiming Plaintiff was sleeping at board meetings, Moore desired to influence board members to vote to replace Plaintiff with a black person, and Moore succeeded in this attempt.

8.

Following publicity of the newspaper article, Exhibit "1," Malouf informed Plaintiff that the board had voted to replace him, and that he should resign, so as to save face, and so as to stay on as

board attorney as long as possible. Because Plaintiff had been informed by Malouf that the board had already voted to replace him, Plaintiff submitted a letter of resignation. This letter was not voluntary, but was because Plaintiff had been truthfully informed by Malouf that the board had decided to replace him with a black attorney.

9.

Thereafter, Plaintiff was removed as board attorney, and replaced by a young, black attorney, who had little or no relevant experience.

10.

The primary motivation of the black members in voting to replace the Plaintiff was to give the position to a black person. Plaintiff's age was a contributing factor in the votes of a majority of the board members.

11.

The actions of the defendant board in causing Plaintiff to be replaced with a younger, less qualified black person:

- A. violated the Civil Rights Act of 1866 (42 U.S.C. § 1981), since Plaintiff was not allowed the same equal opportunity to contract as a young black person;
- B. violated the equal protection clause of the Fourteenth Amendment of the United States Constitution, since Plaintiff's race was a substantial factor in his losing his job; and
- C. violated the equal protection clause of the United States Constitution, Amendment Fourteen, since Plaintiff's age (84) and the age of his replacement (very young), indicated an attempt to treat old and younger persons differently.

12.

The Defendant Moore's actions in attempting to cause, and causing individual members of

the board to discharge Plaintiff and replace him with a young black person:

- A. violated the Civil Rights Act of 1866 (42 U.S.C. § 1981), since Plaintiff was not allowed the same equal opportunity to contract as a young black person;
- B. violated the equal protection clause of the Fourteenth Amendment of the United States Constitution, since Moore attempted to cause, and caused Plaintiff to lose his position because of his race;
- C. violated the equal protection clause of the United States Constitution, Amendment Fourteen, since Defendant Moore caused, and attempted to cause Plaintiff to lose his position because of his age; and
- D. violated state law, since Moore maliciously interfered with Plaintiff's employment.

13.

Plaintiff has suffered lost income as the result of his loss of job as Board attorney. Additionally, Plaintiff has suffered anxiety over the loss of his position, which may have caused a skin condition which has resulted in substantial pain and medical bills.

PRAYER

Plaintiff prays for actual and punitive damages in an amount to be determined by a jury against the Defendant, Board of Commissioners of the Greenwood Leflore Hospital, prays for actual and punitive damages against Robert R. Moore, in his individual capacity, and for reasonable attorney's fees.

Respectfully submitted,

WAIDE & ASSOCIATES, P.A.

BY: /s/ Jim Waide
JIM WAIDE
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Jim Waide, attorney for Plaintiff, do hereby certify that I have this day electronically filed the above and foregoing with the Clerk of the Court, utilizing the ECF system, which sent notification of such filing to the following:

Susan Fahey Desmond, Esq.
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THIS the 24th day of July, 2008.

/s/ Jim Waide _____

JIM WAIDE