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JUL 16 2004  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

**SHEM FISCHER,**

**Plaintiff,**

vs.

**FORESTWOOD COMPANY, INC., a Utah  
corporation, a/k/a FORESTWOOD,  
FORESTWOOD INDUSTRIAL, INC., a  
Utah corporation, CORPORATION OF  
THE PRESIDENT OF THE  
FUNDAMENTALIST CHURCH OF  
JESUS CHRIST OF LATTER-DAY  
SAINTS, CORPORATION OF THE  
PRESIDING BISHOP OF THE  
FUNDAMENTALIST CHURCH OF  
JESUS CHRIST OF LATTER-DAY  
SAINTS, WARREN S. JEFFS, JOHN DOE  
COMPANIES I-V, and JOHN DOE  
INDIVIDUALS I-X.**

**Defendants.**

**AMENDED COMPLAINT AND  
JURY DEMAND**

Case No. 2-02-CV-210K

Honorable Dale A. Kimball

Plaintiff Shem Fischer complains against Defendants Forestwood Company, Inc. (a/k/a Forestwood), Forestwood Industrial, Inc. (collectively referred to hereinafter as "Forestwood"),

the Corporation of the President of the Fundamentalist Church of Jesus Christ of Latter-day Saints, the Corporation of the Presiding Bishop of the Fundamentalist Church of Jesus Christ of Latter-day Saints (together, "FLDS Church"), Warren S. Jeffs, John Doe Companies I-V, and John Doe Individuals I-X, as follows:

#### **STATEMENT OF THE CASE**

1. This is a claim for religious discrimination and retaliatory discharge under Title VII of the Civil Rights Act of 1964, as amended, for tortious interference with contractual and prospective economic relations, and blacklisting.

#### **PARTIES, JURISDICTION AND VENUE**

2. At all relevant times hereto, Shem Fischer was a resident of Washington County, Utah and Salt Lake County, Utah.

3. Forestwood Company, Inc., a/k/a Forestwood, is a Utah corporation with its principal place of business in Washington County, Utah.

4. Forestwood Industrial, Inc. is a Utah corporation with its principal place of business in Washington County, Utah.

5. The Corporation of the President of the Fundamentalist Church of Jesus Christ of Latter-day Saints is a Utah corporation with its principal place of business in Sandy, Utah.

6. The Corporation of the Presiding Bishop of the Fundamentalist Church of Jesus Christ of Latter-day Saints is a Utah corporation with its principal place of business in Salt Lake City, Utah.

7. Warren Steed Jeffs at all relevant times was the President of the Corporation of the President of the Fundamentalist Church of Jesus Christ of Latter-day Saints, and upon

information and belief, an officer of the Corporation of the Presiding Bishop of the Fundamentalist Church of Jesus Christ of Latter-day Saints

8. At all relevant times hereto Mr. Fischer either worked as an employee for Forestwood at a location in Washington County, Utah, or sought re-application for work at Forestwood.

9. Forestwood is an "employer" for purposes of Title VII because it had fifteen or more employees for each working day in each of twenty or more calendar weeks in the calendar years in question. *See* 42 U.S.C. § 2000e(b).

10. Fischer filed his Charge of Discrimination with the Utah Anti-Discrimination and Labor Commission on February 13, 2001. Fischer's charge of discrimination was also filed with the Equal Employment Opportunity Commission (EEOC).

11. On April 20, 2001, Fischer filed his Request for Withdrawal of Charge of Discrimination and Request for a Notice of Right to Sue.

12. Fischer received his Notice of Right to Sue on January 14, 2002.

13. Fischer has exhausted the necessary administrative remedies pertaining to his claims against Forestwood and is now entitled to seek judicial redress of those claims.

14. This action arises under the laws of the United States, therefore, jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331. Supplemental jurisdiction over Fischer's non-federal claims is proper under 28 U.S.C. § 1367.

15. Forestwood resides in this jurisdiction and the acts and omissions giving rise to Fischer's claims occurred here. Therefore, venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

## GENERAL ALLEGATIONS

16. At all relevant times, Fischer was employed by Forestwood as a sales representative, until he was illegally discharged due to his religious beliefs and opposition to illegal discrimination.

17. Forestwood is in the business of manufacturing and installing wooden cabinetry.

18. On information and belief, beginning in or about July 2000 and continuing to the present, officers and leaders of the FLDS Church, including defendant Warren S. Jeffs ("Jeffs"), began to tell and instruct adherents of the FLDS faith to cease all association, business, and economic relationships with non-adherents of the FLDS faith, including any non-adherents working at Forestwood.

19. Upon information and belief, these discussions and instructions included directions to stop patronizing the businesses of non-adherents, to terminate all partnerships with non-adherents, to cease employment relationships with non-adherents, to stop trading with non-adherents, to stop bringing non-adherents onto the land of adherents, and to end all contracts with non-adherents, including any non-adherents in Forestwood.

20. On or about July 26, 2000, Fischer was informed that a fellow employee, John Muster, was being terminated by Forestwood because he did not adhere to the religious beliefs of Forestwood's owners and operators, which beliefs are held by adherents of the FLDS Church.

21. Fischer opposed this action by stating to certain owners and/or operators of Forestwood that such action was illegal religious discrimination.

22. During this same time period, it became known among certain other owners and/or operators of Forestwood that Fischer himself no longer ascribed to the beliefs of the FLDS Church.

23. Because he opposed the unlawful employment action against Muster, and because his own religious beliefs differed from the FLDS Church, Fischer was forced out and illegally terminated from his employment.

24. In retaliation for his conduct of opposing the termination of John Muster, and because of his failure to hold the same religious beliefs as other certain owners and/or operators of Forestwood, Fischer was forced out of Forestwood and was replaced by an employee that held the same beliefs as those who are adherents of the FLDS Church.

25. When Fischer later sought re-employment at Forestwood, Fischer was told by Forestwood that unless he reformed his religious beliefs, and ascribed to those FLDS religious beliefs held by certain other owners and/or operators of Forestwood, he would not be rehired by Forestwood.

### **FIRST CAUSE OF ACTION**

#### **(Religious Discrimination: Termination -- Against Forestwood Defendants)**

26. Fischer realleges as though fully set forth herein the allegations contained in Paragraphs 1 through 25 of this Amended Complaint.

27. Under Title VII, it is an unlawful employment practice for an employer to discharge any individual because of such individual's religion. *See* 42 U.S.C. § 2000e-2(a)(1).

28. Forestwood engaged in an unlawful employment practice when it forced out and terminated Fischer because of his failure to ascribe and/or adhere to the same religious beliefs as

other certain owners and/or operators of Forestwood, and because of his opposition to the firing of John Muster due to Mr. Muster's religious beliefs.

29. Title VII protects Fischer, who chooses not to hold or strictly adhere to specific religious beliefs.

30. As a result of Forestwood's unlawful employment practice, Fischer has been damaged in an amount to be proven at trial, including amounts allowed under Title VII.

31. In addition, because Forestwood engaged in a discriminatory practice *vis-a-vis* Fischer, and did so with malice or with reckless indifference to the federally protected rights of Fischer, Fischer is entitled to an award of punitive damages against Forestwood.

32. Fischer also has been damaged to the extent he has been required to incur legal costs and expenses associated with the bringing of this action. Therefore, Fischer is entitled under Title VII to an award of reasonable attorneys' fees and costs.

### **SECOND CAUSE OF ACTION**

#### **(Retaliation: Title VII -- Against Forestwood Defendants)**

33. Fischer realleges as though fully set forth herein the allegations contained in Paragraphs 1 through 32 of this Amended Complaint.

34. On or about July 26, 2000, Fischer engaged in protected activity when he voiced his good faith objection to the termination of a fellow employee because of that employee's lack of religious belief in the FLDS Church. Fischer complained about this termination directly to the owners and/or operators of Forestwood.

35. Firing or threatening to fire an employee on the basis of the employee's failure to hold the same religious beliefs as an employer is statutorily prohibited discrimination under Title VII.

36. Upon voicing his objection to the planned termination, and because his own religious beliefs were changing, Fischer was forced out of Forestwood.

37. Fischer also was told that unless he reformed the beliefs he presently had, and returned to the beliefs and practices of the FLDS Church, he would not be rehired by Forestwood.

38. A causal connection exists between Fischer's protected activity of voicing his objection to the planned termination of a co-employee, and Fischer's own changing religious beliefs, and his being forced out of Forestwood.

39. As a result of Forestwood's retaliatory discrimination, Fischer has been injured in an amount to be proven at trial and as allowed by statute.

40. In addition, because Forestwood engaged in a discriminatory practice *vis-à-vis* Fischer, and did so with malice or with reckless indifference to the federally protected rights of Fischer, Fischer is entitled to an award of punitive damages against Forestwood.

41. Fischer has also been damaged to the extent he has been required to incur legal costs and expenses associated with the bringing of this action. Therefore, Fischer is entitled under Title VII to an award of reasonable attorneys' fees and costs.

### THIRD CAUSE OF ACTION

#### **(Denial of Re-Employment: Title VII -- Against Forestwood Defendants)**

42. Fischer realleges as though fully set forth herein the allegations contained in Paragraphs 1 through 41 of this Amended Complaint.

43. Under Title VII, it is an unlawful employment practice for an employer to refuse to hire any individual because of such individual's religion. *See* 42 U.S.C. § 2000e-2(a)(1).

44. Forestwood engaged in an unlawful employment practice when it refused to rehire Fischer after he had re-applied for employment at Forestwood.

45. Certain other owners and/or operators at Forestwood informed Fischer that he would not be rehired or considered for any employment position at Forestwood, unless and until he reformed his religious beliefs and returned to the religious beliefs and practices of the FLDS Church.

46. As a result of Forestwood's unlawful employment practice, Fischer has been damaged in an amount to be proven at trial, including amounts allowed under Title VII.

47. In addition, because Forestwood engaged in a discriminatory practice *vis-a-vis* Fischer, and did so with malice or with reckless indifference to the federally protected rights of Fischer, Fischer is entitled to an award of punitive damages against Forestwood.

48. Fischer has also been damaged to the extent he has been required to incur legal costs and expenses associated with the bringing of this action. Therefore, Fischer is entitled under Title VII to an award of reasonable attorneys' fees and costs.

#### FOURTH CAUSE OF ACTION

**(Tortious Interference with Contract Against the Corporation of the President of the Fundamentalist Church of Jesus Christ of Latter-day Saints, the Corporation of the Presiding Bishop of the Fundamentalist Church of Jesus Christ of Latter-day Saints, Warren S. Jeffs, John Doe Companies I-V, and John Doe Individuals I-X)**

49. Fischer realleges as though fully set forth herein the allegations contained in Paragraphs 1 through 48 of this Amended Complaint.

50. At all relevant times, Fischer enjoyed a contractual employment relationship with Forestwood.

51. Officers and/or directors of the FLDS Church, including Jeffs, were aware of Fischer's employment and contractual employment relationship with Forestwood.

52. On information and belief, the FLDS Church, acting through its officers and/or directors, including but not limited to Jeffs, intentionally and improperly interfered with the performance of Fischer's contractual employment relationship with Forestwood by directing Forestwood's owners and/or operators to cease all relations with non-adherents to the FLDS faith, including cessation of all contracts, trade, employment, and business with non-adherents.

53. On information and belief, such direction was given by Jeffs, individually and on behalf of the FLDS Church, and by other officers and/or directors of the FLDS Church, maliciously, intentionally, and without justification, and was intended to cause economic harm and duress to Fischer.

54. On information and belief, such direction induced and/or caused Forestwood to cease performance of its contractual employment relationship with Fischer, and to terminate Forestwood's economic relationship with Fischer.

55. Fischer has been directly and proximately injured by the conduct of the FLDS Church, and/or its officers and directors, including but not limited to Jeffs, and/or John Doe Companies I-V and John Doe Individuals I-X.

56. Fischer has also been damaged to the extent he has been required to incur legal costs and expenses associated with the bringing of this action. Therefore, Fischer is entitled to an award of reasonable attorneys' fees and costs.

#### **FIFTH CAUSE OF ACTION**

**(Tortious Interference with Prospective Economic Relations  
Against the Corporation of the President of the Fundamentalist Church of Jesus Christ of  
Latter-day Saints, the Corporation of the Presiding Bishop of the Fundamentalist Church  
of Jesus Christ of Latter-day Saints, Warren S. Jeffs, John Doe Companies I-V, and  
John Doe Individuals I-X)**

57. Fischer realleges as though fully set forth herein the allegations contained in Paragraphs 1 through 56 of this Amended Complaint.

58. At all relevant times, Fischer enjoyed a contractual employment relationship with Forestwood. This contractual employment relationship had endured for approximately 16 years, and Fischer had every hope and expectation that it would continue for many years into the future. Forestwood had never questioned Fischer's skill, job performance, or dedication to his work at Forestwood.

59. Officers of the FLDS Church, including Jeffs, were aware of Fischer's employment and contractual employment relationship with Forestwood, and were further aware that such relationship had endured for many years and could be expected to endure for many years to come.

60. On information and belief, the FLDS Church, acting through its officers and/or directors, including but not limited to Jeffs, intentionally and improperly interfered with the existing and future performance of Fischer's contractual employment relationship with Forestwood by directing Forestwood's owners and/or operators to cease all relations with non-adherents to the FLDS faith, including cessation of all contracts, trade, employment and business with non-adherents.

61. On information and belief, such direction was given by Jeffs, individually and on behalf of the FLDS Church, by other officers and/or directors of the FLDS Church, and/or by John Doe Companies I-V and/or John Doe Individuals I-X, maliciously, intentionally, for an improper purpose, and without justification, and was intended to cause economic harm and duress to Fischer.

62. On information and belief, such direction induced and/or caused Forestwood to cease performance of its existing and future contractual employment relationship with Fischer, and to terminate Forestwood's economic relationship with Fischer.

63. Fischer has been directly and proximately injured by the conduct of the FLDS Church, Warren S. Jeffs, individually and on behalf of the FLDS Church, and/or other officers and directors of the FLDS Church, and/or John Doe Companies I-V and John Doe Individuals I-X.

64. Fischer has also been damaged to the extent he has been required to incur legal costs and expenses associated with the bringing of this action. Therefore, Fischer is entitled to an award of reasonable attorneys' fees and costs.

## SIXTH CAUSE OF ACTION

### **(Blacklisting Against All Defendants)**

65. Fischer realleges as though fully set forth herein the allegations contained in Paragraphs 1 through 64 of this Amended Complaint.

66. By virtue of their direction and instruction to adherents of the FLDS faith to cease all association, business, employment and economic relationships with non-adherents, the FLDS Church, Jeffs, and Forestwood not only caused Fischer to be discharged from his position with Forestwood, but also placed Fischer on a blacklist of persons with whom adherents to the FLDS Church, as well as any businesses controlled by the FLDS Church and/or its adherents, or any businesses of which they were a part, should stop trading, should cease employment relationships, and should end all contracts and contact.

67. Upon information and belief, Fischer's presence on such a blacklist was published to citizens of the communities of Hildale and St. George, Utah, among others.

68. Upon information and belief, Defendants' blacklisting of Fischer was done with the intention of preventing Fischer from engaging in or securing other employment with persons, companies and/or corporations in Hildale, St. George, and other communities. Such blacklisting constitutes a violation of Utah Code Ann. § 34-24-1.

69. Fischer has been injured as a direct and proximate result of Defendants having placed him on a blacklist.

70. Fischer has also been damaged to the extent he has been required to incur legal costs and expenses associated with the bringing of this action. Therefore, Fischer is entitled to an award of reasonable attorneys' fees and costs.

**PRAYER FOR RELIEF**

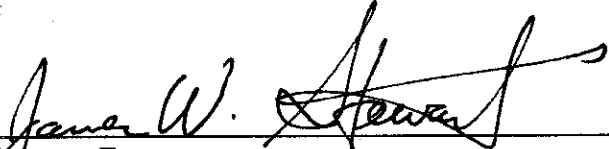
WHEREFORE, Plaintiff demands Judgment against Defendants as follows:

1. Compensatory, general, special, liquidated, and punitive damages;
2. A declaration that his rights have been violated;
3. Appropriate injunctive relief;
4. Costs and attorneys' fees; and
5. Such other relief as the Court deems appropriate.

**JURY DEMAND**

Fischer asserts his right to trial by jury on all appropriate claims.

DATED this 16th day of July 2004.

  
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James W. Stewart, Esq.  
Boyd L. Rogers, Esq.  
BALLARD SPAHR ANDREWS & INGERSOLL, LLP  
Attorneys for Plaintiff Shem Fischer